Hearing Date and Time: October 21, 2010 at 9:45 a.m. (Eastern Time)
Objection Deadline: October 14, 2010 at 4:00 p.m. (Eastern Time)

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF MOTORS LIQUIDATION COMPANY TO ENFORCE (A) THE FINAL DIP ORDER, (B) THE WIND-DOWN ORDER, AND (C) THE AMENDED DIP FACILITY

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TO: THE HONORABLE ROBERT E. GERBER,
UNITED STATES BANKRUPTCY JUDGE:

The Official Committee of Unsecured Creditors (the **"Committee**") of the above captioned debtors and debtors-in-possession in these chapter 11 cases (collectively, the "**Debtors**" or "**Old GM**"), by and through its undersigned counsel, hereby moves for entry of an order, substantially in the form annexed as **Exhibit A** hereto, enforcing: (i) the Final Order Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (A) Approving a DIP Credit Facility and Authorizing the Debtors to Obtain

Post-Petition Financing Pursuant Thereto, (B) Granting Related Liens and Super-Priority Status, (C) Authorizing the Use of Cash Collateral and (D) Granting Adequate Protection to Certain Pre-Petition Secured Parties dated June 25, 2009 (the "**Final DIP Order**") [Docket No. 2529]; (ii) the Order Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (A) Approving Amendment to DIP Credit Facility to Provide for Debtors' Post-Petition Wind-Down Financing dated July 5, 2009 (the "**Wind-Down Order**" and together with the Final DIP Order, the "**Orders**") [Docket No. 2969]; and (iii) the $1,175,000,000 Amended and Restated Secured Superpriority Debtor-in-Possession Credit Agreement (the "**Amended DIP Facility**"), dated as of July 10, 2010, by and among the Debtors, the United States Department of the Treasury ("**Treasury**"), and Export Development Canada ("**EDC**").

PRELIMINARY STATEMENT

On August 26, 2010 – more than a year after the Committee sued for the return of $1.5 billion paid on account of an apparently voidable security interest (as defined more precisely below, the "**Term Loan Litigation**") – Treasury for the first time asserted that Treasury, not unsecured creditors, owned the Term Loan Litigation. On August 31, 2010, the Debtors filed a Joint Chapter 11 Plan (the "**Proposed Plan**") [Docket No 6829], which, at Treasury's request, provided that ownership of the Term Loan Litigation would be determined by the Court or by negotiation between Treasury and the Committee.

Treasury's position with respect to the Term Loan Litigation contradicts the Final DIP Order, approving Treasury's original $33.3 billion debtor-in-possession facility, the Wind-Down Order, approving the Amended DIP Facility and the Amended DIP Facility itself, each of

which Treasury agreed to before they were entered by the Court. The Orders and the Amended DIP Facility provide as follows:

- The Committee, and only the Committee, has the ability to bring the Term Loan Litigation.
- The Term Loan Litigation is specifically excluded from Treasury's collateral.
- Treasury's recourse is limited solely to its collateral. Thus Treasury has no interest in the Term Loan Litigation.

Treasury must live up to its agreements. The Committee asks this Court to enforce them.

FACTS

A. "The Deal" – Negotiations Prior to the Bankruptcy Case

1. Paul Weiss Rifkind Wharton & Garrison LLP ("**Paul Weiss**") and Houlihan, Lokey Financial Advisors, Inc. were retained before the commencement of these cases by major holders of the Debtors' publicly traded bonds. These firms negotiated the basic deal with Treasury that underpins these chapter 11 cases, as follows: Their major bondholder clients agreed not to object to the Debtors' sale under Section 363 of substantially all of the Debtors' assets to a new company controlled by Treasury ("**New GM**"). Treasury in return agreed to have New GM issue 10% of its common stock, and warrants with a value approximating an additional 10% of New GM equity, to the Debtors for distribution to the Debtors' unsecured creditors. *See* Mayer Decl. ¶ 2.[1]

2. The deal was based on an estimate of the Debtors' unsecured claims at $35 billion. Treasury agreed that if unsecured claims increased, then, in a range from $35 billion

[1] All references to "Mayer Decl. ¶ __" are to the accompanying Declaration of Thomas Moers Mayer, dated October 4, 2010, attached hereto as **Exhibit B**. All references to "Mayer Decl. Ex. __" are to the exhibits annexed to the Mayer Declaration.

to $42 billion, New GM would issue up to an additional 2% of New GM common stock. Thus, within the $35 to $42 billion range, the 10% of New GM common stock was protected from dilution. However, no additional warrants would be issued by New GM. Thus the New GM warrants, which could comprise approximately half of unsecured creditors' value, would not be protected from dilution if claims ranged from $35 billion to $42 billion. If unsecured claims exceed $42 billion, there would be no dilution protection at all. Current estimates of unsecured claims are not public with one exception: New GM's report for the second calendar quarter of 2010 states that it estimates unsecured claims against the Debtors will exceed $37 billion. *See* Mayer Decl. ¶ 3; Mayer Dec. Ex. 1, General Motors Co. 10-Q filed August 16, 2010 at p. 40.

3. The deal was also based on Treasury's commitment to pay, at the closing of the sale, all claims of the Debtors' secured bank lenders – including claims under a $1.5 billion (principal amount) term loan which was, at the time, believed to be fully secured by a non-voidable security interest and various mortgages (as more fully defined below, the "**Prepetition Term Loan**"). *See* Mayer Decl. ¶ 4.

4. The foregoing paragraphs are set forth on information and belief, based on Committee counsel's interviews of Paul Weiss and Houlihan Lokey Financial Advisors LLP and statements contained in the Debtors' Disclosure Statement filed on August 31, 2010 (the "**Disclosure Statement**") [Docket No. 6830]. The Committee does not believe the foregoing paragraphs are disputed.

B. The Term Loan Litigation

5. On June 1, 2009, (the "**Petition Date**"), all Debtors with material assets filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, as amended (the "**Bankruptcy Code**"). *See* Mayer Decl. ¶ 5. On June 3, 2009, the Committee was formed and retained professionals. *See* Mayer Decl. ¶ 6.

6. In the weeks following the Petition Date, the Committee negotiated the Amended DIP Facility and the Orders. Each of these documents was drafted by Treasury's counsel, which took or rejected comments from the Committee and other parties in the course of the negotiations. *See* Mayer Decl. ¶ 7.

7. A key all-hands meeting of counsel to the Debtors, the Committee and Treasury, plus Paul Weiss, and their respective financial advisors took place on June 19, 2009 (the "**June 19 Negotiating Session**"). *See* Mayer Decl. ¶ 8.

8. Prior to the June 19 Negotiating Session, the Committee had commenced its investigation of liens and security interests securing a prepetition $1.5 billion term loan dated as of November 29, 2006 and amended March 4, 2009 (the "**Prepetition Term Loan**") from a bank syndicate (the "**Prepetition Term Lenders**")[2] agented by JPMorgan Chase Bank, N.A. ("**JPMorgan**"). The day before the June 19 Negotiating Session, JPMorgan's counsel called to inform Committee counsel that, prior to the Petition Date, a paralegal for counsel to the Debtors filed a UCC-3 termination statement with respect to the Prepetition Term Loan's security interests without authority. *See* Mayer Decl. ¶ 9. Subsequent discovery has uncovered facts supporting the Committee's contention that JPMorgan did in fact authorize the paralegal to file the UCC-3 termination statement. *See* Mayer Decl. ¶ 9. This matter is currently *sub judice* with this Court. *See* Mayer Decl. ¶ 9, *see also* Adversary Complaint dated July 31, 2009 [Case No. 09-00504].

9. The Committee was therefore particularly focused on a possible challenge to the Prepetition Term Lenders' security interest and recovery of the $1.5 billion in cash slated to be paid, at the closing of the sale, to the lenders (the "**Term Loan Litigation**"). The

[2] The Final DIP Order and the Wind-Down Order refer to the Prepetition Term Lenders as the Prepetition Senior Facilities Secured Parties.

Committee's agenda for the June 19 Negotiating Session, and discussions thereafter, included preserving the benefit of the Term Loan Litigation for unsecured creditors. *See* Mayer Decl. ¶10; Mayer Decl. Ex. 2, E-mail to Treasury.

10. By June 25, 2009, the Debtors, Treasury, the Prepetition Term Lenders and the Committee had agreed on the terms of the Final DIP Order and the Debtors submitted the order to the Court. *See* Mayer Decl. ¶ 13; Mayer Decl. Ex. 3, June 25, 2009 Hearing Tr. at pp. 20-22. The Final DIP Order, among other things, provides that the Debtors release the Prepetition Term Lenders on behalf of the Debtors and all parties claiming through the Debtors (including, for example, Treasury) with one exception: the Committee, and only the Committee, was given both the right and standing to challenge the Prepetition Term Lenders' liens. *See* Mayer Decl. Ex. 4, Final DIP Order ¶ 19(d) at p. 25:

> . . . provided, however, that such release shall not apply to the Committee with respect only to the perfection of first priority liens of the Prepetition Senior Facilities Secured Parties (it being agreed that if the Prepetition Senior Facilities Secured Parties, after payment, assert or seek to enforce any right or interest in respect of any junior liens, the Committee shall have the right to contest such right or interest in such junior lien on any grounds, including (without limitation) validity, enforceability, priority, perfection or value) (the "**Reserved Claims**").[3] The Committee shall have automatic standing and authority to both investigate the Reserved Claims and bring actions based upon the Reserved Claims against the Prepetition Senior Facilities Secured Parties not later than July 31, 2009 (the **"Challenge Period"**) . . . .

11. As noted above, Treasury's counsel drafted the Final DIP Order. At the June 25, 2009 hearing, Treasury asked the Court to enter the order. *See* Mayer Decl. Ex. 3, June 25, 2009 Hearing Tr. at pp. 21-22.

[3] The term "Reserved Claims" shall have the meaning ascribed thereto in paragraph 19(d) of the Final DIP Order.

12. On June 29, 2009, the Debtors filed their Motion Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 to Amend DIP Credit Facility (the "**Motion to Amend DIP Facility**") [Docket No. 2755], which seeks approval of the Amended DIP Facility. *See* Mayer Decl. Ex. 5, Motion to Amend DIP Facility. This motion highlights for the Court the primary terms of the Amended DIP Facility and specifically provides that the term "Collateral" excludes "avoidance actions arising under chapter 5 of the Bankruptcy Code and applicable state law against the Prepetition Senior Facilities Secured Parties (as defined in the DIP Facility)." *See* Mayer Decl. Ex. 5, Motion to Amend DIP Facility ¶ 10(d) at p. 4. In addition, the Motion to Amend DIP Facility provides that the "obligations under the Wind-Down Facility will be non-recourse to the Borrower or the Guarantors, and recourse would only be to the Collateral." *See* Mayer Decl. Ex. 5, Motion to Amend DIP Facility ¶ 10(f) at p. 4.

13. By July 2, 2009, after exchanging multiple drafts and comments thereon, the parties agreed on the terms of the Amended DIP Facility and the Wind-Down Order. The parties, including Treasury, asked the Court to enter the Wind-Down Order approving the Amended DIP Facility. *See* Mayer Decl. ¶ 15; Mayer Decl. Ex. 6, July 2, 2009 Hearing Tr. at pp. 101-07. On July 5, 2009, the Court signed and entered the Wind-Down Order approving the Amended DIP Facility in substantially the form attached as an exhibit thereto. *See* Mayer Decl. ¶ 17; Mayer Decl. Ex. 7, Wind-Down Order.

14. The Amended DIP Facility specifically excludes the Term Loan Litigation from Treasury's collateral by defining "Collateral" as follows:

> [A]ll property and assets of the Loan Parties of every kind or type . . . (including avoidance actions arising under Chapter 5 of the Bankruptcy Code and applicable state law **except avoidance**

> **actions against the Prepetition Senior Facilities Secured Parties** (as defined in the Final Order)) . . . .

Mayer Decl. Ex. 8, Amended DIP Facility at p. 6 (emphasis added). The Amended DIP Facility defines the New GM stock and warrants as "New GM Equity Interests" and excludes those assets from Treasury's lien as "Excluded Collateral." Mayer Decl. Ex. 8, Amended DIP Facility at p. 9; *see also* Mayer Decl. Ex. 8, Amended DIP Facility § 8.20 at p. 67.

15. Not only does the Amended DIP Facility exclude the Term Loan Litigation from Treasury's collateral but the Wind-Down Order does so as well:

> [T]he DIP Liens shall not include security interests in or liens on avoidance actions arising under chapter 5 of the Bankruptcy Code against the Prepetition Senior Facilities Secured Parties (as defined in the DIP Credit facility) or any stock, warrants, options or other equity interests in New CarCo (as defined in the Amended DIP Facility) issued to or held by any Debtor (or any of its subsidiaries) pursuant to the Related Section 363 Transactions including any dividends, payments or other distributions thereon and any proceeds or securities received or receivable upon any disposition or exercise thereof (the "**New GM Equity Interests**").

Mayer Decl. Ex. 7, Wind-Down Order at p. 5.

16. Both the Amended DIP Facility and the Wind-Down Order explicitly provide that Treasury's Wind-Doan Loan shall be ***non-recourse***:

> The Loans shall be non-recourse to the Borrower and the Guarantors and recourse only to the Collateral.

Mayer Decl. Ex. 8, Amended DIP Facility § 2.1 at p. 24 (second sentence).

> [T]he Loans (as defined in the Amended DIP Facility) shall be non-recourse to the Borrower and the Guarantors, such that the DIP Lenders' recourse under the Amended DIP Facility shall be only to the Collateral (as defined in the Amended DIP Facility) securing the DIP Loans. . . .

Mayer Decl. Ex. 7, Wind-Down Order at p. 6. As noted above, the Amended DIP Facility's definition of "Collateral," used in both the Amended DIP Facility and the Wind-Down Order,

specifically excludes the Term Loan Litigation from "Collateral." *See* Mayer Decl. Ex. 8, Amended DIP Facility at p. 6; Mayer Decl. Ex. 7, Wind-Down Order at p. 6.

17. The foregoing provisions were no accident. By the end of the June 19 Negotiating Session, all parties in interest – including Treasury – agreed that Treasury's ***collateral*** would not include the Term Loan Litigation. *See* Mayer Decl. ¶ 11. Shortly after the June 19 Negotiating Session, Committee counsel further specifically requested that Treasury's ***recourse*** under the Amended DIP Facility be limited to its collateral – specifically ***excluding*** from such recourse the New GM stock, the New GM warrants ***and*** the Term Loan Litigation. *See* Mayer Decl. ¶ 12; Mayer Decl. Ex. 9, E-mail to Treasury. Committee counsel submitted comments amending the Amended DIP Facility § 2.1, limiting recourse to "Collateral", in an attachment to an e-mail dated June 30, 2009 and circulated to the Debtors, Treasury, and other parties in interest. *See* Mayer Decl. Ex. 10, June 30, 2009 E-mail to Debtors and Treasury. Treasury's counsel inserted this proposed language into the Amended DIP Facility and the language remained in each subsequent draft of the Amended DIP Facility through and including the execution version. *See* Mayer Decl. ¶ 12.

18. At the July 2, 2009 hearing on the Debtors' motion to approve the Amended DIP Facility, counsel to the Committee provided the Court with a brief overview of the Committee's discussions with the Debtors and Treasury regarding the Amended DIP Facility and the Wind-Down Order. *See* Mayer Decl. Ex. 6, July 2, 2009 Hearing Tr. at pp. 101-03. Treasury did not object to this narrative or the terms of the Amended DIP Facility or the Wind-Down Order. *See* Mayer Decl. Ex. 6, July 2, 2009 Hearing Tr.

19. Indeed, Treasury's counsel affirmed the Committee's representations and supplemented them by stating, "I should make clear that the funding facility is on a non-recourse

basis, as has been the case throughout these discussions." Mayer Decl. Ex. 6, July 2, 2009 Hearing Tr. at p. 103.

20. Hearing no objection, this Court entered the Wind-Down Order, which approved the Amended DIP Facility in substantially the form attached as an Exhibit thereto. *See* Mayer Decl. ¶ 17. Treasury subsequently insisted on further amendments, not approved by the Court, but such amendments are not relevant to this Motion. *See* Mayer Decl. ¶ 17. Treasury signed and consummated the Amended DIP Facility, with the provisions excluding the Term Loan Litigation from both collateral and recourse included in the executed final document, on July 10, 2009. *See* Mayer Decl. Ex. 8, Amended DIP Facility.

21. On July 31, 2009, pursuant to standing granted to the Committee under Final DIP Order ¶ 19(d), the Committee timely filed a complaint against the Prepetition Term Lenders seeking to: (i) avoid the security interest that was subject to the UCC-3 termination statement; (ii) avoid and recover funds from the Prepetition Term Lenders paid on account of such security interest; and (iii) disallow claims held by the Prepetition Term Lenders. *See* Adversary Complaint dated July 31, 2009 [Case No. 09-00504, Docket No. 1]. Cross motions for summary judgment are scheduled to be heard by the Court on November 1, 2010. *See* Mayer Decl. ¶ 18.

22. For almost a year, Treasury made no attempt to intervene in the lawsuit or assert any interest therein. *See* Mayer Decl. ¶ 19. Moreover, Treasury has not once objected to any of the Committee's fee applications seeking reimbursement for its work on the litigation. *See* Mayer Decl. ¶ 19.

23. The initial draft of the Proposed Plan, which was circulated to the Committee on July 23, 2010, provided that the Term Loan Litigation would be prosecuted for the

sole benefit of unsecured creditors.[4] *See* Mayer Decl. ¶ 20. Specifically, the initial draft of the Proposed Plan provided that the distribution to unsecured creditors included the proceeds of the Term Loan Litigation. *See* Mayer Decl. ¶ 20.

24. On July 22, 2010, Treasury's counsel called Committee counsel and for the first time asserted that Treasury had an interest in the Term Loan Litigation. *See* Mayer Decl. ¶ 21. On July 26, 2010, August 16, 2010 and August 18, 2010, Committee counsel participated in conference calls with Treasury's counsel regarding, among other things, the status of the Term Loan Litigation. *See* Mayer Decl. ¶ 21. By no later than August 19, 2010, counsel to the Debtors informed counsel to the Committee that per Treasury's request, the Proposed Plan would provide that the beneficiary of the Term Loan Litigation be determined at a later date. *See* Mayer Decl. ¶ 21.

25. On August 26, 2010, more than a full year after the Committee initiated the Term Loan Litigation, Treasury filed the Statement of the United States of America with Respect to Cross-Motions for Summary Judgment ("**Statement**") [Docket No. 6805] requesting that any resolution of the cross motions for summary judgment not determine any person or entity's entitlements with respect to the ultimate distribution of any funds recovered from the Term Loan Litigation. *See* Mayer Decl. ¶ 22; Mayer Decl. Ex. 11, Statement.

26. On August 31, 2010, the Debtors filed the Proposed Plan, which provides that the Term Loan Litigation will be included in the Avoidance Action Trust as an Avoidance Action Trust Asset. *See* Mayer Decl. ¶ 23; Mayer Decl. Ex. 12, Debtors' Joint Chapter 11 Plan at § 1.22. The Proposed Plan further provides that interests in the Avoidance Action Trust will be distributed to Treasury or to unsecured creditors as the Court may decide or as the Committee

[4] The Proposed Plan provides that the Term Loan Litigation may continue to be prosecuted post-confirmation.

and Treasury may agree. *See* Mayer Decl. ¶ 23; Mayer Decl. Ex. 12, Debtors' Joint Chapter 11 Plan at § 1.23.

JURISDICTION

27. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

28. The Committee seeks the entry of an order, substantially in the form attached hereto as **Exhibit A**, enforcing the Orders and the Amended DIP Facility and thereby determining (as contemplated in the Proposed Plan at Treasury's insistence) that Treasury has no interest in the Term Loan Litigation and interests in the Avoidance Action Trust shall be distributed to unsecured creditors.

BASIS FOR RELIEF REQUESTED

A. This Court Has the Authority to Enforce Its Orders

29. A Bankruptcy Court has the inherent authority to enforce its own orders: "The duty of any court to hear and resolve legal disputes carries with it the power to enforce the order." *U.S. Lines, Inc. v. GAC Marine Fuels, Ltd. (In re McClean Indus., Inc.),* 68 B.R. 690, 695 (Bankr. S.D.N.Y. 1986) (citations omitted). This fundamental premise is codified in Section 105 of the Bankruptcy Code. *See* 11 U.S.C. § 105(a). *See also Back v. AM Gen. Corp. (In re Chateaugay Corp.),* 213 B.R. 633, 640 (S.D.N.Y. 1997) (discussing 11 U.S.C. § 105 and noting Bankruptcy Court's inherent power to enforce its own orders).

30. Pursuant to Paragraph 30 of the Final DIP Order, this Court retained exclusive jurisdiction "to interpret and enforce the provisions of the DIP Credit Facility, the Interim Order and this Final Order in all respects." *See* Mayer Decl. Ex. 4, Final DIP Order ¶ 30.

Similarly, pursuant to the final paragraph of the Wind-Down Order, this Court retained exclusive jurisdiction "to interpret and enforce the provisions of the Amended DIP Facility, the DIP Credit Facility, the Final DIP Order and this Order in all respects." *See* Mayer Decl. Ex. 7, Wind-Down Order at p. 7.

B. The Amended DIP Facility and the Orders Should be Enforced According to Their Plain Terms

31. The Committee asks the Court to enforce the Orders and the Amended DIP Facility according to the plain meaning of their provisions. *See New England Dairies, Inc. v. Dairy Mart Convenience Stores, Inc. (In Re Dairy Mart Convenience Stores, Inc.),* 272 B.R. 66 (S.D.N.Y. 2002) (Court cannot read beyond the four corners of the Order); *United States of America v. Bartlett (In re Bartlett),* 353 B.R. 398 (Bankr. D. Vt. 2006) ("after-the-fact exercise in interpretation cannot substitute for the plain language of the District Court Order."); *GMAC Bus. Credit, L.L.C., v. Ford Motor Co.*, No. Civ. 02-70297, 2002 WL 32819769, *4 (E.D. Mich. Sept. 30, 2002) ("Court orders must ordinarily be interpreted by examination of only the four corners of the document." (Internal quotations omitted)).[5]

32. The relevant provisions of the Orders, set forth above, are in no way ambiguous. The Orders and the Amended DIP Facility plainly demonstrate that: (i) the Committee and only the Committee has standing to bring the Term Loan Litigation; (ii) the Term Loan Litigation is explicitly excluded from "Collateral" as defined in the Amended DIP Facility;

[5] It is also well-settled law that when a contract is clear and unambiguous on its face, a court will not look beyond the four corners of the contract to interpret the parties' intentions. *See* 11 Samuel Williston, *Williston on Contracts* § 31:4, at 277-78 (4th ed. 1999). Under New York law, "agreements are construed in accordance with the intent of the parties and the best evidence of the parties' intent is what they express in their written contract." *Goldman v. White Plains Ctr. for Nursing Care, LLC*, 11 N.Y.3d 173, 176, (2008). Where a contract is unambiguous on its face, "the intent of the parties must be gleaned from within the four corners of the instrument, and not from extrinsic evidence." *Bear, Stearns Funding, Inc. v. Interface Group-Nevada, Inc.*, No. 03 Civ. 8259 (CSH), 2007 WL 1988150, *10 (S.D.N.Y. July 10, 2007) (citation omitted). Accordingly, "a written agreement that is complete, clear and unambiguous on its face must be enforced according to the plain meaning of its terms." *Id.* (*citing Greenfield v. Philles Records, Inc.*, 98 N.Y.2d 562, 569 (2002)).

and (iii) the Amended DIP Facility is recourse only to Collateral, and not to assets excluded therefrom.

33. By definition, a non-recourse loan is a "secured loan that allows the lender to attach only the collateral, and not the borrower's [other] assets, if the loan is not repaid." BLACK'S LAW DICTIONARY, 1020-21 (9th ed. 2009). "A lack of recourse means that a secured creditor may not pursue the debtor or its estate after realization of the collateral originally given." 7 COLLIER ON BANKRUPTCY § 1111(b)(1)(A)(i) (Alan N. Resnick & Henry J. Sommer eds., 16th Ed. rev. 2009). Since Treasury provided its $1.175 billion loan on a non-recourse basis, Treasury cannot now look beyond its collateral for repayment of its loan.

C. The Course of Dealings and Surrounding Facts Show that Treasury Has No Interest in the Term Loan Litigation

34. Even if an ambiguity can be tortured from the straightforward provisions set forth above, the course of negotiations show beyond cavil that the Committee asked Treasury to exclude the Term Loan Litigation from its collateral and Treasury agreed. When the Committee followed through by asking Treasury to make its loan non-recourse, Treasury agreed to that, too.

35. Finally, the background facts also show that Treasury does not have and cannot have any interest in the Term Loan Litigation. The basic deal underpinning these cases, as reflected in the Proposed Plan, is that New GM common stock and warrants are distributed to unsecured creditors, who are partially protected against dilution by receiving more common stock – but not more warrants – if claims increase from $35 billion to $42 billion. Unsecured creditors are completely unprotected against dilution by claims above $42 billion. If the Term Loan Litigation is successful, the $1.5 billion in cash recovered from the losing Prepetition Term Lenders will be matched by a $1.5 billion dilutive increase in unsecured claims.

36. FTI, the Committee's financial advisor, has analyzed the recoveries that the general unsecured creditors would receive if the proceeds of the Term Loan Litigation inured to the benefit of unsecured creditors versus if they did not. Attached hereto as **Exhibit C** is the declaration of Anna Phillips ("**Phillips Decl.**"), which demonstrates the dilution that would occur should the Committee prevail in the Term Loan Litigation – thereby leaving the Prepetition Term Lenders with an unsecured claim of $1.5 billion – without the unsecured creditors receiving the benefit of the proceeds of the litigation. Schedule 1 to the Phillips Decl. is a chart, prepared by FTI, which further demonstrates why it would have made no logical sense for the Committee to initiate the Term Loan Litigation unless its constituents were to receive the potential proceeds thereof.

37. Put simply, should the unsecured creditors receive the potential proceeds of the Term Loan Litigation, unsecured creditors stand to increase their overall percentage recovery by anywhere from 2.2% to 2.9%. Conversely, initiating the Term Loan Litigation without receiving the potential proceeds would result in as much as a 0.4% reduction to the general unsecured creditors' recovery. Phillips Decl. ¶ 3.

38. It thus makes sense for the Committee to have brought the litigation only if unsecured creditors get the cash. If Treasury gets the cash, the litigation will ***decrease*** unsecured creditor recoveries. The Committee would never have commenced the lawsuit and prosecuted it for over a year if Treasury owned it, and the Committee will discontinue the lawsuit if Treasury is determined to own it now – ***no one will own the lawsuit***.

D. Treasury Should Be Judicially Estopped From Arguing that the Term Loan Litigation Belongs to Any Entity Other Than the Committee

39. This Court rightly expects parties appearing before it to live by – and to be bound by – their words and actions. "The notion that a party in bankruptcy can be permitted to

thwart a bankruptcy order which has been conceived and fostered through its participation has been vigorously rejected." *Cukierman v. Mechanics Bank of Richmond (In re J.F. Hink & Son),* 815 F.2d 1314, 1318 (9th Cir. 1987) (internal quotations and citations omitted). "Such a change of position is sternly forbidden. It involves fraud and falsehood, and the law abhors both." *Dickerson v. Colgrove*, 100 U.S. 578, 580 (1880).

40. This rule applies to Treasury, as it would any other litigant. *United States of America v. Owens*, 54 F.3d 271, 275 (6th Cir. 1995) (Given its important role in protecting the judicial process, judicial estoppel may be asserted against the government when it conducts "what appears to be a knowing assault upon the integrity of the judicial system." (internal quotations omitted)).

41. Treasury's counsel drafted the Orders and the Amended DIP Facility, incorporating only such changes as its client deemed acceptable. Treasury supported the entry of each Order. Having agreed to the form of the Orders, having consented to their entry on the record, having represented to the Court that its DIP liens were "non-recourse," having sat idly by as the Committee vigorously pursued the Term Loan Litigation, Treasury should not be heard now to claim that it, and not the unsecured creditors represented by the Committee, should receive the benefit of the Committee's work.

NOTICE

42. Notice of this motion has been provided to counsel to the Debtors, counsel to Treasury, and parties in interest in accordance with the Fourth Amended Order Pursuant to 11 U.S.C. Section 105(a) and Fed. R. Bankr. P. 1015(c) and 9007 Establishing Notice and Case Management Procedures, dated August 24, 2010 [Docket No. 6750]. The Committee submits that such notice is sufficient and no other or further notice need be provided.

No prior request for the relief sought in this motion has been made by the Committee to this or any other Court.

WHEREFORE, the Committee respectfully requests that this Court (i) enter an order substantially in the form attached hereto as **Exhibit A** granting the relief sought herein, and (ii) grant such other and further relief as the Court may deem just and proper.

Dated: October 4, 2010
New York, New York

KRAMER LEVIN NAFTALIS & FRANKEL LLP

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EXHIBIT A

.UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

ORDER GRANTING THE MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF MOTORS LIQUIDATION COMPANY TO ENFORCE (A) THE FINAL DIP ORDER, (B) THE WIND-DOWN ORDER, AND (C) THE AMENDED DIP FACILITY

Upon the Motion (the "**Motion**")[1] of the Official Committee of Unsecured Creditors (the **"Committee**") of the above captioned debtors and debtors-in-possession in these chapter 11 cases (collectively, the "**Debtors**" or "**Old GM**"), for entry of an order enforcing: (i) the Final Order Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (A) Approving a DIP Credit Facility and Authorizing the Debtors to Obtain Post-Petition Financing Pursuant Thereto, (B) Granting Related Liens and Super-Priority Status, (C) Authorizing the Use of Cash Collateral and (D) Granting Adequate Protection to Certain Pre-Petition Secured Parties dated June 25, 2009 (the "**Final DIP Order**") [Docket No. 2529]; (ii) the Order Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (A) Approving Amendment to DIP Credit Facility to Provide for Debtors' Post-Petition Wind-Down Financing dated July 5, 2009 (the "**Wind-Down Order**" and together with the Final DIP Order, the "**Orders**") [Docket No. 2969]; and (iii) the $1,175,000,000 Amended and Restated Secured Superpriority Debtor-in-Possession Credit

[1] Unless otherwise indicated, capitalized terms used but not defined herein shall have the same meanings ascribed to them in the Motion.

Agreement (the "**Amended DIP Facility**"), dated as of July 10, 2010, by and among the Debtors, the United States Department of the Treasury ("**Treasury**"), and Export Development Canada ("**EDC**"), as more fully set forth in the Motion; and the Court having subject matter jurisdiction to consider the Motion and the relief request therein pursuant to 28 U.S.C. § 1334 and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court for the Southern District of New York, dated July 19, 1984 (Ward, Acting C.J.); and the Motion being core proceedings under 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided in accordance with the Fourth Amended Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c) and 9007 Establishing Notice and Case Management Procedures to the parties identified on the Master Service List (as such term is defined therein), and no other or further notice needing to be provided; and the Court having considered: (a) the Motion; (b) the Declaration of Thomas Moers Mayer in support of the Motion; (c) the Declaration of Anna Phillips in support of the Motion; and (d) arguments and evidence provided on the record at the hearing (the "**Hearing**") before this Court on October 21, 2010; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefore,

HEREBY FOUND AND DETERMINED THAT:

A. In the early stages of these cases the Committee and Treasury engaged in negotiations related to the proposed postpetition financing and ultimately agreed to a deal that

[4] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate.

resulted in the Court entering the Final DIP Order, the Wind-Down Order and the Amended DIP Facility which, among other things, provide that: (i) the Committee has standing to bring the Term Loan Litigation; (ii) the Term Loan Litigation is specifically excluded from Treasury's collateral; and (iii) that Treasury's recourse is limited solely to its collateral.

B. The Committee, on behalf of general unsecured creditors commenced the Term Loan Litigation on July 31, 2009.

C. On August 26, 2010, Treasury filed the Statement in which it asserted an interest in the Term Loan Litigation.

D. On August 31, 2010, the Debtors filed the Proposed Plan that provides that the Term Loan Litigation will be included in the Avoidance Action Trust as an Avoidance Action Trust Asset and further provides that interests in the Avoidance Action Trust will be distributed to Treasury or to unsecured creditors as the Court may decide or as the Committee and Treasury may agree.

E. The Court has subject matter jurisdiction over the Motion and the relief request therein pursuant to 28 U.S.C. section 1334 and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court for the Southern District of New York, dated July 19, 1984 (Ward, Acting C.J.). The Motion is a core proceeding pursuant to 28 U.S.C. section 157(b); and venue is proper before the Court pursuant to 28 U.S.C. sections 1408 and 1409.

F. Proper, timely, adequate and sufficient notice of the Motion and the relief requested therein has been provided in accordance with the Fourth Amended Order Pursuant to 11 U.S.C. Section 105(a) and Fed. R. Bankr. P. 1015(c) and 9007 Establishing Notice and Case Management Procedures, dated August 24, 2010 [Docket No. 6750], and such notice was good,

sufficient, and appropriate under the circumstances. No other or further notice of the Motion, the relief requested therein or entry of this Order is or shall be required.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is granted and any objections to the Motion are overruled for the reasons set forth on the record of the Hearing.

2. Pursuant to the terms of the Final DIP Order, the Wind-Down Order and the Amended DIP Facility negotiated between the Committee and Treasury, Treasury has no interest in the Term Loan Litigation or any proceeds thereof and only the Committee is authorized to prosecute the Term Loan Litigation.

3. Interests in the Avoidance Action Trust shall be distributed exclusively to the general unsecured creditors.

4. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: New York, New York
October __, 2010

_____
THE HONORABLE ROBERT E. GERBER
UNITED STATES BANKRUPTCY JUDGE

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Counsel for the Official Committee
of Unsecured Creditors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

DECLARATION OF THOMAS MOERS MAYER IN SUPPORT OF THE MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF MOTORS LIQUIDATION COMPANY TO ENFORCE (A) THE FINAL DIP ORDER, (B) THE WIND-DOWN ORDER, AND (C) THE AMENDED DIP FACILITY

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

THOMAS MOERS MAYER, under the penalty of perjury, deposes and says that:

1. I am a member of Kramer Levin Naftalis & Frankel LLP ("**Kramer Levin**"), with responsibility for the Official Committee of Unsecured Creditors (the "**Committee**") of the Debtors' bankruptcy cases of Motors Liquidation Company, (f/k/a General Motors Corp.) et al. as debtors and debtors-in-possession in the Debtors bankruptcy cases (collectively, the "**Debtors**"), and I submit this declaration (the "**Declaration**") in support of the

Motion of the Official Committee of Unsecured Creditors of Motors Liquidation Company to Enforce (A) The Final DIP Order, (B) The Wind-Down Order, and (C) The Amended DIP Facility (the "**Motion**"). Unless otherwise stated in this Declaration, I have personal knowledge of the facts hereinafter set forth.

2. This paragraph is stated upon information and belief. Paul Weiss Rifkind Wharton & Garrison LLP ("**Paul Weiss**") and Houlihan, Lokey Financial Advisors, Inc. were retained before the commencement of these cases by major holders of the Debtors' publicly traded bonds. These firms negotiated the basic deal with Treasury[1] that underpins these chapter 11 cases, as follows. Their major bondholder clients agreed not to object to the Debtors' sale under Section 363 of substantially all of the Debtors' assets to a new company controlled by Treasury ("**New GM**"). Treasury in return agreed to have New GM issue 10% of its common stock, and warrants with a value approximating an additional 10% of New GM equity, to the Debtors for distribution to the Debtors' unsecured creditors.

3. This paragraph is stated upon information and belief. The deal was based on an estimate of the Debtors' unsecured claims at $35 billion. Treasury agreed that if unsecured claims increased, then, in a range from $35 billion to $42 billion, New GM would issue up to an additional 2% of New GM common stock. Thus, within the $35 to $42 billion range, the 10% of New GM common stock was protected from dilution. However, no additional warrants would be issued by New GM. Thus the New GM warrants, which comprise approximately half of unsecured creditors' value, would not be protected from dilution if claims ranged from $35 billion to $42 billion. If unsecured claims exceed $42 billion, there would be no dilution protection at all. Current estimates of unsecured claims are not public with one exception: New

[1] Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Motion.

GM's report for the second calendar quarter of 2010 states that it estimates unsecured claims against the Debtors will exceed $37 billion.

4. Upon information and belief, the deal was also based on Treasury's commitment to pay, at the closing of the sale, all claims of the Debtors' secured bank lenders – including claims under a $1.5 billion (principal amount) term loan which was, at the time, believed to be fully secured by a non-voidable security interest and various mortgages (as more fully described below, the "**Prepetition Term Loan**").

5. On June 1, 2009, (the "**Petition Date**"), all Debtors with material assets filed voluntary petitions for relief under chapter 11 of title 11, United States Code, as amended.

6. On June 3, 2009, the Committee was formed and retained professionals.

7. In the weeks following the Petition Date, the Committee negotiated the Amended DIP Facility and the Orders. Each of these documents was drafted by Treasury's counsel, which took or rejected comments from the Committee and other parties in the course of the negotiations.

8. A key all-hands meeting of counsel to the Debtors, the Committee and Treasury, plus Paul Weiss, and their respective financial advisors took place on June 19, 2009.

9. Prior to the June 19 Negotiating Session, the Committee had commenced its investigation of liens and security interests securing a pre-petition $1.5 billion term loan dated as of November 29, 2006 and amended March 4, 2009 (the "**Prepetition Term Loan**") from a bank syndicate (the "**Prepetition Term Lenders**")[2] agented by JPMorgan Chase Bank, N.A. ("**JPMorgan**"). The day before the June 19 Negotiating Session, JPMorgan's counsel called to inform Committee counsel that, prior to the Petition Date, a paralegal for counsel to the Debtors

[2] The Final DIP Order and the Wind-Down Order refer to the Prepetition Term Lenders as the Prepetition Senior Facilities Secured Parties.

filed a UCC-3 termination statement with respect to the Prepetition Term Loan's security interests without authority. Subsequent discovery has uncovered facts supporting the Committee's contention that JPMorgan did in fact authorize the paralegal to file the UCC-3 termination statement. This matter is currently *sub judice* with this Court.

10. The Committee was therefore particularly focused on a possible challenge to the Prepetition Term Lenders' security interest and recovery of the $1.5 billion in cash slated to be paid, at the closing of the sale, to the lenders (the "**Term Loan Litigation**"). The Committee's agenda for the June 19 Negotiating Session, and discussions thereafter, included preserving the benefit of the Term Loan Litigation for unsecured creditors.

11. By the end of the June 19 Negotiating Session, all parties in interest – including Treasury – agreed that Treasury's ***collateral*** would not include proceeds from the Term Loan Litigation.

12. Shortly after the June 19 Negotiating Session, Committee counsel further specifically requested that Treasury's ***recourse*** under the Amended DIP Facility be limited to its collateral – specifically ***excluding*** from such recourse the New GM stock, the New GM warrants ***and*** the Term Loan Litigation. Treasury's counsel inserted this proposed language into the Amended DIP Facility and the language remained in each subsequent draft of the Amended DIP Facility through and including the execution version.

13. By June 25, 2009, the Debtors, Treasury, the Prepetition Term Lenders and the Committee had agreed on the terms of the Final DIP Order and the Debtors submitted the order to the Court. At the June 25, 2009 hearing, Treasury asked the Court to enter the order, which the Court did.

14. On June 29, 2009, the Debtors filed a Motion Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 to Amend DIP Credit Facility [Docket No. 2755].

15. By July 2, 2009, after exchanging multiple drafts and comments thereon, the parties agreed on the Amended DIP Facility and the Wind-Down Order. The parties, including Treasury, asked the Court to enter the Wind-Down Order approving the Amended DIP Facility.

16. At the July 2, 2009 hearing on the Debtors' motion to approve the Amended DIP Facility, counsel to the Committee provided the Court with a brief overview of the Committee's discussions with the Debtors and Treasury regarding the Amended DIP Facility and the Wind-Down Order. Treasury did not object to this narrative or the terms of the Amended DIP Facility or the Wind-Down Order.

17. Hearing no objection, this Court signed and entered the Wind-Down Order on July 5, 2009, approving the Amended DIP Facility in substantially the form attached as an exhibit thereto. Treasury subsequently insisted on further amendments, not approved by the Court, but such amendments are not relevant to this Motion. Treasury signed and consummated the Amended DIP Facility, with the provisions excluding the Term Loan Litigation from both collateral and recourse included in the executed final document, on July 10, 2009.

18. On July 31, 2009, pursuant to standing granted to the Committee under Final DIP Order ¶ 19(d), the Committee filed a complaint against the Prepetition Term Lenders seeking to: (i) avoid the security interest that was subject to the UCC-3 termination statement; (ii) avoid and recover funds from the Prepetition Term Lenders paid on account of such security

interest; and (iii) disallow claims held by the Prepetition Term Lenders. Cross motions for summary judgment are scheduled to be heard by the Court on November 1, 2010.

19. For almost a year, Treasury made no attempt to intervene in the lawsuit or assert any interest therein. Moreover, Treasury has not once objected to any of the Committee's fee applications seeking reimbursement for its work on the litigation.

20. The initial draft of the Debtors' Proposed Plan, which was circulated to the Committee on July 23, 2010, provided that the Term Loan Litigation would be prosecuted for the sole benefit of unsecured creditors.[3] Specifically, the initial draft of the Proposed Plan provided that the distribution to unsecured creditors included the proceeds of the Term Loan Litigation.

21. On July 22, 2010, Treasury's counsel called Committee counsel and for the first time asserted that Treasury had an interest in the Term Loan Litigation. On July 26, 2010, August 16, 2010 and August 18, 2010, Committee counsel participated in conference calls with Treasury's counsel regarding, among other things, the status of the Term Loan Litigation. By no later than August 19, 2010, counsel to the Debtors informed counsel to the Committee that per Treasury's request, the Proposed Plan would provide that the beneficiary of the Term Loan Litigation would be determined at a later date.

22. On August 26, 2010, Treasury filed the Statement of the United States of America with Respect to Cross-Motions for Summary Judgment [Docket No. 6805] requesting for the first time that any resolution of the cross motions for summary judgment not determine any person or entity's entitlements with respect to the ultimate distribution of any funds recovered from the Term Loan Litigation.

[3] The Proposed Plan provides that the Term Loan Litigation may continue to be prosecuted post-confirmation.

23. On August 31, 2010, the Debtors filed the Proposed Plan, which provides that the Term Loan Litigation will be included in the Avoidance Action Trust as an Avoidance Action Trust Asset. The Proposed Plan further provides that interests in the Avoidance Action Trust will be distributed to Treasury or to unsecured creditors as the Court may decide or as the Committee and Treasury may agree.

24. Attached as Exhibit 1 is a true and correct copy of the 10-Q for General Motors Co. filed on August 16, 2010.

25. Attached as Exhibit 2 is a true and correct copy of an e-mail from Gordon Novod to Treasury's Counsel, Debtors' Counsel, and Bondholders' Counsel, dated June 23, 2009, attaching Summary of June 19th Meeting by Issue List.

26. Attached as Exhibit 3 is a true and correct copy of the transcript of the June 25, 2009 hearing before this Court.

27. Attached as Exhibit 4 is a true and correct copy of the Final Order Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (A) Approving a DIP Credit Facility and Authorizing the Debtors to Obtain Post-Petition Financing Pursuant Thereto, (B) Granting Related Liens and Super-Priority Status, (C) Authorizing the Use of Cash Collateral and (D) Granting Adequate Protection to Certain Pre-Petition Secured Parties [Docket No. 2529], dated June 25, 2009.

28. Attached as Exhibit 5 is a true and correct copy of the Debtors Motion Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 to Amend DIP Credit Facility [Docket No. 2755], dated June 29, 2009.

29. Attached as Exhibit 6 is a true and correct copy of the transcript of the July 2, 2009 hearing before this Court.

30. Attached as Exhibit 7 is a true and correct copy of the Order Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (A) Approving Amendment to DIP Credit Facility to Provide for Debtors' Post-Petition Wind-Down Financing [Docket No. 2969], dated July 5, 2009.

31. Attached as Exhibit 8 is a true and correct copy of the $1,175,000,000 Amended and Restated Secured Superpriority Debtor-in-Possession Credit Agreement, dated July 10, 2010.

32. Attached as Exhibit 9 is a true and correct copy of an e-mail from Amy Caton to Treasury's Counsel regarding GUM-DIP Order Draft, dated June 23, 2009.

33. Attached as Exhibit 10 is a true and correct copy of an e-mail from Amy Caton to Debtors' Counsel and Treasury's Counsel regarding KL Comments to the GM Wind-Down Facility, dated June 30, 2009, attaching KL Markup Wind-Down CA 6-30-09.

34. Attached as Exhibit 11 is a true and correct copy of the Statement of the United States of America with Respect to Cross-Motions for Summary Judgment [Docket No. 6805], dated August 26, 2010.

35. Attached as Exhibit 12 is a true and correct copy of the Debtors' Joint Chapter 11 Plan [Docket No. 6829], dated August 31, 2010.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed: October 4, 2010
New York, New York

/s/ Thomas Moers Mayer
Thomas Moers Mayer

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Thomas Moers Mayer
Timothy P. Harkness
1177 Avenue of the Americas
New York, New York 10036
Telephone: (212) 715-9100
Facsimile: (212) 715-8000

Counsel for the Official Committee of Unsecured Creditors of Motors Liquidation Co., (f/k/a General Motors Corp.) et al.

Exhibit 1

General Motors Co

300 RENAISSANCE CENTER
DETROIT, MI, 48265−3000
313−.55−6.5000

10−Q

Quarterly report pursuant to sections 13 or 15(d)
Filed on 8/16/2010
Filed Period 6/30/2010

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549−1004

Form 10−Q

☑ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended June 30, 2010

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to

Commission file number 000−53930

GENERAL MOTORS COMPANY

(Exact Name of Registrant as Specified in its Charter)

STATE OF DELAWARE	**27−0756180**
(State or other jurisdiction of Incorporation or Organization)	*(I.R.S. Employer Identification No.)*
300 Renaissance Center, Detroit, Michigan	**48265−3000**
(Address of Principal Executive Offices)	*(Zip Code)*

(313) 556−5000
Registrant's telephone number, including area code

Not applicable
(former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☐ No ☑

Indicate by check mark whether the registrant has submitted electronically and posted on its company Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S−T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non−accelerated filer. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b−2 of the Exchange Act. (Check one):

Large accelerated filer ☐ Accelerated filer ☐ Non−accelerated filer ☑ Smaller reporting company ☐
Do not check if a smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b−2 of the Exchange Act). Yes ☐ No ☑

As of August 1, 2010, the number of shares outstanding of $0.01 par value common stock was 500,000,000 shares.

Website Access to Company's Reports

General Motors Company's internet website address is www.gm.com. Our annual report on Form 10−K, quarterly reports on Form 10−Q, current reports on Form 8−K, and amendments to those reports filed or furnished pursuant to section 13(a) or 15(d) of the Exchange Act are available free of charge through our website as soon as reasonably practicable after they are electronically filed with, or furnished to, the Securities and Exchange Commission.

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GENERAL MOTORS COMPANY AND SUBSIDIARIES

PART I

Item 1. Condensed Consolidated Financial Statements (Unaudited)

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In millions, except per share amounts)
(Unaudited)

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Net sales and revenue	$ 33,174	$ 64,650	$ 23,047	$ 45,478
Costs and expenses				
Cost of sales	28,759	56,350	29,384	53,995
Selling, general and administrative expense	2,623	5,307	2,936	5,433
Other expenses, net	39	85	169	1,154
Total costs and expenses	31,421	61,742	32,489	60,582
Operating income (loss)	1,753	2,908	(9,442)	(15,104)
Equity in income of and disposition of interest in Ally Financial	—	—	1,880	1,380
Interest expense	(250)	(587)	(3,375)	(4,605)
Interest income and other non−operating income, net	59	544	408	833
Loss on extinguishment of debt	—	(1)	(1,994)	(1,088)
Reorganization expenses, net (Note 2)	—	—	(1,157)	(1,157)
Income (loss) before income taxes and equity income	1,562	2,864	(13,680)	(19,741)
Income tax expense (benefit)	361	870	(445)	(559)
Equity income (loss), net of tax	411	814	(2)	46
Net income (loss)	1,612	2,808	(13,237)	(19,136)
Less: Net income (loss) attributable to noncontrolling interests	76	204	(332)	(256)
Net income (loss) attributable to stockholders	1,536	2,604	(12,905)	(18,880)
Less: Cumulative dividends on preferred stock	202	405	—	—
Net income (loss) attributable to common stockholders	$ 1,334	$ 2,199	$ (12,905)	$ (18,880)
Earnings (loss) per share (Note 22)				
Basic				
Net income (loss) attributable to common stockholders	$ 2.67	$ 4.40	$ (21.12)	$ (30.91)
Weighted−average common shares outstanding	500	500	611	611
Diluted				
Net income (loss) attributable to common stockholders	$ 2.55	$ 4.21	$ (21.12)	$ (30.91)
Weighted−average common shares outstanding	522	522	611	611

Reference should be made to the notes to the condensed consolidated financial statements.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS
(In millions, except share amounts)
(Unaudited)

	Successor	
	June 30, 2010	December 31, 2009
ASSETS		
Current Assets		
Cash and cash equivalents	$ 26,773	$ 22,679
Marketable securities	4,761	134
Total cash, cash equivalents and marketable securities	31,534	22,813
Restricted cash and marketable securities	1,393	13,917
Accounts and notes receivable (net of allowance of $272 and $250)	8,662	7,518
Inventories	11,533	10,107
Assets held for sale	—	388
Equipment on operating leases, net	3,008	2,727
Other current assets and deferred income taxes	1,677	1,777
Total current assets	57,807	59,247
Non−Current Assets		
Equity in net assets of nonconsolidated affiliates	8,296	7,936
Assets held for sale	—	530
Property, net	18,106	18,687
Goodwill	30,186	30,672
Intangible assets, net	12,820	14,547
Other assets	4,684	4,676
Total non−current assets	74,092	77,048
Total Assets	$131,899	$ 136,295
LIABILITIES AND EQUITY		
Current Liabilities		
Accounts payable (principally trade)	$ 20,755	$ 18,725
Short−term debt and current portion of long−term debt (including debt at GM Daewoo of $1,021 at June 30, 2010; Note 10)	5,524	10,221
Liabilities held for sale	—	355
Accrued expenses (including derivative liabilities at GM Daewoo of $352 at June 30, 2010; Note 10)	24,068	23,134
Total current liabilities	50,347	52,435
Non−Current Liabilities		
Long−term debt (including debt at GM Daewoo of $722 at June 30, 2010; Note 10)	2,637	5,562
Liabilities held for sale	—	270
Postretirement benefits other than pensions	8,649	8,708
Pensions	25,990	27,086
Other liabilities and deferred income taxes	13,377	13,279
Total non−current liabilities	50,653	54,905
Total Liabilities	101,000	107,340
Commitments and contingencies (Note 17)		
Preferred stock, $0.01 par value (1,000,000,000 shares authorized, 360,000,000 shares issued and outstanding (each with a $25.00 liquidation preference) at June 30, 2010 and December 31, 2009)	6,998	6,998
Equity		
Common stock, $0.01 par value (2,500,000,000 shares authorized, 500,000,000 shares issued and outstanding at June 30, 2010 and December 31, 2009)	5	5
Capital surplus (principally additional paid−in capital)	24,052	24,050
Accumulated deficit	(2,195)	(4,394)
Accumulated other comprehensive income	1,153	1,588
Total stockholders' equity	23,015	21,249
Noncontrolling interests	886	708
Total equity	23,901	21,957
Total Liabilities and Equity	$131,899	$ 136,295

Reference should be made to the notes to the condensed consolidated financial statements.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF EQUITY (DEFICIT)
(In millions)
(Unaudited)

	Common Stockholders'						
	Common Stock	Capital Surplus	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Noncontrolling Interests	Comprehensive Income (Loss)	Total Equity (Deficit)
Balance December 31, 2008, Predecessor	$ 1,017	$16,489	$ (70,727)	$ (32,339)	$ 484		$ (85,076)
Net income (loss)	—	—	(18,880)	—	(256)	$ (19,136)	(19,136)
Other comprehensive income (loss)							
Foreign currency translation adjustments	—	—	—	115	1	116	
Cash flow hedging gain, net	—	—	—	81	193	274	
Unrealized gain on securities	—	—	—	48	—	48	
Defined benefit plans							
Net prior service benefit	—	—	—	2,869	—	2,869	
Net actuarial loss	—	—	—	(6,317)	—	(6,317)	
Net transition asset / obligation	—	—	—	1	—	1	
Other comprehensive income (loss)	—	—	—	(3,203)	194	(3,009)	(3,009)
Comprehensive income (loss)						$ (22,145)	
Dividends declared or paid to noncontrolling interests	—	—	—	—	(17)		(17)
Other	1	6	(1)	—	(39)		(33)
Balance June 30, 2009, Predecessor	$ 1,018	$16,495	$ (89,608)	$ (35,542)	$ 366		$(107,271)
Balance December 31, 2009, Successor	$ 5	$24,050	$ (4,394)	$ 1,588	$ 708		$ 21,957
Net income (loss)	—	—	2,604	—	204	$ 2,808	2,808
Other comprehensive income (loss)							
Foreign currency translation adjustments	—	—	—	(189)	(27)	(216)	
Cash flow hedging loss, net	—	—	—	(15)	—	(15)	
Unrealized loss on securities	—	—	—	(1)	—	(1)	
Defined benefit plans							
Net prior service cost	—	—	—	(5)	—	(5)	
Net actuarial loss	—	—	—	(225)	—	(225)	
Other comprehensive income (loss)	—	—	—	(435)	(27)	(462)	(462)
Comprehensive income (loss)						$ 2,346	
Effects of adoption of amendments to ASC 810−10 regarding variable interest entities (Note 3)	—	—	—	—	76		76
Cash dividends paid to GM preferred stockholders	—	—	(405)	—	—		(405)
Dividends declared or paid to noncontrolling interests	—	—	—	—	(59)		(59)
Repurchase of noncontrolling interest shares	—	2	—	—	(9)		(7)
Other	—	—	—	—	(7)		(7)
Balance June 30, 2010, Successor	$ 5	$24,052	$ (2,195)	$ 1,153	$ 886		$ 23,901

Reference should be made to the notes to the condensed consolidated financial statements.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In millions)
(Unaudited)

	Successor	Predecessor
	Six Months Ended June 30, 2010	Six Months Ended June 30, 2009
Net cash provided by (used in) operating activities	$ 5,695	$ (15,086)
Cash flows from investing activities		
Expenditures for property	(1,851)	(3,134)
Investments in available−for−sale marketable securities, acquisitions	(4,621)	(202)
Investments in trading marketable securities, acquisitions	(178)	—
Investments in available−for−sale marketable securities, liquidations	—	185
Investments in trading marketable securities, liquidations	163	—
Investment in Ally Financial	—	(884)
Investment in companies, net of cash acquired	(50)	—
Operating leases, liquidations	298	1,122
Change in restricted cash and marketable securities	12,616	(643)
Other	33	27
Net cash provided by (used in) investing activities	6,410	(3,529)
Cash flows from financing activities		
Net decrease in short−term debt	(223)	(1,033)
Proceeds from debt owed to UST, EDC and German government	—	29,937
Proceeds from other debt	434	335
Payments on debt owed to UST and EDC	(7,153)	—
Payments on other debt	(438)	(7,446)
Payments to acquire noncontrolling interest	(6)	(5)
Fees paid for debt modification	—	(63)
Dividends paid to GM preferred stockholders	(405)	—
Net cash provided by (used in) financing activities	(7,791)	21,725
Effect of exchange rate changes on cash and cash equivalents	(611)	207
Net increase (decrease) in cash and cash equivalents	3,703	3,317
Cash and cash equivalents reclassified (to) from assets held for sale	391	—
Cash and cash equivalents at beginning of the period	22,679	14,053
Cash and cash equivalents at end of the period	$ 26,773	$ 17,370

Reference should be made to the notes to the condensed consolidated financial statements.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Note 1. Nature of Operations

General Motors Company was formed by the United States Department of the Treasury (UST) in 2009 originally as a Delaware limited liability company, Vehicle Acquisition Holdings LLC, and subsequently converted to a Delaware corporation, NGMCO, Inc. This company, which on July 10, 2009 acquired substantially all of the assets and assumed certain liabilities of General Motors Corporation (363 Sale) and changed its name to General Motors Company, is sometimes referred to in this Quarterly Report on Form 10−Q for the periods on or subsequent to July 10, 2009 as "we," "our," "us," "ourselves," the "Company," "General Motors," or "GM," and is the successor entity solely for accounting and financial reporting purposes (Successor). General Motors Corporation is sometimes referred to in this Quarterly Report on Form 10−Q, for the periods on or before July 9, 2009, as "Old GM." Prior to July 10, 2009 Old GM operated the business of the Company, and pursuant to the agreement with the Securities and Exchange Commission (SEC) Staff, the accompanying condensed consolidated financial statements include the financial statements and related information of Old GM as it is our predecessor entity solely for accounting and financial reporting purposes (Predecessor). In connection with the 363 Sale, General Motors Corporation changed its name to Motors Liquidation Company, which is sometimes referred to in this Quarterly Report on Form 10−Q, for the periods on or after July 10, 2009, as "MLC." MLC continues to exist as a distinct legal entity for the sole purpose of liquidating its remaining assets and liabilities.

We develop, produce and market cars, trucks and parts worldwide. We analyze the results of our business through our three segments: General Motors North America (GMNA), General Motors International Operations (GMIO) and General Motors Europe (GME). Nonsegment operations are classified as Corporate. Corporate includes investments in Ally Financial Inc., formerly GMAC Inc. (Ally Financial), certain centrally recorded income and costs, such as interest, income taxes and corporate expenditures, certain nonsegment specific revenues and expenses, including costs related to the Delphi Benefit Guarantee Agreements (as subsequently defined in Note 17) and a portfolio of automotive retail leases.

Note 2. Chapter 11 Proceedings and the 363 Sale

Background

As a result of historical unfavorable economic conditions and a rapid decline in sales in the three months ended December 31, 2008 Old GM determined that, despite the previous actions it had then taken to restructure its U.S. business, it would be unable to pay its obligations in the normal course of business in 2009 or service its debt in a timely fashion, which required the development of a new plan that depended on financial assistance from the U.S. government.

In December 2008 Old GM requested and received financial assistance from the U.S. government and entered into a loan and security agreement with the UST, which was subsequently amended (UST Loan Agreement). In early 2009 Old GM's business results and liquidity continued to deteriorate, and, as a result, Old GM obtained additional funding from the UST under the UST Loan Agreement. Old GM, through its wholly owned subsidiary GMCL, also received funding from Export Development Canada (EDC), a corporation wholly−owned by the Government of Canada, under a loan and security agreement entered into in April 2009 (EDC Loan Facility).

As a condition to obtaining the loans under the UST Loan Agreement, Old GM was required to submit a plan in February 2009 that included specific actions intended to demonstrate that it was a viable entity and to use its best efforts to achieve certain debt reduction, labor modification and VEBA modification targets.

On March 30, 2009 the Presidential Task Force on the Auto Industry (Auto Task Force) determined that the plan was not viable and required substantial revisions. In conjunction with the March 30, 2009 announcement, the administration announced that it would offer Old GM adequate working capital financing for a period of 60 days while it worked with Old GM to develop and implement a more accelerated and aggressive restructuring that would provide a sound long−term foundation.

Old GM made further modifications to its plan in an attempt to satisfy the Auto Task Force requirement that Old GM undertake a substantially more accelerated and aggressive restructuring plan. The additional significant cost reduction and restructuring actions included reducing Old GM's indebtedness and VEBA obligations in addition to other cost reduction and restructuring actions.

Our Annual Report on Form 10−K for the year ended December 31, 2009 (2009 Form 10−K) provides additional detail on Old GM's liquidity constraints, the terms and conditions of its various funding arrangements with U.S. and Canadian governmental entities, and its various cost reduction and restructuring activities.

Chapter 11 Proceedings

Old GM was not able to complete the cost reduction and restructuring actions, including the debt reductions and VEBA modifications, which resulted in extreme liquidity constraints. As a result, on June 1, 2009 Old GM and certain of its direct and indirect subsidiaries filed voluntary petitions for relief under Chapter 11 (Chapter 11 Proceedings) of the U.S. Bankruptcy Code (Bankruptcy Code) in the U.S. Bankruptcy Court for the Southern District of New York (Bankruptcy Court).

In connection with the Chapter 11 Proceedings, Old GM entered into a secured superpriority debtor−in−possession credit agreement with the UST and EDC (DIP Facility) and received additional funding commitments from EDC to support Old GM's Canadian operations.

363 Sale

On July 10, 2009 we completed the acquisition of substantially all of the assets and assumed certain liabilities of Old GM and certain of its direct and indirect subsidiaries (collectively, the Sellers). The 363 Sale was consummated in accordance with the Amended and Restated Master Sale and Purchase Agreement, dated June 26, 2009, as amended, (Purchase Agreement) between us and the Sellers, and pursuant to the Bankruptcy Court's sale order dated July 5, 2009.

Accounting for the Effects of the Chapter 11 Proceedings and the 363 Sale

Chapter 11 Proceedings

Accounting Standards Codification (ASC) 852, "Reorganizations," (ASC 852) is applicable to entities operating under Chapter 11 of the Bankruptcy Code. ASC 852 generally does not affect the application of U.S. GAAP that we and Old GM followed to prepare the consolidated financial statements, but it does require specific disclosures for transactions and events that were directly related to the Chapter 11 Proceedings and transactions and events that resulted from ongoing operations.

Old GM prepared its consolidated financial statements in accordance with the guidance in ASC 852 in the period June 1, 2009 through June 30, 2009. Revenues, expenses, realized gains and losses, and provisions for losses directly related to the Chapter 11 Proceedings were recorded in Reorganization expenses, net. Reorganization expenses, net do not constitute an element of operating loss due to their nature and due to the requirement of ASC 852 that they be reported separately. Old GM's balance sheet prior to the 363 Sale distinguished prepetition liabilities subject to compromise from prepetition liabilities not subject to compromise and from postpetition liabilities.

Application of Fresh−Start Reporting

The Bankruptcy Court did not determine a reorganization value in connection with the 363 Sale. Reorganization value is defined as the value of our assets without liabilities. In order to apply fresh−start reporting, ASC 852 requires that total postpetition liabilities and allowed claims be in excess of reorganization value and prepetition stockholders receive less than 50.0% of our common stock. Based on our estimated reorganization value, we determined that on July 10, 2009 both the criteria of ASC 852 were met and, as a result, we applied fresh−start reporting. In applying fresh−start reporting at July 10, 2009, which generally follows the provisions of ASC 805, "Business Combinations," (ASC 805) we recorded the assets acquired and the liabilities assumed from Old GM at fair value except for deferred income taxes and certain liabilities associated with employee benefits. Our consolidated balance sheet at July 10, 2009, which includes the adjustments to Old GM's consolidated balance sheet as a result of the 363 Sale and the application of fresh−start reporting, and related disclosures are discussed in Note 2 to our consolidated financial statements in our 2009 Form 10−K. These adjustments are final and no determinations of fair value are considered provisional.

Reorganization Expenses, net

The following table summarizes Old GM's Reorganization expenses, net in the six months ended June 30, 2009 prior to the 363 Sale (dollars in millions):

	Predecessor Six Months Ended June 30, 2009
Loss from the extinguishment of debt resulting from Old GM's repayment of credit facilities and U.S. term loan	$ (958)
Loss on contract rejections, settlements of claims and other lease terminations	(408)
Professional fees	(38)
Gain related to release of accumulated other comprehensive income (loss) associated with derivatives	247
Total reorganization expenses, net	$ (1,157)

Note 3. Basis of Presentation and Recent Accounting Standards

We filed a Registration Statement on Form 10 on April 7, 2010, as amended on May 17, 2010, pursuant to an agreement with the SEC Staff, as described in a no−action letter issued to Old GM by the SEC Staff on July 9, 2009 regarding our filing requirements and those of MLC. On June 7, 2010 our Registration Statement on Form 10 became effective and we became subject to the filing requirements of Section 13 and 15(d) of the Securities Exchange Act of 1934. In accordance with the agreement with the SEC Staff, the accompanying unaudited condensed consolidated financial statements include the financial statements and related information of Old GM, for the period prior to July 10, 2009, our predecessor entity solely for accounting and financial purposes and the entity from whom we purchased substantially all of its assets and assumed certain of its liabilities.

The 363 Sale resulted in a new entity, General Motors Company, which is the successor entity solely for accounting and financial reporting purposes. Because we are a new reporting entity, our financial statements are not comparable to the financial statements of Old GM.

The accompanying condensed consolidated financial statements have been prepared pursuant to the rules and regulations of the SEC for interim financial information. Accordingly, they do not include all of the information and footnotes required by U.S. GAAP for complete financial statements. The accompanying condensed consolidated financial statements include all adjustments, comprised of normal recurring adjustments, considered necessary by management to fairly state our results of operations, financial position and cash flows. The operating results for interim periods are not necessarily indicative of results that may be expected for any other interim period or for the full year. These condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in our 2009 Form 10−K.

In the three months ended June 30, 2010 we changed our managerial reporting structure so that certain entities geographically located within Russia and Uzbekistan were transferred from our GME segment to our GMIO segment. We have revised the segment presentation for all periods presented.

Use of Estimates in the Preparation of the Financial Statements

The condensed consolidated financial statements are prepared in conformity with U.S. GAAP, which requires the use of estimates, judgments, and assumptions that affect the reported amounts of assets and liabilities at the date of the condensed consolidated financial statements and the reported amounts of revenue and expenses in the periods presented. We believe that the accounting estimates employed are appropriate and the resulting balances are reasonable; however, due to the inherent uncertainties in making estimates actual results could differ from the original estimates, requiring adjustments to these balances in future periods.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Principles of Consolidation

Our condensed consolidated financial statements include our accounts and those of our subsidiaries that we control due to ownership of a majority voting interest. In addition, we consolidate variable interest entities (VIEs) when we are the VIE's primary beneficiary. Our share of earnings or losses of nonconsolidated affiliates are included in our consolidated operating results using the equity method of accounting when we are able to exercise significant influence over their operating and financial decisions. When we are not able to exercise significant influence over such affiliates, we use the cost method of accounting. All intercompany balances and transactions have been eliminated in consolidation. Old GM utilized the same principles of consolidation in its condensed consolidated financial statements.

Correction of Presentation in Condensed Consolidated Statement of Cash Flows

In the three months ended June 30, 2010 we identified several items which had not been properly classified in our condensed consolidated statement of cash flows for the three months ended March 31, 2010. We determined that we had not properly classified the effects of the devaluation of Venezuelan Bolivar Fuerte (BsF), which reduced our cash balance by $199 million. This reduction should have been presented as part of the Effect of exchange rate changes on cash and cash equivalents rather than a reduction of Net cash provided by operating activities. Additionally, the change in the cash component of the Saab Automobile AB (Saab) assets classified as held for sale of $330 million should have been presented as part of Cash and cash equivalents reclassified (to) from assets held for sale rather than an increase in Net cash flows from operating activities. The net effects of the remaining corrections are included in the table below. For the six months ended June 30, 2010, we have correctly presented these items in our condensed consolidated statement of cash flows. Although we do not consider the effects of these errors to be material, we intend to correct our condensed consolidated statement of cash flows for the three months ended March 31, 2010 in our Quarterly Report on Form 10−Q for the three months ending March 31, 2011 when filed. The originally reported and corrected amounts are summarized in the following table (dollars in millions):

	As Originally Reported	Adjustments	As Corrected
Net cash provided by (used in) operating activities	$ 1,746	$ 104	$ 1,850
Net cash provided by (used in) investing activities	646	(195)	451
Net cash provided by (used in) financing activities	(1,688)	(50)	(1,738)
Effect of exchange rate changes on cash and cash equivalents	(53)	(250)	(303)
Cash and cash equivalents reclassified (to) from assets held for sale	(20)	391	371
Cash and cash equivalents at beginning of the period	22,679	—	22,679
Cash and cash equivalents at end of the period	$ 23,310	$ —	$ 23,310

Venezuelan Exchange Regulations

Our Venezuelan subsidiaries changed their functional currency from the BsF, the local currency, to the U.S. Dollar, our reporting currency, on January 1, 2010 because of the hyperinflationary status of the Venezuelan economy. Further, pursuant to the official devaluation of the Venezuelan currency and establishment of the dual fixed exchange rates in January 2010, we remeasured the BsF denominated monetary assets and liabilities held by our Venezuelan subsidiaries at the nonessential rate of 4.30 BsF to $1.00. The remeasurement resulted in a charge of $25 million recorded in Cost of sales in the three months ended March 31, 2010. During the six months ended June 30, 2010 all BsF denominated transactions have been remeasured at the nonessential rate of 4.30 BsF to $1.00.

In June 2010, the Venezuelan government introduced additional foreign currency exchange control regulations, which imposed restrictions on the use of the parallel foreign currency exchange market, thereby making it more difficult to convert BsF to U.S. Dollars. We periodically accessed the parallel exchange market, which historically enabled entities to obtain foreign currency for transactions that could not be processed by the Commission for the Administration of Currency Exchange (CADIVI). The restrictions on the foreign currency exchange market could affect our Venezuelan subsidiaries' ability to pay its non−BsF denominated obligations that do not qualify to be processed by CADIVI at the official exchange rates as well as our ability to benefit from those operations.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following table provides condensed financial information for our Venezuelan subsidiaries at and for the six months ended June 30, 2010, which includes amounts receivable from and payable to, and transactions with, affiliated entities (dollars in millions):

Total assets (a)	$1,347
Total liabilities (b)	$1,116
Revenue for six months ended June 30, 2010	$ 443
Net income attributable to stockholders for six months ended June 30, 2010 (c)	$ 215

(a) Includes BsF denominated and non−BsF denominated monetary assets of $273 million and $720 million.

(b) Includes BsF denominated and non−BsF denominated monetary liabilities of $553 million and $518 million.

(c) Includes a gain of $119 million related to the devaluation of the Bolivar in January 2010 and a gain of $125 million due to favorable foreign currency exchanges that were processed by CADIVI in the three months ended June 30, 2010. The $119 million gain on the devaluation was offset by a $144 million loss recorded in the U.S. on BsF denominated assets, which is not included in the net income reported above.

In addition, the total amount pending government approval for settlement is BsF 1.2 billion (equivalent to $428 million), for which the requests have been pending starting from 2007. The amount includes payables to affiliated entities of $287 million, which includes dividends payable of $144 million.

Recently Adopted Accounting Principles

Transfers of Financial Assets

In January 2010 we adopted certain amendments to ASC 860−10, “Transfers and Servicing” (ASC 860−10). ASC 860−10 eliminates the concept of a qualifying special−purpose entity (SPE), establishes a new definition of participating interest that must be met for transfers of portions of financial assets to be eligible for sale accounting, clarifies and amends the derecognition criteria for a transfer of financial assets to be accounted for as a sale, and changes the amount that can be recorded as a gain or loss on a transfer accounted for as a sale when beneficial interests are received by the transferor. The adoption of these amendments did not have a material effect on the condensed consolidated financial statements.

Variable Interest Entities

In January 2010 we adopted amendments to ASC 810−10, “Consolidation” (ASC 810−10). These amendments require an enterprise to qualitatively assess the determination of the primary beneficiary of a VIE based on whether the enterprise: (1) has the power to direct the activities of a VIE that most significantly affect the entity’s economic performance; and (2) has the obligation to absorb losses of the entity or the right to receive benefits from the entity that could potentially be significant to the VIE. These amendments also require, among other considerations, an ongoing reconsideration of the primary beneficiary. In February 2010 the Financial Accounting Standards Board (FASB) issued guidance that permitted an indefinite deferral of these amendments for entities that have all the attributes of an investment company or that apply measurement principles consistent with those followed by investment companies. An entity that qualifies for the deferral will continue to be assessed under the overall guidance on the consolidation of VIEs in effect prior to the adoption of these amendments. This deferral was applicable to certain investment funds associated with our employee benefit plans and investment funds managing investments on behalf of unrelated third parties.

The amendments were adopted prospectively. Upon adoption, we consolidated General Motors Egypt (GM Egypt) which resulted in an increase in Total assets of $254 million, an increase in Total liabilities of $178 million, and an increase in Noncontrolling interests of $76 million. Due to our application of fresh−start reporting on July 10, 2009 and because our investment in GM Egypt was accounted for using the equity method of accounting, there was no difference between the net assets added to the condensed consolidated balance sheet upon consolidation and the amount of previously recorded interest in GM Egypt. As a result, there was no cumulative effect of a change in accounting principle to Accumulated deficit. The effect of these amendments was measured based on

the amount at which the asset, liability and noncontrolling interest would have been carried or recorded in the condensed consolidated financial statements if these amendments had been effective since inception of our relationship with GM Egypt. Refer to Note 10 for additional information regarding the effect of the adoption of these amendments.

Accounting Standards Not Yet Adopted

In September 2009 the FASB issued Accounting Standards Update (ASU) 2009−13, "Multiple−Deliverable Revenue Arrangements" (ASU 2009−13). ASU 2009−13 addresses the unit of accounting for multiple−element arrangements. In addition, ASU 2009−13 revises the method by which consideration is allocated among the units of accounting. The overall consideration is allocated to each deliverable by establishing a selling price for individual deliverables based on a hierarchy of evidence, including vendor−specific objective evidence, other third party evidence of the selling price, or the reporting entity's best estimate of the selling price of individual deliverables in the arrangement. ASU 2009−13 will be effective prospectively for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010. We are currently evaluating the effects, if any, that ASU 2009−13 will have on the condensed consolidated financial statements.

Note 4. Acquisition and Disposals of Businesses

Acquisition of Delphi Businesses

In July 2009 we entered into the Delphi Master Disposition Agreement (DMDA) with Delphi Corporation (Delphi) and other parties, which was consummated in October 2009. Under the DMDA, we agreed to acquire Delphi's global steering business (Nexteer) and four domestic component manufacturing facilities as well as make an investment in a new entity, New Delphi, which acquired substantially all of Delphi's remaining assets. At October 6, 2009 the fair value of Nexteer and the four domestic facilities was $287 million and the assets acquired and liabilities assumed were consolidated and included in the results of our GMNA segment. Total assets of $1.2 billion were comprised primarily of accounts and notes receivables, inventories and property, plant and equipment. Total liabilities of $0.9 billion were comprised primarily of accounts payable, accrued expenses, short−term debt and other liabilities.

We funded the acquisitions, transaction−related costs and settlements of certain pre−existing arrangements through net cash payments of $2.7 billion. We also assumed liabilities and wind−down obligations of $120 million, waived our claims associated with the Delphi liquidity support agreements of $850 million and waived our rights to claims associated with previously transferred pension costs for hourly employees. Of these amounts, we contributed $1.7 billion to New Delphi and paid the Pension Benefit Guarantee Corporation (PBGC) $70 million in October 2009. Our investment in New Delphi is accounted for using the equity method.

In January 2010 we announced that we intended to pursue a sale of Nexteer. In July 2010 we entered into a definitive agreement for the sale of Nexteer as discussed in Note 26 to our condensed consolidated financial statements.

Sale of India Operations

In December 2009 we and SAIC Motor Hong Kong Investment Limited (SAIC−HK) entered into a joint venture, SAIC GM Investment Limited (HKJV) to invest in automotive projects outside of markets in China, initially focusing on markets in India. On February 1, 2010 we sold certain of our operations in India (India Operations), part of our GMIO segment, in exchange for a promissory note due in 2013. The amount due under the promissory note may be partially reduced, or increased, based on the India Operation's cumulative earnings before interest and taxes for the three year period ending December 31, 2012. In connection with the sale we recorded net consideration of $190 million and an insignificant gain. The sale transaction resulted in a loss of control and the deconsolidation of the India Operations on February 1, 2010. Accordingly, we removed the assets and liabilities of the India Operations from our consolidated financial statements and recorded an equity interest in HKJV to reflect cash of $50 million we contributed to HKJV and a $123 million commitment to provide additional capital that we are required to make in accordance with the terms of the joint venture agreement. We have recorded a corresponding liability to reflect our obligation to provide additional capital.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Saab Bankruptcy and Sale

In February 2009 Saab, part of the GME segment, filed for protection under the reorganization laws of Sweden in order to reorganize itself into a stand−alone entity. Old GM determined that the reorganization proceeding resulted in a loss of the elements of control necessary for consolidation and therefore Old GM deconsolidated Saab in February 2009. Old GM recorded a loss of $824 million in Other expenses, net related to the deconsolidation. The loss reflects the remeasurement of Old GM's net investment in Saab to its estimated fair value of $0, costs associated with commitments and obligations to suppliers and others, and a commitment to provide up to $150 million of DIP financing. We acquired Old GM's investment in Saab in connection with the 363 Sale. In August 2009 Saab exited its reorganization proceeding, and we regained the elements of control and consolidated Saab at an insignificant fair value.

In February 2010 we completed the sale of Saab and in May 2010 we completed the sale of Saab Automobile GB (Saab GB) to Spyker Cars NV. Of the negotiated cash purchase price of $74 million, we received $50 million at closing and received the remaining $24 million in July 2010. We also received preference shares in Saab with a face value of $326 million and an estimated fair value that is insignificant and received $114 million as repayment of the DIP financing that we provided to Saab during 2009. In the three months ended March 31, 2010 we recorded a gain of $123 million in Interest income and other non−operating income, net reflecting cash received of $166 million less net assets with a book value of $43 million.

Sale of 1% Interest in Shanghai General Motors Co., Ltd.

In February 2010 we sold a 1% ownership interest in Shanghai General Motors Co., Ltd. (SGM) to SAIC−HK, reducing our ownership interest to 49%. The sale of the 1% ownership interest to SAIC was predicated on our ability to work with SAIC to obtain a $400 million line of credit from a commercial bank to us. We also received a call option to repurchase the 1% which is contingently exercisable based on events which we do not unilaterally control. As part of the loan arrangement SAIC provided a commitment whereby, in the event of default, SAIC will purchase the ownership interest in SGM that we pledged as collateral for the loan. We recorded an insignificant gain on this transaction in the six months ended June 30, 2010.

Acquisition of AmeriCredit Corp.

Refer to Note 26 for information concerning the pending acquisition of AmeriCredit Corp.

Note 5. Marketable Securities

The following tables summarize information regarding investments in Marketable securities (dollars in millions):

	Successor				
	Three Months Ended June 30, 2010		Six Months Ended June 30, 2010		June 30, 2010
	Unrealized		Unrealized		
	Gains	Losses	Gains	Losses	Fair Value
Trading securities:					
Equity	$ —	$ 5	$ —	$ 5	$ 30
United States government and agencies	—	—	—	—	12
Mortgage — and asset−backed	—	—	1	—	29
Foreign government	1	1	1	1	30
Corporate debt	1	1	1	1	29
Total trading securities	$ 2	$ 7	$ 3	$ 7	$ 130

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Successor							
	June 30, 2010				December 31, 2009			
		Unrealized		Fair		Unrealized		Fair
	Cost	Gains	Losses	Value	Cost	Gains	Losses	Value
Available−for−sale securities:								
United States government and agencies	$ 939	$ —	$ —	$ 939	$ 2	$ —	$ —	$ 2
Certificates of deposit	1,326	—	—	1,326	8	—	—	8
Corporate debt	2,366	—	—	2,366	—	—	—	—
Total available−for−sale securities	$4,631	$ —	$ —	$4,631	$ 10	$ —	$ —	$ 10

We maintained $79 million of the available−for−sale securities as compensating balances to support letters of credit of $66 million at June 30, 2010 and December 31, 2009. We have access to these securities in the normal course of business; however, the letters of credit may be withdrawn if the minimum collateral balance is not maintained.

In addition to the securities previously discussed, securities of $16.2 billion and $11.2 billion with original maturities of 90 days or less were classified as cash equivalents and marketable securities of $1.5 billion and $13.6 billion were classified as Restricted cash and marketable securities at June 30, 2010 and December 31, 2009.

The following table summarizes proceeds from and realized gains and losses on disposals of investments in marketable securities classified as available−for−sale (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Sales proceeds	$ 1	$ 1	$ 95	$ 185
Realized gains	$ —	$ —	$ 2	$ 3
Realized losses	$ —	$ —	$ 4	$ 10

The following table summarizes the fair value of investments classified as available−for−sale securities by contractual maturity at June 30, 2010 (dollars in millions):

	Successor	
	Amortized Cost	Fair Value
Due in one year or less	$ 4,630	$4,630
Due after one year through five years	1	1
Due after five years through ten years	—	—
Due after ten years	—	—
Total contractual maturities of available−for−sale securities	$ 4,631	$4,631

Refer to Note 21 for the amounts recorded as a result of other than temporary impairments on debt and equity securities.

Note 6. Inventories

The following table summarizes the components of our Inventories (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Productive material, work in process, and supplies	$ 5,199	$ 4,201
Finished product, including service parts	6,334	5,906
Total inventories	$11,533	$ 10,107

Note 7. Equity in Net Assets of Nonconsolidated Affiliates

Nonconsolidated affiliates are entities in which an equity ownership interest is maintained and for which the equity method of accounting is used, due to the ability to exert significant influence over decisions relating to their operating and financial affairs.

The following table summarizes information regarding equity in income (loss) of and disposition of interest in nonconsolidated affiliates (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
SGM and SGMW (a)	$ 378	$ 734	$ 183	$ 289
Ally Financial (b)	—	—	(597)	(1,097)
Gain on Conversion of UST Ally Financial Loan (c)	—	—	2,477	2,477
Total equity in income of and disposition of interest in Ally Financial (b)	—	—	1,880	1,380
New United Motor Manufacturing, Inc. (d)	—	—	(226)	(243)
Others	33	80	41	—
Total equity in income of nonconsolidated affiliates	$ 411	$ 814	$ 1,878	$ 1,426

(a) Includes SGM (49%) in the three and six months ended June 30, 2010 and (50%) in the three and six months ended June 30, 2009 and SAIC−GM−Wuling Automobile Co., Ltd. (SGMW) (34%).

(b) Ally Financial converted its status to a C corporation effective June 30, 2009. At that date, Old GM began to account for its investment in Ally Financial using the cost method rather than the equity method as Old GM no longer exercised significant influence over Ally Financial. In connection with Ally Financial's conversion into a C corporation, each unit of each class of Ally Financial Membership Interests was converted into shares of capital stock of Ally Financial with substantially the same rights and preferences as such Membership Interests.

(c) In May 2009 the UST exercised its option to convert the outstanding amounts owed on the UST Ally Financial Loan (as subsequently defined) into shares of Ally Financial's Class B common Membership Interests.

(d) New United Motor Manufacturing (NUMMI) (50%) was retained by MLC as part of the 363 Sale.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Investment in Ally Financial

As part of the approval process for Ally Financial to obtain Bank Holding Company status in December 2008, Old GM agreed to reduce its ownership in Ally Financial to less than 10% of the voting and total equity of Ally Financial by December 24, 2011. At June 30, 2010 our equity ownership in Ally Financial was 16.6% as subsequently discussed.

In December 2008 Old GM and FIM Holdings, an assignee of Cerberus ResCap Financing LLC, entered into a subscription agreement with Ally Financial under which each agreed to purchase additional Common Membership Interests in Ally Financial, and the UST committed to provide Old GM with additional funding in order to purchase the additional interests. In January 2009 Old GM entered into the UST Ally Financial Loan Agreement pursuant to which Old GM borrowed $884 million (UST Ally Financial Loan) and utilized those funds to purchase 190,921 Class B Common Membership Interests in Ally Financial. The UST Ally Financial Loan was scheduled to mature in January 2012 and bore interest, payable quarterly, at the same rate of interest as the UST Loans. The UST Ally Financial Loan Agreement was secured by Old GM's Common and Preferred Membership Interests in Ally Financial. As part of this loan agreement, the UST had the option to convert outstanding amounts into a maximum of 190,921 shares of Ally Financial's Class B Common Membership Interests on a pro rata basis.

In May 2009 the UST exercised this option, the outstanding principal and interest under the UST Ally Financial Loan was extinguished, and Old GM recorded a net gain of $483 million. The net gain was comprised of a gain on the disposition of Ally Financial Common Membership Interests of $2.5 billion recorded in Equity in income of and disposition of interest in Ally Financial and, a loss on extinguishment of the UST Ally Financial Loan of $2.0 billion recorded in Loss on extinguishment of debt. After the exchange, Old GM's ownership was reduced to 24.5% of Ally Financial's Common Membership Interests.

Ally Financial converted its status to a C corporation effective June 30, 2009. At that date, Old GM began to account for its investment in Ally Financial using the cost method rather than the equity method as Old GM no longer exercised significant influence over Ally Financial. In connection with Ally Financial's conversion into a C corporation, each unit of each class of Ally Financial Membership Interests was converted into shares of capital stock of Ally Financial with substantially the same rights and preferences as such Membership Interests. On July 10, 2009 we acquired the investment in Ally Financial's common and preferred stocks in connection with the 363 Sale.

In December 2009 the UST made a capital contribution to Ally Financial of $3.8 billion consisting of the purchase of trust preferred securities of $2.5 billion and mandatory convertible preferred securities of $1.3 billion. The UST also exchanged all of its existing Ally Financial non−convertible preferred stock for newly issued mandatory convertible preferred securities valued at $5.3 billion. In addition the UST converted mandatory convertible preferred securities valued at $3.0 billion into Ally Financial common stock. These actions resulted in the dilution of our investment in Ally Financial common stock from 24.5% to 16.6%, of which 6.7% is held directly and 9.9% is held in an independent trust. Pursuant to previous commitments to reduce influence over and ownership in Ally Financial, the trustee, who is independent of us, has the sole authority to vote and is required to dispose of our 9.9% ownership in Ally Financial common stock held in the trust by December 24, 2011.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following tables summarize financial information of Ally Financial for the period Ally Financial was accounted for as a nonconsolidated affiliate (dollars in millions):

	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Consolidated Statements of Loss		
Total financing revenue and other interest income	$ 3,389	$ 6,916
Total interest expense	$ 1,940	$ 3,936
Depreciation expense on operating lease assets	$ 1,056	$ 2,113
Gain on extinguishment of debt	$ 13	$ 657
Total other revenue	$ 867	$ 2,117
Total noninterest expense	$ 1,726	$ 3,381
Loss from continuing operations before income tax expense	$(1,583)	$ (2,260)
Income tax expense from continuing operations	$ 1,096	$ 972
Net loss from continuing operations	$(2,679)	$ (3,232)
Loss from discontinued operations, net of tax	$(1,224)	$ (1,346)
Net loss	$(3,903)	$ (4,578)

	June 30, 2009
Condensed Consolidated Balance Sheet	
Loans held for sale	$ 11,440
Total finance receivables and loans, net	$ 87,520
Investment in operating leases, net	$ 21,597
Other assets	$ 22,932
Total assets	$ 181,248
Total debt	$ 105,175
Accrued expenses and other liabilities	$ 41,363
Total liabilities	$ 155,202
Preferred stock held by UST	$ 12,500
Preferred stock	$ 1,287
Total equity	$ 26,046

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Ally Financial – Preferred and Common Membership Interests

The following tables summarize the activity with respect to the investment in Ally Financial Common and Preferred Membership Interests for the period Ally Financial was accounted for as a nonconsolidated affiliate (dollars in millions):

	Predecessor	
	Ally Financial Common Membership Interests	Ally Financial Preferred Membership Interests
Balance at January 1, 2009	$ 491	$ 43
Old GM's proportionate share of Ally Financial's losses	(500)	—
Investment in Ally Financial Common Membership Interests	884	—
Other, primarily accumulated other comprehensive loss	(121)	—
Balance at March 31, 2009	754	43
Old GM's proportionate share of Ally Financial's losses (a)	(630)	(7)
Gain on disposition of Ally Financial Common Membership Interests (b)	2,477	—
Conversion of Ally Financial Common Membership Interests (b)	(2,885)	—
Other, primarily accumulated other comprehensive loss	284	—
Balance at June 30, 2009	$ —	$ 36

(a) Due to impairment charges and Old GM's proportionate share of Ally Financial's losses, the carrying amount of Old GM's investments in Ally Financial Common Membership Interests was reduced to $0. Old GM recorded its proportionate share of Ally Financial's remaining losses to its investment in Ally Financial Preferred Membership Interests.

(b) Due to the exercise of the UST's option to convert the UST Ally Financial Loan into Ally Financial Common Membership Interests, in connection with the UST Ally Financial Loan conversion, Old GM recorded a gain of $2.5 billion on disposition of Ally Financial Common Membership Interests and a $2.0 billion loss on extinguishment based on the carrying amount of the UST Ally Financial Loan and accrued interest of $0.9 billion.

Transactions with Nonconsolidated Affiliates

Nonconsolidated affiliates are involved in various aspects of the development, production and marketing of cars, trucks and parts. The following tables summarize the effects of transactions with nonconsolidated affiliates which are not eliminated in consolidation (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Results of Operations				
Net sales and revenue	$ 479	$ 909	$ 297	$ 549
Cost of sales	$ 816	$ 1,570	$ 36	$ 233
Selling, general and administrative expense	$ —	$ (3)	$ (3)	$ (5)
Interest income and other non−operating income, net	$ —	$ —	$ —	$ 1

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Successor	
	June 30, 2010	December 31, 2009
Financial Position		
Accounts and notes receivable, net	$ 271	$ 594
Accounts payable (principally trade)	$ 341	$ 396

	Successor	Predecessor
	Six Months Ended June 30, 2010	Six Months Ended June 30, 2009
Cash Flows		
Operating	$ 701	$ 258
Investing	$ 654	$ 278
Financing	$ —	$ —

Note 8. Goodwill

The following table summarizes the changes in the carrying amount of Goodwill (dollars in millions):

	Successor			
	GMNA	GMIO	GME	Total
Balance at January 1, 2010	$26,409	$ 928	$3,335	$30,672
Effect of foreign currency translation	—	(29)	(457)	(486)
Balance at June 30, 2010	$26,409	$ 899	$2,878	$30,186

We recorded Goodwill of $30.5 billion upon application of fresh−start reporting. If all identifiable assets and liabilities had been recorded at fair value upon application of fresh−start reporting, no goodwill would have resulted. However, when applying fresh−start reporting, certain accounts, primarily employee benefit plan and income tax related, were recorded at amounts determined under specific U.S. GAAP rather than fair value and the difference between the U.S. GAAP and fair value amounts gave rise to goodwill, which is a residual. Our employee benefit related accounts were recorded in accordance with ASC 712, “Compensation — Nonretirement Postemployment Benefits” and ASC 715, “Compensation — Retirement Benefits” and deferred income taxes were recorded in accordance with ASC 740, “Income Taxes.” Further, we recorded valuation allowances against certain of our deferred tax assets, which under ASC 852 also resulted in Goodwill. These valuation allowances were due in part to Old GM’s history of recurring operating losses, and our projections at the 363 Sale date of continued near−term operating losses in certain jurisdictions. While the 363 Sale constituted a significant restructuring that eliminated many operating and financing costs, Old GM had undertaken significant restructurings in the past that failed to return certain jurisdictions to profitability. At the 363 Sale date, we concluded that there was significant uncertainty as to whether the recent restructuring actions would return these jurisdictions to sustained profitability, thereby necessitating the establishment of a valuation allowance against certain deferred tax assets. None of the goodwill from this transaction is deductible for tax purposes.

In the three months ended June 30, 2010 there were event driven changes in circumstances within our GME reporting unit that warranted the testing of goodwill for impairment. Anticipated competitive pressure on our margins in the near− and medium−term led us to believe that the goodwill associated with our GME reporting unit may be impaired. Utilizing the best available information as of June 30, 2010 we performed a step one goodwill impairment test for our GME reporting unit, and concluded that goodwill was not impaired. The fair value of our GME reporting unit was estimated to be approximately $325 million over its carrying amount. If we had not passed step one, we believe the amount of any goodwill impairment would approximate $140 million based on the estimated differences at June 30, 2010 between the fair value to U.S. GAAP adjustments that gave rise to goodwill, primarily related to employee benefit plans and income taxes.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

We utilized a discounted cash flow methodology to estimate the fair value of our GME reporting unit. The valuation methodologies utilized were consistent with those used in our application of fresh−start reporting on July 10, 2009, as discussed in Note 2 to our 2009 Form 10−K, and in our 2009 annual and event driven GME impairment tests and result in Level 3 measures within the valuation hierarchy. Assumptions used in our discounted cash flow analysis that had the most significant effect on the estimated fair value of our GME reporting unit include:

- Our estimated weighted−average cost of capital (WACC);
- Our estimated long−term growth rates; and
- Our estimate of industry sales and our market share.

We used a WACC of 22.0% that considered various factors including bond yields, risk premiums, and tax rates; a terminal value that was determined using a growth model that applied a long−term growth rate of 0.5% to our projected cash flows beyond 2015; and industry sales of 18.4 million vehicles and a market share for Opel/Vauxhall of 6.45% in 2010 increasing to industry sales of 22.0 million vehicles and a 7.4% market share in 2015.

Our fair value estimate assumes the achievement of the future financial results contemplated in our forecasted cash flows, and there can be no assurance that we will realize that value. The estimates and assumptions used are subject to significant uncertainties, many of which are beyond our control, and there is no assurance that anticipated financial results will be achieved.

Note 9. Intangible Assets, net

The following table summarizes the components of Intangible assets, net (dollars in millions):

	Successor					
	June 30, 2010			December 31, 2009		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Amortizing Intangibles						
Technology and intellectual property	$ 7,729	$ 2,670	$ 5,059	$ 7,741	$ 1,460	$ 6,281
Brands	5,348	143	5,205	5,508	72	5,436
Dealer network and customer relationships	2,067	129	1,938	2,205	67	2,138
Favorable contracts	509	79	430	542	39	503
Other	19	6	13	17	3	14
Total amortizing intangible assets	15,672	3,027	12,645	16,013	1,641	14,372
Non amortizing in−process research and development	175	—	175	175	—	175
Total intangible assets	$ 15,847	$ 3,027	$ 12,820	$ 16,188	$ 1,641	$ 14,547

The following table summarizes amortization expense related to Intangible assets, net (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Amortization expense related to intangible assets, net	$ 667	$ 1,403	$ 21	$ 43

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following table summarizes estimated amortization expense related to Intangible assets, net in each of the next five fiscal years (dollars in millions):

	Estimated Amortization Expense
2011	$ 1,785
2012	$ 1,560
2013	$ 1,227
2014	$ 611
2015	$ 314

Note 10. Variable Interest Entities

Consolidated VIEs

VIEs that we do not control through a majority voting interest that are consolidated because we are or Old GM was the primary beneficiary primarily include: (1) previously divested suppliers for which we provide or Old GM provided guarantees or financial support; (2) a program announced by the UST in March 2009 to provide financial assistance to automotive suppliers (Receivables Program); (3) vehicle sales and marketing joint ventures that manufacture, market and sell vehicles in certain markets; (4) leasing SPEs which held real estate assets and related liabilities for which Old GM provided residual guarantees; and (5) an entity which manages certain private equity investments held by our and Old GM's defined benefit plans, along with six associated general partner entities.

Certain creditors and beneficial interest holders of these VIEs have or had limited, insignificant recourse to our general credit or Old GM's general credit. In the event that creditors or beneficial interest holders were to have such recourse to our or Old GM's general credit, we or Old GM could be held liable for certain of the VIEs' obligations. GM Daewoo Auto & Technology Co. (GM Daewoo), a non−wholly owned consolidated subsidiary that we control through a majority voting interest, is also a VIE because in the future it may require additional subordinated financial support. The creditors of GM Daewoo's short−term debt of $1.0 billion, long−term debt of $722 million and current derivative liabilities of $352 million at June 30, 2010 do not have recourse to our general credit.

The following table summarizes the carrying amount of assets and liabilities of consolidated VIEs that we do not also control through a majority voting interest (dollars in millions):

	Successor	
	June 30, 2010 (a)(b)	December 31, 2009 (a)
Assets:		
Cash and cash equivalents	$ 81	$ 15
Restricted cash	3	191
Accounts and notes receivable, net	121	14
Inventories	77	15
Other current assets	29	—
Property, net	52	5
Other assets	37	33
Total assets	$ 400	$ 273
Liabilities:		
Accounts payable (principally trade)	$ 196	$ 17
Short−term debt and current portion of long−term debt	1	205
Accrued expenses	22	10
Other liabilities and deferred income taxes	47	23
Total liabilities	$ 266	$ 255

(a) Amounts exclude GM Daewoo.

(b) Amounts at June 30, 2010 reflect the effect of our adoption of amendments to ASC 810−10 in January 2010, which resulted in the consolidation of GM Egypt. At June 30, 2010 GM Egypt had Total assets of $344 million and Total liabilities of $238 million.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following table summarizes the amounts recorded in earnings related to consolidated VIEs that we do not also control through a majority voting interest (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010 (a)(b)	Six Months Ended June 30, 2010 (a)(b)	Three Months Ended June 30, 2009 (a)	Six Months Ended June 30, 2009 (a)
Net sales and revenue	$ 197	$ 370	$ 15	$ 30
Cost of sales	152	287	(1)	6
Selling, general and administrative expense	7	17	24	28
Other expenses, net	1	2	1	2
Interest expense	1	4	1	1
Interest (income) and other non−operating (income), net	(2)	(3)	—	—
Income tax expense	5	8	—	—
Net income (loss)	$ 33	$ 55	$ (10)	$ (7)

(a) Amounts exclude GM Daewoo.

(b) Amounts recorded in the three and six months ended June 30, 2010 reflect our adoption of amendments to ASC 810−10 in January 2010, which resulted in the consolidation of GM Egypt. In the three and six months ended June 30, 2010 GM Egypt recorded Net sales and revenue of $187 million and $349 million.

GM Egypt

GM Egypt is a 31% owned automotive manufacturing organization that was previously accounted for using the equity method. GM Egypt was founded in March 1983 to assemble and manufacture vehicles in Egypt. Certain voting and other rights permit us to direct those activities of GM Egypt that most significantly affect its economic performance. In connection with our adoption of amendments to ASC 810−10, we consolidated GM Egypt in January 2010.

Receivables Program

We determined that the Receivables Program was a VIE and that we and Old GM were the primary beneficiary. At December 31, 2009 our equity contributions were $55 million and the UST had outstanding loans of $150 million to the Receivables Program. In the three months ended March 31, 2010 we repaid these loans in full. The Receivables Program was terminated in accordance with its terms in April 2010. Upon termination, we shared residual capital of $25 million in the program equally with the UST and paid a termination fee of $44 million.

Nonconsolidated VIEs

VIEs that are not consolidated because we are not or Old GM was not the primary beneficiary primarily include: (1) troubled suppliers for which we provide or Old GM provided guarantees or financial support; (2) vehicle sales and marketing joint ventures that manufacture, market and sell vehicles and related services; (3) leasing entities for which residual value guarantees were made; (4) certain research entities for which annual ongoing funding requirements exist; and (5) Ally Financial.

Guarantees and financial support are provided to certain current or previously divested suppliers in order to ensure that supply needs for production are not disrupted due to a supplier's liquidity concerns or possible shutdowns. Types of financial support that we provide and Old GM provided include, but are not limited to: (1) funding in the form of a loan; (2) guarantees of the supplier's debt or credit facilities; (3) one−time payments to fund prior losses of the supplier; (4) indemnification agreements to fund the suppliers' future losses or obligations; (5) agreements to provide additional funding or liquidity to the supplier in the form of price increases or changes in payment terms; and (6) assisting the supplier in finding additional investors. The maximum exposure to loss related to these VIEs is not expected to be in excess of the amount of net accounts and notes receivable recorded with the suppliers and any related guarantees and loan commitments.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

We have and Old GM had investments in joint ventures that manufacture, market and sell vehicles in certain markets. The majority of these joint ventures are typically self−funded and financed with no contractual terms that require us to provide future financial support. However, future funding is required for HKJV, as subsequently discussed. The maximum exposure to loss is not expected to be in excess of the carrying amount of the investments recorded in Equity in net assets of nonconsolidated affiliates, and any related capital funding requirements.

The following table summarizes the amounts recorded for nonconsolidated VIEs and the related off−balance sheet guarantees and maximum contractual exposure to loss, excluding Ally Financial, which is disclosed in Note 23 (dollars in millions):

	Successor			
	June 30, 2010		December 31, 2009	
	Carrying Amount	Maximum Exposure to Loss (a)	Carrying Amount	Maximum Exposure to Loss (b)
Assets:				
Accounts and notes receivable, net	$ 60	$ 60	$ 8	$ 8
Equity in net assets of nonconsolidated affiliates	285	285	96	50
Other assets	73	73	26	26
Total assets	$ 418	$ 418	$ 130	$ 84
Liabilities:				
Accounts payable	$ 48	$ (48)	$ —	$ —
Accrued expenses	12	15	—	—
Other liabilities	225	—	—	—
Total liabilities	$ 285	$ (33)	$ —	$ —
Off−Balance Sheet:				
Residual value guarantees		$ —		$ 32
Loan commitments (c)		102		115
Other guarantees		3		4
Other liquidity arrangements (d)		230		—
Total guarantees and liquidity arrangements		$ 335		$ 151

(a) Amounts at June 30, 2010 included $128 million related to troubled suppliers.

(b) Amounts at December 31, 2009 included $139 million related to troubled suppliers.

(c) Amount at June 30, 2010 included a second lien term facility provided to American Axle and Manufacturing Holdings, Inc. (American Axle) of $100 million and other undrawn loan commitments of $2 million. Amount at December 31, 2009 included a second lien term facility provided to American Axle of $100 million and undrawn loan commitments of $15 million.

(d) Amounts at June 30, 2010 included capital funding requirements, primarily an additional contingent future funding requirement of up to $223 million related to HKJV.

Stated contractual voting or similar rights for certain of our joint venture arrangements provide various parties with shared power over the activities that most significantly affect the economic performance of certain nonconsolidated VIEs. Such nonconsolidated VIEs are operating joint ventures located in developing international markets.

American Axle

In September 2009 we paid $110 million to American Axle, a former subsidiary and current supplier, to settle and modify existing commercial arrangements and acquire warrants to purchase 4 million shares of American Axle's common stock. This payment was made in response to the liquidity needs of American Axle and our desire to modify the terms of our ongoing commercial arrangement. Under the new agreement, we also provided American Axle with a second lien term loan facility of up to $100 million. Additional warrants will be granted if amounts are drawn on the second lien term loan facility.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

As a result of these transactions, we concluded that American Axle was a VIE for which we were not the primary beneficiary. This conclusion did not change upon our adoption of amendments to ASC 810−10 in January 2010 because we lack the power through voting or similar rights to direct those activities of American Axle that most significantly affect its economic performance. Our variable interests in American Axle include the warrants we received and the second lien term loan facility, which expose us to possible future losses depending on the financial performance of American Axle. At June 30, 2010 no amounts were outstanding under the second lien term loan. At June 30, 2010 our maximum contractual exposure to loss related to American Axle was $125 million, which represented the fair value of the warrants of $25 million recorded in Non−current assets and the potential exposure of $100 million related to the second lien term loan facility.

Ally Financial

We own 16.6% of Ally Financial's common stock and preferred stock with a liquidation preference of $1.0 billion. We have previously determined that Ally Financial is a VIE as it does not have sufficient equity at risk; however, we are not the primary beneficiary. This conclusion did not change upon our adoption of amendments to ASC 810−10 in January 2010 because we lack the power through voting or similar rights to direct those activities of Ally Financial that most significantly affect its economic performance. Refer to Notes 7 and 23 for additional information on our investment in Ally Financial, our significant agreements with Ally Financial and our maximum exposure under those agreements.

Saab

In February 2010 we completed the sale of Saab and in May 2010 we completed the sale of Saab GB to Spyker Cars NV. Our primary variable interest in Saab is the preference shares that we received in connection with the sale, which have a face value of $326 million and were recorded at an estimated fair value that is insignificant. We concluded that Saab is a VIE as it does not have sufficient equity at risk. We also determined that we are not the primary beneficiary because we lack the power to direct those activities that most significantly affect its economic performance. We continue to be obligated to fund certain Saab related liabilities, primarily warranty obligations related to vehicles sold prior to the disposition of Saab. At June 30, 2010 our maximum exposure to loss related to Saab was $60 million. Refer to Note 4 for additional information on the sale of Saab.

HKJV

In December 2009 we established the HKJV operating joint venture to invest in automotive projects outside of China, initially focusing on markets in India. HKJV purchased our India Operations in February 2010. We determined that HKJV is a VIE because it will require additional subordinated financial support, and we determined that we are not the primary beneficiary because we share the power with SAIC−HK to direct the activities that most significantly affect HKJV's economic performance. We recorded a liability of $123 million for our future capital funding commitment to HKJV and we have an additional contingent future funding requirement of up to $223 million should certain conditions be met. Refer to Note 4 for additional information regarding HKJV.

Note 11. Depreciation and Amortization

The following table summarizes depreciation and amortization, including asset impairment charges, included in Cost of sales and Selling, general and administrative expense (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Depreciation and impairment of plants and equipment	$ 481	$ 1,010	$ 2,621	$ 3,870
Amortization and impairment of special tools	393	787	1,036	2,072
Depreciation and impairment of equipment on operating leases	135	253	86	319
Amortization of intangible assets	667	1,403	21	43
Total depreciation, amortization and asset impairment charges	$ 1,676	$ 3,453	$ 3,764	$ 6,304

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Old GM initiated restructuring plans prior to the 363 Sale to reduce the total number of powertrain, stamping and assembly plants and to eliminate certain brands and nameplates. As a result, Old GM recorded incremental depreciation and amortization on certain of these assets as they were expected to be utilized over a shorter period of time than their previously estimated useful lives. We record incremental depreciation and amortization for changes in useful lives subsequent to the initial determination. In the three and six months ended June 30, 2009 Old GM recorded incremental depreciation and amortization of approximately $1.8 billion and $2.3 billion.

Note 12. Restricted Cash and Marketable Securities

Cash and marketable securities subject to contractual restrictions and not readily available are classified as Restricted cash and marketable securities. Restricted cash and marketable securities are invested in accordance with the terms of the underlying agreements. Funds previously held in the UST Credit Agreement (as subsequently defined in Note 13) and currently held in the Canadian Health Care Trust (HCT) escrow and other accounts have been invested in government securities and money market funds in accordance with the terms of the escrow agreements. At June 30, 2010 and December 31, 2009 we held $1.5 billion and $13.6 billion of the Restricted cash and marketable securities balance in marketable securities. Refer to Note 19 for additional information. The following table summarizes the components of Restricted cash and marketable securities (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Current		
UST Credit Agreement (a)	$ —	$ 12,475
Canadian Health Care Trust (b)	956	955
Receivables Program (c)	—	187
Securitization trusts	37	191
Pre−funding disbursements	235	94
Other (d)	165	15
Total current restricted cash and marketable securities	1,393	13,917
Non−current (e)		
Collateral for insurance related activities	638	658
Other non−current (d)	623	831
Total restricted cash and marketable securities	$ 2,654	$ 15,406

(a) In April 2010 the UST Loans and Canadian Loan (as subsequently defined in Note 13) were paid in full and funds remaining in escrow were no longer subject to restrictions.

(b) Under the terms of an escrow agreement between General Motors of Canada Limited (GMCL), the EDC and an escrow agent, GMCL established a CAD $1.0 billion (equivalent to $893 million when entered into) escrow to fund certain of its healthcare obligations.

(c) The Receivables Program provided financial assistance to automotive suppliers by guaranteeing or purchasing certain receivables payable by us. In April 2010 the Receivable Program was terminated in accordance with its terms.

(d) Includes amounts related to various letters of credit, deposits, escrows and other cash collateral requirements.

(e) Non−current restricted cash and marketable securities is recorded in Other assets.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Note 13. Short−Term and Long−Term Debt

The following table summarizes the components of short−term and long−term debt (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Short−Term		
UST Loans (a)	$ —	$ 5,712
Canadian Loan (a)	—	1,233
VEBA Notes	2,908	—
Short−term debt — third parties	1,051	1,475
Short−term debt — related parties (b)	893	1,077
Current portion of long−term debt	672	724
Total short−term debt and current portion of long−term debt	5,524	10,221
Long−Term		
VEBA Notes	—	2,825
Other long−term debt	2,637	2,737
Total debt	$ 8,161	$ 15,783
Available under line of credit agreements (c)	$ 1,115	$ 618

(a) In April 2010 the UST Loans and Canadian Loan were paid in full.

(b) Dealer financing from Ally Financial for dealerships we own.

(c) Commitment fees are paid on credit facilities at rates negotiated in each agreement. Amounts paid and expensed for these commitment fees are insignificant.

UST Loans and VEBA Notes

As previously disclosed in our 2009 Form 10−K, Old GM received total proceeds of $19.4 billion from the UST under the UST Loan Agreement entered into on December 31, 2008. In connection with the Chapter 11 Proceedings, Old GM obtained additional funding of $33.3 billion from the UST and EDC under its DIP Facility. From these proceeds, there was no deposit remaining in escrow at June 30, 2010.

On July 10, 2009 we entered into the UST Credit Agreement and assumed debt of $7.1 billion (UST Loans) maturing on July 10, 2015 which Old GM incurred under its DIP Facility. Immediately after entering into the UST Credit Agreement, we made a partial repayment due to the termination of the U.S. government sponsored warranty program, reducing the UST Loans principal balance to $6.7 billion. In March 2010 and December 2009 we made quarterly payments of $1.0 billion on the UST Loans. In April 2010 we repaid the full outstanding amount of $4.7 billion using funds from our escrow account.

While we have repaid the UST Loans in full, certain of the covenants in the UST Credit Agreement and the executive compensation and corporate governance provisions of Section 111 of the Emergency Stabilization Act of 2008, as amended (the EESA), including the Interim Final Rule implementing Section 111 (the Interim Final Rule), remain in effect until the earlier to occur of the UST ceasing to own direct or indirect equity interests in us or our ceasing to be a recipient of Exceptional Financial Assistance, as determined pursuant to the Interim Final Rule, and impose obligations on us with respect to, among other things, certain expense policies, executive privileges and compensation requirements.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

In connection with the 363 Sale, we entered into the VEBA Note Agreement and issued VEBA Notes of $2.5 billion to the UAW Retiree Medical Benefits Trust (New VEBA). The VEBA Notes have an implied interest rate of 9.0% per annum. The VEBA Notes and accrued interest are scheduled to be repaid in three equal installments of $1.4 billion on July 15 of 2013, 2015 and 2017; however, we may prepay the VEBA Notes at any time prior to maturity.

We have entered into negotiations with financial institutions regarding a credit facility. If we successfully execute a credit facility, we expect to prepay the VEBA Notes with available cash. Accordingly, at June 30, 2010 we reclassified the VEBA Notes from long−term debt to short−term debt in the amount of $2.9 billion (including unamortized premium of $209 million).

The obligations under the VEBA Note Agreement are secured by substantially all of our U.S. assets, subject to certain exceptions, including our equity interests in certain of our foreign subsidiaries, limited in most cases to 65% of the equity interests of the pledged foreign subsidiaries due to tax considerations.

The following table summarizes interest expense and interest paid on the UST Loans and the loans under the UST Loan Agreement (UST Loan Facility) in the three and six months ended June 30, 2009 (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Interest expense	$ 18	$ 117	$ 2,859	$ 3,336
Interest paid	$ 91	$ 206	$ —	$ 144

The following table summarizes interest expense on the VEBA Notes (dollars in millions):

	Successor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010
Interest expense	$ 51	$ 99

Canadian Loan Agreement and EDC Loan Facility

As previously disclosed in our 2009 Form 10−K, on July 10, 2009 we entered into the Canadian Loan Agreement and assumed a CAD $1.5 billion (equivalent to $1.3 billion when entered into) term loan (Canadian Loan) maturing on July 10, 2015. In March 2010 and December 2009 we made quarterly payments of $194 million and $192 million on the Canadian Loan. In April 2010 GMCL repaid in full the outstanding amount of the Canadian Loan of $1.1 billion.

The following table summarizes interest expense and interest paid on the Canadian Loan in the three and six months ended June 30, 2010 and the EDC Loan Facility in the three and six months ended June 30, 2009 (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Interest expense	$ 4	$ 26	$ 62	$ 62
Interest paid	$ 4	$ 26	$ 6	$ 6

GM Daewoo Revolving Credit Facility

In April 2010 GM Daewoo repaid KRW 250 billion (equivalent to $225 million at the time of payment) of its KRW 1.4 trillion (equivalent of $1.2 billion at the time of payment) revolving credit facility.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

German Revolving Bridge Facility

In May 2009 Old GM entered into a revolving bridge facility with the German federal government and certain German states (German Facility) with a total commitment of up to Euro 1.5 billion (equivalent to $2.1 billion when entered into). In November 2009 the debt was paid in full and extinguished.

The following table summarizes interest expense and interest paid by Old GM on the German Facility during the three and six months ended June 30, 2009 including amortization of related discounts (dollars in millions):

	Predecessor	
	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Interest expense	$ 3	$ 3
Interest paid	$ —	$ —

Other Debt

In March 2009 Old GM entered into an agreement to amend its $1.5 billion U.S. term loan. Because the terms of the amended U.S. term loan were substantially different than the original terms, primarily due to the revised borrowing rate, Old GM accounted for the amendment as a debt extinguishment. As a result, Old GM recorded the amended U.S. term loan at fair value and recorded a gain on the extinguishment of the original loan facility of $906 million in the six months ended June 30, 2009.

In connection with the Chapter 11 Proceedings, Old GM's $4.5 billion secured revolving credit facility, $1.5 billion U.S. term loan and $125 million secured credit facility were paid in full on June 30, 2009. Old GM recorded a loss of $958 million in Reorganization expenses, net related to the extinguishments of the debt primarily due to the face value of the U.S. term loan exceeding the carrying amount.

Technical Defaults and Covenant Violations

Several of our loan facilities include clauses that may be breached by a change in control, a bankruptcy or failure to maintain certain financial metric limits. The Chapter 11 Proceedings and the change in control as a result of the 363 Sale triggered technical defaults in certain loans for which we have assumed the obligations. The total amount of the two loan facilities in technical default for these reasons at June 30, 2010 was $203 million. We have classified these loans as short−term debt at June 30, 2010. In July 2010 we executed an agreement with the lenders of the $150 million loan facility, which resulted in early repayment of the loan on July 26, 2010. On July 27, 2010 we executed an amendment with the lender of the second loan facility of $53 million which cured the defaults.

Two of our loan facilities had financial covenant violations at December 31, 2009 related to exceeding financial ratios limiting the amount of debt held by the subsidiaries. One of these violations was cured within the 30 day cure period through the combination of an equity injection and the capitalization of intercompany loans. In May 2010 we obtained a waiver and cured the remaining financial covenant violation on a loan facility of $70 million related to our 50% owned powertrain subsidiary in Italy.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Note 14. Product Warranty Liability

The following table summarizes activity for policy, product warranty, recall campaigns and certified used vehicle warranty liabilities (dollars in millions):

	Successor	Predecessor
	Six Months Ended June 30, 2010	Six Months Ended June 30, 2009
Beginning balance	$ 7,030	$ 8,491
Warranties issued and assumed in period	1,534	1,077
Payments	(1,711)	(1,833)
Adjustments to pre−existing warranties	67	(138)
Effect of foreign currency translation	(160)	89
Liability adjustment, net due to the deconsolidation of Saab	—	(77)
Ending balance	$ 6,760	$ 7,609

Note 15. Pensions and Other Postretirement Benefits

The following tables summarize the components of pension and other postemployment benefits (OPEB) (income) expense (dollars in millions):

	U.S. Plans Pension Benefits			
	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Components of (income) expense				
Service cost	$ 130	$ 259	$ 115	$ 233
Interest cost	1,338	2,676	1,467	2,934
Expected return on plan assets	(1,637)	(3,275)	(1,817)	(3,641)
Amortization of prior service cost (credit)	(1)	(1)	205	411
Amortization of transition obligation	—	—	—	—
Recognized net actuarial loss	—	—	338	676
Curtailments, settlements and other	—	—	1,718	1,718
Net periodic pension (income) expense	$ (170)	$ (341)	$ 2,026	$ 2,331

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Non−U.S. Plans Pension Benefits			
	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Components of (income) expense				
Service cost	$ 93	$ 189	$ 75	$ 151
Interest cost	295	596	289	566
Expected return on plan assets	(246)	(491)	(182)	(342)
Amortization of prior service credit	(1)	(1)	(14)	(7)
Amortization of transition obligation	—	—	1	1
Recognized net actuarial loss	3	5	99	182
Curtailments, settlements and other	53	39	66	92
Net periodic pension expense	$ 197	$ 337	$ 334	$ 643

	U.S. Plans Other Benefits			
	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Components of (income) expense				
Service cost	$ 5	$ 10	$ 33	$ 66
Interest cost	72	144	766	1,541
Expected return on plan assets	—	—	(211)	(423)
Amortization of prior service credit	—	—	(498)	(992)
Amortization of transition obligation	—	—	—	—
Recognized net actuarial loss	—	—	16	29
Curtailments, settlements and other	—	—	49	19
Net periodic OPEB expense	$ 77	$ 154	$ 155	$ 240

	Non−U.S. Plans Other Benefits			
	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Components of (income) expense				
Service cost	$ 8	$ 16	$ 5	$ 11
Interest cost	49	98	50	98
Expected return on plan assets	—	—	—	—
Amortization of prior service credit	(2)	(4)	(33)	(59)
Amortization of transition obligation	—	—	—	—
Recognized net actuarial loss	—	—	12	21
Curtailments, settlements and other	3	3	(123)	(123)
Net periodic OPEB (income) expense	$ 58	$ 113	$ (89)	$ (52)

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Significant Plan Amendments, Benefit Modifications and Related Events

Three and Six Months Ended June 30, 2010

Remeasurement

In the three months ended June 30, 2010 certain pension plans in GME were remeasured as part of our Goodwill impairment analysis, resulting in an increase of $388 million to Pensions and Other comprehensive loss.

Patient Protection and Affordable Care Act

The Patient Protection and Affordable Care Act was signed into law in March 2010 and contains provisions that require all future reimbursement receipts under the Medicare Part D retiree drug subsidy program to be included in taxable income. This taxable income inclusion will not significantly affect us because effective January 1, 2010 we no longer provide prescription drug coverage to post−age 65 Medicare−eligible participants and we have a full valuation allowance against our net deferred tax assets in the U.S. We have assessed the other provisions of this new law, based on information known at this time, and we believe that the new law will not have a significant effect on our consolidated financial statements.

Three and Six Months Ended June 30, 2009

The following table summarizes the significant defined benefit plan interim remeasurements, the related changes in accumulated postretirement benefit obligations (APBO), projected benefit obligations (PBO) and the associated curtailments, settlements and termination benefits recorded in the earnings of Old GM in the three and six months ended June 30, 2009 (dollars in millions):

		Predecessor					
		Change in Discount Rate		Increase (Decrease) Since the Most Recent Remeasurement Date	Gain (Loss)		
Event and Remeasurement Date When Applicable	Affected Plans	From	To	PBO/APBO	Curtailments	Settlements	Termination Benefits and Other
2009 Special Attrition Programs — June 30	U.S. hourly defined benefit pension plan	6.15%	6.25%	$ 7	$ (1,390)	$ —	$ (12)
Global salaried workforce reductions — June 1	U.S. salaried defined benefit pension plan	—	—	24	(327)	—	—
U.S. salaried benefits changes — February 1	U.S. salaried retiree life insurance plan	7.25%	7.15%	(420)	—	—	—
U.S. salaried benefits changes — June 1	U.S. salaried retiree health care program	—	—	(265)	—	—	—
2009 CAW Agreement — June 1	Canadian hourly defined benefit pension plan	6.75%	5.65%	340	—	—	(26)
2009 CAW Agreement — June 1	CAW hourly retiree healthcare plan and CAW retiree life plan	7.00%	5.80%	(143)	93	—	—
Total				$ (457)	$ (1,624)	$ —	$ (38)

2009 Special Attrition Programs

In February and June 2009 Old GM announced the 2009 Special Attrition Programs for eligible International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) represented employees, offering cash and other incentives for individuals who elected to retire or voluntarily terminate employment. In the six months ended June 2009 Old GM recorded postemployment benefit charges for 13,000 employees. Refer to Note 20 for additional information on the postemployment benefit charges.

Old GM remeasured the U.S. hourly defined benefit pension plan in June 2009 based on the 7,800 irrevocable acceptances through that date as these acceptances of the special attrition programs yielded a significant reduction in the expected future years of service of active participants.

Global Salaried Workforce Reductions

In February and June 2009 Old GM announced its intention to reduce global salaried headcount. In June 2009 Old GM remeasured the U.S. salaried defined benefit pension plan based upon an estimated significant reduction in the expected future years of service of active participants.

The U.S. salaried employee reductions related to this initiative were to be accomplished primarily through a salaried separation window program or through a severance program funded from operating cash flows. These programs were involuntary programs subject to management approval where employees were permitted to express interest in retirement or separation, for which the charges for the salaried separation window program were recorded as special termination benefits funded from the U.S. salaried defined benefit pension plan and other applicable retirement benefit plans. The costs associated with the total targeted headcount reductions expected to terminate under the programs was determined to be probable and estimable and severance charges of $250 million were recorded in the six months ended June 30, 2009. Refer to Note 20 for additional information on the involuntary severance program.

U.S. Salaried Benefits Changes

In February 2009 Old GM reduced salaried retiree life insurance benefits for U.S. salaried employees and remeasured its U.S. salaried retiree life insurance plan. In June 2009 Old GM approved and communicated negative plan amendments associated with the U.S. salaried retiree health care program, including reduced coverage and increased cost sharing. The plan was remeasured in June 2009.

In June 2009 Old GM communicated additional changes in benefits for retired salaried employees including an acceleration and further reduction in retiree life insurance, elimination of the supplemental executive life insurance benefit, and reduction in the supplemental executive retirement plan. These plan changes were contingent on completion of the 363 Sale and the effects of these amendments were included in the fresh−start remeasurements in July 2009.

2009 Revised UAW Settlement Agreement

In May 2009 Old GM and the UAW agreed to a revised settlement agreement that was related to the UAW hourly retiree medical plan and a 2008 settlement agreement that permanently shifted responsibility for providing retiree health care from Old GM to a new healthcare plan funded by the New VEBA. We and the UAW executed the revised settlement agreement on July 10, 2009 in connection with the 363 Sale. The most significant changes to the agreement, which were not yet in effect at June 30, 2009, included:

- The implementation date changed from January 1, 2010 to the later of December 31, 2009 or the closing date of the 363 Sale, which occurred on July 10, 2009;
- The timing of payments to the new VEBA changed as subsequently discussed;
- The form of consideration changed as subsequently discussed;

- The contribution of employer securities changed such that they were to be contributed directly to the New VEBA in connection with the successful completion of the 363 Sale;
- Certain coverages will be eliminated and certain cost sharing provisions will increase; and
- The flat monthly special lifetime pension benefit that was scheduled to commence on January 1, 2010 was eliminated.

There was no change to the timing of our existing internal VEBA asset transfer to the New VEBA in that the internal VEBA asset transfer was to occur within 10 business days after December 31, 2009 under both the 2008 settlement agreement and the 2009 revised settlement agreements with the UAW.

The new payment terms to the New VEBA under the 2009 revised settlement agreement, which were subject to the successful completion of the 363 Sale that had not yet occurred at June 30, 2009, were:

- VEBA Notes of $2.5 billion plus accrued interest, at an implied interest rate of 9.0% per annum, scheduled to be repaid in three equal installments of $1.4 billion in July of 2013, 2015 and 2017;
- 260 million shares of our Series A Fixed Rate Cumulative Perpetual Preferred Stock (Series A Preferred Stock) that accrue cumulative dividends at 9.0% per annum;
- 88 million shares (17.5%) of our common stock;
- A warrant to acquire 15 million shares (2.5%) of our common stock at $126.92 per share at any time prior to December 31, 2015;
- Two years funding of claims costs for individuals that elected the special attrition programs announced in 2009; and
- The existing internal VEBA assets.

Under the terms of the 2009 revised settlement agreement, we are released from UAW retiree health care claims incurred after December 31, 2009. All obligations of ours and any other entity or benefit plan of ours for retiree medical benefits for the class and the covered group arising from any agreement between us and the UAW were terminated at December 31, 2009. Our obligations to the new healthcare plan and the New VEBA are limited to the terms of the 2009 revised settlement agreement.

2009 CAW Agreement

In March 2009 Old GM announced that the members of the CAW had ratified an agreement intended to reduce manufacturing costs in Canada by closing the competitive gap with transplant automakers in the United States on active employee labor costs and reducing legacy costs through introducing co−payments for healthcare benefits, increasing employee healthcare cost sharing, freezing pension benefits, and eliminating cost of living adjustments to pensions for retired hourly workers. This agreement was conditioned on Old GM receiving longer term financial support from the Canadian and Ontario governments.

GMCL subsequently entered into additional negotiations with the CAW which resulted in a further addendum to the 2008 collective agreement which was ratified by the CAW members in May 2009. In June 2009 the governments of Ontario and Canada agreed to the terms of a loan agreement, approved the GMCL viability plan and provided funding to GMCL. The Canadian hourly defined benefit pension plan, the CAW hourly retiree healthcare plan and the CAW retiree life plan were remeasured in June 2009.

As a result of the termination of the employees from the former Oshawa, Ontario truck facility (Oshawa Facility), the CAW hourly retiree healthcare plan and the CAW retiree life plan were remeasured in June 2009 and a curtailment gain associated with the CAW hourly retiree healthcare plan was also recorded in the three months ended June 30, 2009.

In June 2009 GMCL and the CAW agreed to the terms of the HCT to provide retiree health care benefits to certain active and retired employees. The HCT will be implemented when certain preconditions are achieved, including certain changes to the Canadian Income Tax Act and the favorable completion of a class action process to bind existing retirees to the Trust. The latter is subject to the

agreement of the representative retirees and the courts. The preconditions have not been achieved and the HCT is not yet implemented at June 30, 2010. Under the terms of the HCT agreement, GMCL is obligated to make a payment of CAD $1.0 billion on the HCT implementation date which it will fund out of its CAD $1.0 billion escrow funds, and the HCT is obligated to reimburse GMCL for the cost of benefits paid for claims incurred by plan participants during the period January 1, 2010 through the implementation date. GMCL will provide a CAD $800 million note payable to the HCT on the HCT implementation date which will accrue interest at an annual rate of 7.0% with five equal annual installments of CAD $256 million due December 2014 through 2018. Concurrent with the implementation of the HCT, GMCL will be legally released from all obligations associated with the cost of providing retiree health care benefits to current employees and retired plan participants, and we will account for the termination of our CAW hourly retiree healthcare plan as a settlement, based upon the difference between the fair value of the notes and cash contributed and the health care plan obligation at the settlement date. As a result of the conditions precedent to this agreement not having yet been achieved, there was no accounting recognition for the health care trust at June 30, 2010.

Note 16. Derivative Financial Instruments and Risk Management

Risk Management

We enter and Old GM entered into a variety of foreign currency exchange, interest rate and commodity forward contracts and options to manage exposures arising from market risks resulting from changes in foreign currency exchange rates, interest rates and certain commodity prices. We do not enter into derivative transactions for speculative purposes.

Our overall financial risk management program is under the responsibility of the Risk Management Committee, which reviews and, where appropriate, approves strategies to be pursued to mitigate these risks. A risk management control framework is utilized to monitor the strategies, risks and related hedge positions, in accordance with the policies and procedures approved by the Risk Management Committee. At June 30, 2010 and June 30, 2009 we and Old GM did not have any derivatives designated in a hedge accounting relationship.

In August 2010 we changed our risk management policy. Under our prior policy we intended to reduce volatility of forecasted cash flows primarily through the use of forward contracts and swaps. The intent of the new policy is primarily to protect against risk arising from extreme adverse market movements on our key exposures and involves a shift to greater use of purchased options.

Subsequent to the 363 Sale, our ability to manage risks using derivative financial instruments was limited as most derivative counterparties were unwilling to enter into forward or swap transactions with us. In December 2009 we began purchasing commodity and foreign currency exchange options to manage these exposures. These nondesignated derivatives have original expiration terms of up to 12 months. In August 2010 we executed new agreements with counterparties that enable us to enter into forward contracts and swaps.

Counterparty Credit Risk

Derivative financial instruments contain an element of credit risk attributable to the counterparties' ability to meet the terms of the agreements. The maximum amount of loss due to credit risk that we would incur if the counterparties to the derivative instruments failed completely to perform according to the terms of the contract was $103 million at June 30, 2010. Agreements are entered into with counterparties that allow the set−off of certain exposures in order to manage the risk. The total net derivative asset position for all counterparties with which we were in a net asset position at June 30, 2010 was $74 million.

Counterparty credit risk is managed and monitored by our Risk Management Committee, which establishes exposure limits by counterparty. At June 30, 2010 a majority of all counterparty exposures were with counterparties that were rated A or higher.

Credit Risk Related Contingent Features

At June 30, 2010 no collateral was posted related to derivative instruments and we did not have any agreements with counterparties to derivative instruments containing covenants requiring the maintenance of certain credit rating levels or credit risk ratios that would require the posting of collateral in the event that certain standards are violated or when a derivative instrument is in a liability position. In August 2010 we executed new agreements with counterparties that will require us to provide cash collateral for net liability positions or receive cash collateral for net asset positions that we would have with these counterparties.

Derivatives and Hedge Accounting

Our derivative instruments consist of nondesignated derivative contracts or economic hedges, including forward contracts and options that we acquired from Old GM or purchased directly from counterparties. At June 30, 2010 no outstanding derivative contracts were designated in hedging relationships. In the three and six months ended June 30, 2010 and 2009, we and Old GM accounted for changes in the fair value of all outstanding contracts by recording the gains and losses in earnings. Refer to Note 19 for additional information on the fair value measurements of our derivative instruments.

Cash Flow Hedges

We are and Old GM was exposed to certain foreign currency exchange risks associated with buying and selling automotive parts and vehicles and foreign currency exposure to long−term debt. We partially manage these risks through the use of nondesignated derivative instruments. At June 30, 2010 we did not have any financial instruments designated as cash flow hedges for accounting purposes.

Old GM previously designated certain financial instruments as cash flow hedges to manage its exposure to certain foreign currency exchange risks. For foreign currency transactions, Old GM typically hedged forecasted exposures for up to three years in the future. For foreign currency exposure on long−term debt, Old GM typically hedged exposures for the life of the debt.

For derivatives that were previously designated as qualifying cash flow hedges, the effective portion of the unrealized and realized gains and losses resulting from changes in fair value were recorded as a component of Accumulated other comprehensive income (loss). Subsequently, those cumulative gains and losses were reclassified to earnings contemporaneously with and to the same line item as the earnings effects of the hedged item. However, if it became probable that the forecasted transaction would not occur, the cumulative change in the fair value of the derivative recorded in Accumulated other comprehensive income (loss) was reclassified into earnings immediately.

The following table summarizes total activity in Accumulated other comprehensive income (loss) associated with cash flow hedges, primarily related to the release of previously deferred cash flow hedge gains and losses from Accumulated other comprehensive income (loss) into earnings (dollars in millions):

	Predecessor	
	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Foreign Currency Exchange Contracts		
Sales	$ (88)	$ (326)
Cost of sales	—	20
Reorganization expenses, net	247	247
Total gains (losses) reclassified from accumulated other comprehensive income (loss)	$ 159	$ (59)

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

In connection with the Chapter 11 Proceedings, at June 1, 2009 Accumulated other comprehensive income (loss) balances of $247 million associated with previously designated financial instruments were reclassified into Reorganization expenses, net because the underlying forecasted debt and interest payments were probable not to occur. At June 30, 2009 Old GM had deferred cash flow hedge gains and losses of $409 million in Accumulated other comprehensive income (loss).

The following table summarizes gains and (losses) that were reclassified from Accumulated other comprehensive income (loss) for cash flow hedges associated with previously forecasted transactions that subsequently became probable not to occur (dollars in millions):

	Predecessor	
	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Sales	$ (29)	$ (180)
Reorganization expenses, net	247	247
Total gains (losses) reclassified from accumulated other comprehensive income (loss)	$ 218	$ 67

In connection with our investment in New Delphi, which we account for using the equity method, we record our share of New Delphi's Other comprehensive income (loss) in Accumulated other comprehensive income (loss). In the three and six months ended June 30, 2010 we recorded cash flow hedge losses of $30 million and $15 million related to our share of New Delphi's hedging losses.

Fair Value Hedges

We are and Old GM was subject to market risk from exposures to changes in interest rates that affect the fair value of long−term, fixed rate debt. At June 30, 2010 we did not have any financial instruments designated as fair value hedges to manage this risk.

Old GM previously used interest rate swaps designated as fair value hedges to manage certain of its exposures associated with this debt. Old GM hedged its exposures to the maturity date of the underlying interest rate exposure.

Gains and losses on derivatives designated and qualifying as fair value hedges, as well as the offsetting gains and losses on the debt attributable to the hedged interest rate risk, were recorded in Interest expense to the extent the hedge was effective. The gains and losses related to the hedged interest rate risk were recorded as an adjustment to the carrying amount of the debt. Previously recorded adjustments to the carrying amount of the debt were amortized to Interest expense over the remaining debt term. In the three and six months ended June 30, 2009 Old GM amortized previously deferred fair value hedge gains and losses of $1 million and $3 million to Interest expense.

In connection with the Chapter 11 Proceedings, at June 1, 2009 Old GM recorded basis adjustments of $18 million to the carrying amount of debt that ceased to be amortized to Interest expense. At June 1, 2009 the debt related to these basis adjustments was classified as Liabilities subject to compromise and no longer subject to interest accruals or amortization. We did not assume this debt from Old GM in connection with the 363 Sale.

Net Investment Hedges

We are and Old GM was subject to foreign currency exposure related to net investments in certain foreign operations. At June 30, 2010 we did not have any hedges of a net investment in a foreign operation.

Old GM previously used foreign currency denominated debt to hedge this foreign currency exposure. For nonderivative instruments that were designated as, and qualified as, a hedge of a net investment in a foreign operation, the effective portion of the unrealized and realized gains and losses were recorded as a Foreign currency translation adjustment in Accumulated other comprehensive income (loss). At June 30, 2009 Old GM had outstanding Euro denominated debt of $2.1 billion that qualified as a hedge of a net investment in a foreign operation.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following table summarizes the gains and (losses) related to hedges of net investments in foreign operations that were recorded as a Foreign currency translation adjustment in Accumulated other comprehensive income (loss) (dollars in millions):

	Predecessor	
	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Effective portion of net investment hedge gains (losses)	$ (133)	$ (8)

Derivatives Not Designated for Hedge Accounting

Derivatives not designated in a hedging relationship, such as forward contracts, swaps, and options, are used to economically hedge certain risk exposures. Unrealized and realized gains and losses related to all of our nondesignated derivative hedges, regardless of type of exposure, are recorded in Interest income and other non−operating income, net. Derivative purchases and settlements are presented in Net cash provided by (used in) operating activities.

Old GM previously entered into a variety of foreign currency exchange, interest rate and commodity forward contracts and options to maintain a desired level of exposure arising from market risks resulting from changes in foreign currency exchange rates, interest rates and certain commodity prices. Unrealized and realized gains and losses related to Old GM's nondesignated derivative hedges were recorded in earnings based on the type of exposure, as subsequently discussed.

In May 2009 Old GM reached agreements with certain of the counterparties to its derivative contracts to terminate the derivative contracts prior to stated maturity. Commodity, foreign currency exchange, and interest rate forward contracts were settled for cash of $631 million, resulting in a loss of $537 million. The loss was recorded in Sales, Cost of sales and Interest expense in the amounts of $22 million, $457 million and $58 million.

When an exposure economically hedged with a derivative contract is no longer forecasted to occur, in some cases a new derivative instrument is entered into to offset the exposure related to the existing derivative instrument. In some cases, counterparties are unwilling to enter into offsetting derivative instruments and, as such, there is exposure to future changes in the fair value of these derivatives with no underlying exposure to offset this risk.

The following table summarizes gains and (losses) recorded for nondesignated derivatives originally entered into to hedge exposures that subsequently became probable not to occur (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Interest income and other non−operating income, net	$ —	$ —	$ 4	$ 90

Commodity Derivatives

Certain raw materials, parts with significant commodity content, and energy are purchased for use in production. Exposure to commodity price risk may be managed by entering into commodity derivative instruments such as forward and option contracts. We currently manage this exposure using commodity options. At June 30, 2010, we had not entered into any commodity forward contracts.

Old GM hedged commodity price risk by entering into commodity forward and option contracts. Old GM recorded all commodity derivative gains and losses in Cost of sales.

The following table summarizes the notional amounts of nondesignated commodity derivative contracts (units in thousands):

		Successor	
		Contract Notional	
Commodity	Units	June 30, 2010	December 31, 2009
Aluminum and aluminum alloy	Metric tons	205	39
Copper	Metric tons	21	4
Lead	Metric tons	36	7
Heating oil	Gallons	83,296	10,797
Natural gas	MMBTU	9,226	1,355
Natural gas	Gigajoules	1,185	150

Interest Rate Swap Derivatives

At June 30, 2010, we did not have any nondesignated interest rate swap derivatives.

Old GM previously used interest rate swap derivatives to economically hedge exposure to changes in the fair value of fixed rate debt. Gains and losses related to the changes in the fair value of these nondesignated derivatives were recorded in Interest expense.

Foreign Currency Exchange Derivatives

Foreign currency exchange derivatives are used to economically hedge exposure to foreign currency exchange risks associated with: (1) forecasted foreign currency denominated purchases and sales of vehicles and parts; and (2) variability in cash flows related to interest and principal payments on foreign currency denominated debt. At June 30, 2010 we managed foreign currency exchange risk through the use of foreign currency options and forward contracts.

The following table summarizes the total notional amounts of nondesignated foreign currency exchange derivatives (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Nondesignated foreign currency exchange derivatives	$ 4,135	$ 6,333

Old GM recorded gains and losses related to these foreign currency exchange derivatives in: (1) Sales for derivatives that economically hedged sales of parts and vehicles; (2) Cost of sales for derivatives that economically hedged purchases of parts and vehicles; and (3) Cost of sales for derivatives that economically hedged foreign currency risk related to foreign currency denominated debt.

Other Derivatives

In September 2009 in connection with an agreement with American Axle, we received warrants to purchase 4 million shares of American Axle common stock exercisable at $2.76 per share. The fair value of the warrants on the date of receipt was recorded as a Non−current asset. Gains and losses related to these warrants were recorded in Interest income and other non−operating income, net. At June 30, 2010 the fair value of these warrants was $25 million.

On July 10, 2009 in connection with the 363 Sale, we issued warrants to MLC and the New VEBA to acquire shares of our common stock. These warrants are classified in equity and indexed to our common stock.

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In connection with the UST Loan Agreement, Old GM granted warrants to the UST for 122 million shares of its common stock exercisable at $3.57 per share. Old GM recorded the warrants as a liability and recorded gains and losses related to this derivative in Interest income and other non−operating income, net. At June 30, 2009 Old GM determined that the fair value of the warrants issued to the UST was $0 as a result of the Chapter 11 Proceedings. In connection with the 363 Sale, the UST returned the warrants and they were cancelled.

Fair Value of Nondesignated Derivatives

The following table summarizes the fair value of our nondesignated derivative instruments (dollars in millions):

	Successor			
	June 30, 2010		December 31, 2009	
	Asset Derivatives (a)(b)	Liability Derivatives (c)(d)	Asset Derivatives (a)(b)	Liability Derivatives (c)(d)
Current Portion				
Foreign currency exchange derivatives	$ 53	$ 355	$ 104	$ 568
Commodity derivatives	24	—	11	—
Total current portion	$ 77	$ 355	$ 115	$ 568
Non−Current Portion				
Foreign currency exchange derivatives	$ 1	$ 15	$ 19	$ 146
Other derivatives	25	—	25	—
Total non−current portion	$ 26	$ 15	$ 44	$ 146

(a) Recorded in Other current assets and deferred income taxes.

(b) Recorded in Other assets.

(c) Recorded in Accrued expenses.

(d) Recorded in Other liabilities and deferred income taxes.

Gains and (Losses) on Nondesignated Derivatives

The following schedule summarizes gains and (losses) recorded in earnings on nondesignated derivatives (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Foreign Currency Exchange Derivatives				
Sales	$ —	$ —	$ (786)	$ (726)
Cost of sales	—	—	(81)	(218)
Interest income and other non−operating income, net	(98)	30	4	90
Interest Rate Swap Derivatives				
Interest expense	—	—	(52)	(38)
Commodity Derivative Contracts				
Cost of sales	—	—	(200)	(334)
Interest income and other non−operating income, net	(51)	(53)	—	—
Other Derivatives				
Interest income and other non−operating income, net	(8)	—	66	164
Total gains (losses) recorded in earnings	$ (157)	$ (23)	$(1,049)	$ (1,062)

Net Change in Accumulated Other Comprehensive Income (Loss)

The following table summarizes the net change in Accumulated other comprehensive income (loss) related to cash flow hedging activities (dollars in millions):

	Predecessor	
	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Beginning net unrealized gain (loss) on derivatives	$ (241)	$ (490)
Change in fair value	—	—
Reclassification to earnings	(168)	81
Ending net unrealized gain (loss) on derivatives	$ (409)	$ (409)

Note 17. Commitments and Contingencies

The following tables summarize information related to Commitments and contingencies (dollars in millions):

	Successor			
	June 30, 2010		December 31, 2009	
	Liability Recorded	Maximum Liability (a)	Liability Recorded	Maximum Liability (a)
Guarantees				
Operating lease residual values (b)	$ —	$ 71	$ —	$ 79
Supplier commitments and other related obligations	$ 2	$ 190	$ 3	$ 43
Ally Financial commercial loans (c)	$ —	$ 29	$ 2	$ 167
Other product−related claims	$ 54	$ 553	$ 54	$ 553

(a) Calculated as future undiscounted payments.

(b) Excludes residual support and risk sharing programs related to Ally Financial.

(c) At December 31, 2009 includes $127 million related to a guarantee provided to Ally Financial in Brazil in connection with dealer floor plan financing. At December 31, 2009 this guarantee was collateralized by certificates of deposit of $127 million purchased from Ally Financial to which we have title and which are recorded in Restricted cash and marketable securities. The purchase of the certificates of deposit was funded in part by contributions from dealers for which we have recorded a corresponding deposit liability of $104 million, which was recorded in Other liabilities at December 31, 2009. In the three months ended June 30, 2010 this guarantee was terminated.

	Successor	
	June 30, 2010 Liability Recorded	December 31, 2009 Liability Recorded
Environmental liability (a)	$ 196	$ 190
Product liability	$ 280	$ 319
Liability related to contingently issuable shares	$ 162	$ 162
Other litigation−related liabilities (b)	$ 1,277	$ 1,192

(a) Of the amounts we recorded, $29 million and $28 million were recorded in Accrued expenses at June 30, 2010 and December 31, 2009, and the remainder was recorded in Other liabilities.

(b) Consists primarily of tax related litigation not recorded pursuant to ASC 740−10, “Income Taxes,” (ASC 740−10) as well as various non−U.S. labor related items.

Guarantees

We have provided guarantees related to the residual value of certain operating leases. These guarantees terminate in years ranging from 2011 to 2035. Certain leases contain renewal options.

We have agreements with third parties that guarantee the fulfilment of certain suppliers' commitments and other related obligations. These guarantees expire in years ranging from 2010 to 2013, or are ongoing or upon the occurrence of specific events.

In some instances, certain assets of the party whose debt or performance we have guaranteed may offset, to some degree, the cost of the guarantee. The offset of certain of our payables to guaranteed parties may also offset certain guarantees, if triggered.

We also provide payment guarantees on commercial loans made by Ally Financial and outstanding with certain third parties, such as dealers or rental car companies. These guarantees either expire in years ranging from 2010 to 2029 or are ongoing. We determined the value ascribed to the guarantees to be insignificant based on the credit worthiness of the third parties. Refer to Note 23 for additional information on guarantees that we provide to Ally Financial.

In connection with certain divestitures, we have provided guarantees with respect to benefits to be paid to former employees relating to pensions, postretirement health care and life insurance. Aside from indemnifications and guarantees related to Delphi, as subsequently discussed, it is not possible to estimate our maximum exposure under these indemnifications or guarantees due to the conditional nature of these obligations. No amounts have been recorded for such obligations as they are not probable or estimable at this time.

In addition to the guarantees and indemnifying agreements mentioned previously, we periodically enter into agreements that incorporate indemnification provisions in the normal course of business. Due to the nature of these agreements, the maximum potential amount of future undiscounted payments to which we may be exposed cannot be estimated. No amounts have been recorded for such indemnities as our obligations under them are not probable or estimable at this time.

In addition to the guarantees and indemnifying agreements previously discussed, we indemnify dealers for certain product liability related claims as subsequently discussed.

With respect to other product−related claims involving products manufactured by certain joint ventures, we believe that costs incurred are adequately covered by recorded accruals. These guarantees expire in 2022.

Environmental

Automotive operations, like operations of other companies engaged in similar businesses, are subject to a wide range of environmental protection laws, including laws regulating air emissions, water discharges, waste management and environmental remediation. We are in various stages of investigation or remediation for sites where contamination has been alleged. We are involved in a number of actions to remediate hazardous wastes as required by federal and state laws. Such statutes require that responsible parties fund remediation actions regardless of fault, legality of original disposal or ownership of a disposal site.

The future effect of environmental matters, including potential liabilities, is often difficult to estimate. An environmental reserve is recorded when it is probable that a liability has been incurred and the amount of the liability can be reasonably estimated. This practice is followed whether the claims are asserted or unasserted. Liabilities have been recorded for the expected costs to be paid over the periods of remediation for the applicable sites, which typically range from five to 30 years.

For many sites, the remediation costs and other damages for which we ultimately may be responsible may vary because of uncertainties with respect to factors such as the connection to the site or to materials there, the involvement of other potentially responsible parties, the application of laws and other standards or regulations, site conditions, and the nature and scope of investigations, studies and remediation to be undertaken (including the technologies to be required and the extent, duration and success of remediation).

The final outcome of environmental matters cannot be predicted with certainty at this time. Accordingly, it is possible that the resolution of one or more environmental matters could exceed the amounts accrued in an amount that could be material to our financial condition and results of operations. At June 30, 2010 we estimate that remediation losses could range from $140 million to $375 million.

Product Liability

With respect to product liability claims involving our and Old GM's products, it is believed that any judgment against us for actual damages will be adequately covered by our recorded accruals and, where applicable, excess insurance coverage. Although punitive damages are claimed in some of these lawsuits, and such claims are inherently unpredictable, accruals incorporate historic experience with these types of claims. Liabilities have been recorded for the expected cost of all known product liability claims plus an estimate of the expected cost for all product liability claims that have already been incurred and are expected to be filed in the future for which we are self−insured. These amounts were recorded within Accrued expenses and Other liabilities and deferred income taxes and exclude Old GM's asbestos claims, which are discussed separately.

In accordance with our assumption of dealer sales and service agreements, we indemnify dealers for certain product liability related claims. Our experience related to dealer indemnification obligations where we are not a party arising from incidents prior to July 10, 2009 is limited. We monitor actual claims experience for consistency with this estimate and make periodic adjustments as appropriate. Since July 10, 2009, the volume of product liability claims against us has been less than projected. In addition, as of this time due to the relatively short period for which we have been directly responsible for such claims, we have fewer pending matters than Old GM had in the past and than we expect in the future. Based on both management judgments concerning the projected number and value of both dealer indemnification obligations and product liability claims against us, we have estimated the associated liability. We have lowered our overall product liability estimate for dealer indemnifications and our exposure in the three months ended June 30, 2010 resulting in a $132 million favorable adjustment driven primarily by a lower than expected volume of claims. We expect our product liability reserve to rise in future periods as new claims arise from incidents subsequent to July 9, 2009.

Liability Related to Contingently Issuable Shares

We are obligated to issue additional shares of our common stock to MLC (Adjustment Shares) in the event that allowed general unsecured claims against MLC, as estimated by the Bankruptcy Court, exceed $35.0 billion. The maximum Adjustment Shares equate to 2% (or 10 million shares) of our common stock. The number of Adjustment Shares to be issued is calculated based on the extent to which estimated general unsecured claims exceed $35.0 billion with the maximum number of Adjustment Shares issued if estimated general unsecured claims total $42.0 billion or more. We determined that it is probable that general unsecured claims allowed against MLC will ultimately exceed $35.0 billion by at least $2.0 billion. In the circumstance where estimated general unsecured claims equal $37.0 billion, under the terms of the Purchase Agreement, we would be required to issue 2.9 million Adjustment Shares to MLC.

Other Litigation−Related Liability

Various legal actions, governmental investigations, claims and proceedings are pending against us or MLC including a number of shareholder class actions, bondholder class actions and class actions under the Employee Retirement Income Security Act of 1974, as amended, and other matters arising out of alleged product defects, including asbestos−related claims; employment−related matters; governmental regulations relating to safety, emissions, and fuel economy; product warranties; financial services matters; dealer, supplier and other contractual relationships; tax−related matters not recorded pursuant to ASC 740−10 and environmental matters.

With regard to the litigation matters discussed in the previous paragraph, reserves have been established for matters in which it is believed that losses are probable and can be reasonably estimated, the majority of which are associated with tax−related matters not recorded pursuant to ASC 740−10 as well as various non−U.S. labor−related matters. Tax related matters not recorded pursuant to ASC 740−10 are items being litigated globally pertaining to value added taxes, customs, duties, sales, property taxes and other non−income tax related tax exposures. The various non−U.S. labor−related matters include claims from current and former employees related to

alleged unpaid wage, benefit, severance, and other compensation matters. Certain South American administrative and legal proceedings are tax−related and may require that we deposit funds in escrow, such escrow deposits may range from $725 million to $900 million. Some of the matters may involve compensatory, punitive, or other treble damage claims, environmental remediation programs, or sanctions, that if granted, could require us to pay damages or make other expenditures in amounts that could not be reasonably estimated at June 30, 2010. We believe that appropriate accruals have been established for such matters based on information currently available. Reserves for litigation losses are recorded in Accrued expenses and Other liabilities and deferred income taxes. These accrued reserves represent the best estimate of amounts believed to be our and Old GM's liability in a range of expected losses. Litigation is inherently unpredictable, however, and unfavorable resolutions could occur. Accordingly, it is possible that an adverse outcome from such proceedings could exceed the amounts accrued in an amount that could be material to our or Old GM's financial condition, results of operations and cash flows in any particular reporting period.

Asbestos−Related Liability

In connection with the 363 Sale, MLC retained substantially all of the asbestos−related claims outstanding. At June 30, 2009 Old GM's liability recorded for asbestos−related matters was $636 million.

Like most automobile manufacturers, Old GM had been subject to asbestos−related claims in recent years. These claims primarily arose from three circumstances:

- A majority of these claims sought damages for illnesses alleged to have resulted from asbestos used in brake components;
- Limited numbers of claims have arisen from asbestos contained in the insulation and brakes used in the manufacturing of locomotives; and
- Claims brought by contractors who allege exposure to asbestos−containing products while working on premises Old GM owned.

Old GM had resolved many of the asbestos−related cases over the years for strategic litigation reasons such as avoiding defense costs and possible exposure to excessive verdicts. The amount expended on asbestos−related matters in any period depended on the number of claims filed, the amount of pre−trial proceedings and the number of trials and settlements in the period.

Old GM recorded the estimated liability associated with asbestos personal injury claims where the expected loss was both probable and could reasonably be estimated. Old GM retained a firm specializing in estimating asbestos claims to assist Old GM in determining the potential liability for pending and unasserted future asbestos personal injury claims. The analyses relied on and included the following information and factors:

- A third party forecast of the projected incidence of malignant asbestos−related disease likely to occur in the general population of individuals occupationally exposed to asbestos;
- Old GM's Asbestos Claims Experience, based on data concerning claims filed against Old GM and resolved, amounts paid, and the nature of the asbestos−related disease or condition asserted during approximately the four years prior;
- The estimated rate of asbestos−related claims likely to be asserted against MLC in the future based on Old GM's Asbestos Claims Experience and the projected incidence of asbestos−related disease in the general population of individuals occupationally exposed to asbestos;
- The estimated rate of dismissal of claims by disease type based on Old GM's Asbestos Claims Experience; and
- The estimated indemnity value of the projected claims based on Old GM's Asbestos Claims Experience, adjusted for inflation.

Old GM reviewed a number of factors, including the analyses provided by the firm specializing in estimating asbestos claims in order to determine a reasonable estimate of the probable liability for pending and future asbestos−related claims projected to be asserted over the next 10 years, including legal defense costs. Old GM monitored actual claims experience for consistency with this estimate and made periodic adjustments as appropriate.

Old GM believed that the analyses were based on the most relevant information available combined with reasonable assumptions, and that Old GM may prudently rely on their conclusions to determine the estimated liability for asbestos−related claims. Old GM noted, however, that the analyses were inherently subject to significant uncertainties. The data sources and assumptions used in connection with the analyses may not prove to be reliable predictors with respect to claims asserted against Old GM. Old GM's experience in the past included substantial variation in relevant factors, and a change in any of these assumptions — which include the source of the claiming population, the filing rate and the value of claims — could significantly increase or decrease the estimate. In addition, other external factors such as legislation affecting the format or timing of litigation, the actions of other entities sued in asbestos personal injury actions, the distribution of assets from various trusts established to pay asbestos claims and the outcome of cases litigated to a final verdict could affect the estimate.

GME Planned Spending Guarantee

As part of our Opel/Vauxhall restructuring plan, agreed to with European labor representatives, we have committed in principle to achieve specified milestones associated with planned spending from 2011 to 2014 on certain product programs. If we fail to accomplish the requirements set out under the expected final agreement, we will be required to pay certain amounts up to Euro 265 million for each of those years, and/or interest on those amounts, to our employees. Management has the intent and believes it has the ability to meet the requirements under the agreement, which we expect to be finalized during the three months ended September 30, 2010.

Delphi Corporation

Benefit Guarantee

In 1999 Old GM spun−off Delphi Automotive Systems Corporation, which became Delphi. At the time of the spin−off, employees of Delphi Automotive Systems Corporation became employees of Delphi. As part of the separation agreements, Delphi assumed the pension and other postretirement benefit obligations for the transferred U.S. hourly employees who retired after October 1, 2000. Additionally at the time of the spin−off, Old GM entered into the Delphi Benefit Guarantee Agreements with the UAW, the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers — Communication Workers of America (IUE−CWA) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW). The Delphi Benefit Guarantee Agreements provided that in the event that Delphi or its successor companies ceased doing business, terminated its pension plan or ceased to provide credited service or OPEB benefits at certain levels due to financial distress, Old GM could be liable to provide the corresponding benefits for certain covered employees at the required level and to the extent the pension benefits Delphi and the PBGC provided fall short of the guaranteed amount.

In October 2005 Old GM received notice from Delphi it would become obligated to provide benefits pursuant to the Delphi Benefit Guarantee Agreements in connection with Delphi's commencement in October 2005 of Chapter 11 proceedings under the Bankruptcy Code. In June 2007 Old GM entered into a memorandum of understanding with Delphi and the UAW (Delphi UAW MOU) that included terms relating to the consensual triggering, under certain circumstances, of the Delphi Benefit Guarantee Agreements as well as additional terms relating to Delphi's restructuring. Under the Delphi UAW MOU, Old GM also agreed to pay for certain health care costs of covered Delphi retirees and their beneficiaries in order to provide a level of benefits consistent with those provided to Old GM's retirees and their beneficiaries, if Delphi terminated OPEB benefits. In August 2007 Old GM also entered into memoranda of understanding with Delphi and the IUE−CWA and with Delphi and the USW containing terms consistent with the comprehensive Delphi UAW MOU.

Delphi−GM Settlement Agreements

In September 2007 and as amended at various times through September 2008, Old GM entered into agreements with Delphi. In September 2008 Old GM also entered into agreements with Delphi and the UAW, IUE−CWA and the USW. All of these agreements were intended to resolve, among other items, outstanding issues between Delphi and Old GM, govern certain aspects of Old GM's ongoing commercial relationship with Delphi, address a limited transfer of pension assets and liabilities, and address the triggering of the Delphi Benefit Guarantee Agreements. In September 2008 these agreements became effective.

Upon consummation of the DMDA, these agreements were terminated with limited exceptions.

Delphi Liquidity Support Agreements

Beginning in 2008 Old GM entered into various agreements and amendments to such agreements to advance a maximum of $950 million to Delphi, subject to Delphi's continued satisfaction of certain conditions and milestones. Old GM also agreed to accelerate payment of North American payables to Delphi at various amounts up to a maximum of $300 million. As of June 30, 2009 we had advanced $700 million under these agreements. Upon consummation of the DMDA, we waived our rights to advanced amounts and accelerated payments of $850 million that became consideration to Delphi and other parties under the DMDA.

Delphi Master Disposition Agreement

In October 2009 we consummated the transaction contemplated by the DMDA with Delphi, New Delphi, Old GM, and other parties to the DMDA, as described in Note 4. Upon consummation of the DMDA, the Delphi−GM Settlement Agreements and Delphi liquidity support agreements discussed previously were terminated with limited exceptions, and we and Delphi waived all claims against each other. We maintain certain obligations relating to Delphi hourly employees to provide the difference between pension benefits paid by the PBGC according to regulation and those originally guaranteed by Old GM under the Delphi Benefit Guarantee Agreements.

The DMDA established our ongoing commercial relationship with New Delphi. This included the continuation of all existing Delphi supply agreements and purchase orders for GMNA to the end of the related product program and New Delphi agreed to provide us with access rights designed to allow us to operate specific sites on defined triggering events to provide us with protection of supply. In addition, we and a class of New Delphi investors agreed to establish a secured delayed draw term loan facility for New Delphi, with each committing to provide loans of up to $500 million.

Delphi Charges

In the three and six months ended June 30, 2009 Old GM recorded charges of $9 million and $284 million. These charges, which were recorded in Cost of sales and Other expenses, net, reflected the best estimate of obligations associated with the various Delphi agreements.

Note 18. Income Taxes

For interim income tax reporting we estimate our annual effective tax rate and apply it to year−to−date ordinary income/loss. The tax effect of unusual or infrequently occurring items, including changes in judgment about valuation allowances and effects of changes in tax laws or rates, are reported in the interim period in which they occur. Tax jurisdictions with a projected or year−to−date loss for which a tax benefit cannot be realized are excluded. The effective tax rate fluctuated in the six months ended June 30, 2010 primarily as a result of changes in the mix of earnings in valuation allowance and non−valuation allowance jurisdictions.

In the three months ended June 30, 2010 income tax expense of $361 million primarily resulted from income tax provisions for profitable entities. In the six months ended June 30, 2010 income tax expense of $870 million primarily resulted from income tax provisions for profitable entities and a taxable foreign currency gain in Venezuela. As a result of the official devaluation of the Venezuelan currency in the six months ended June 30, 2010, we recorded income tax expense related to the foreign currency exchange gain on the net monetary position of our foreign currency denominated assets.

In the three and six months ended June 30, 2009 income tax benefit of $445 million and $559 million primarily resulted from resolution of a U.S. and Canada transfer pricing matter and other discrete items offset by income tax provisions for profitable entities.

Most of the tax attributes generated by Old GM and its domestic and foreign subsidiaries (net operating loss carryforwards and various income tax credits) survived the Chapter 11 Proceedings and we expect to use these tax attributes to reduce future tax liabilities. The ability to utilize certain of the U.S. tax attributes in future tax periods could be limited by Section 382(a) of the Internal

Revenue Code. In Germany, we have net operating loss carryforwards for corporate income tax and trade tax purposes. We have received a ruling from the German tax authorities confirming the availability of those losses under the prerequisite that an agreement with the unions as to employment costs will be achieved. This ruling is subject to the outcome of infringement proceedings initiated by the European Union with respect to the German law on which the ruling is based. If the European Union proceedings have a positive outcome we will be able to utilize those losses despite the reorganizations that have taken place in Germany in 2008 and 2009. In Australia, we have net operating loss carryforwards which are now subject to meeting an annual "Same Business Test" requirement. We will assess our ability to utilize these carryforward losses annually.

We file and Old GM filed income tax returns in multiple jurisdictions, which are subject to examination by taxing authorities throughout the world. We have open tax years from 1999 to 2009 with various significant tax jurisdictions. These open years contain matters that could be subject to differing interpretations of applicable tax laws and regulations as they relate to the amount, timing or inclusion of revenue and expenses or the sustainability of income tax credits for a given audit cycle. Given the global nature of our operations, there is a risk that transfer pricing disputes may arise. We have continuing responsibility for Old GM's open tax years. We record, and Old GM previously recorded, a tax benefit only for those positions that meet the more likely than not standard.

In May 2009 the U.S. and Canadian governments resolved a transfer pricing matter with Old GM, which covered the tax years 2001 through 2007. In the three months ended June 30, 2009 this resolution resulted in a tax benefit of $692 million and interest income of $229 million. Final administrative processing of the Canadian case closing occurred in late 2009, and final administrative processing of the U.S. case closing occurred in February 2010.

In June 2010, a Mexican income tax audit covering the 2002 and 2003 years was concluded and an assessment of $159 million, including tax, interest and penalties was issued. We do not agree with the assessment and intend to appeal. We believe we have adequate reserves established and collection of the assessment will be suspended during the appeal period and any subsequent proceedings through U.S. and Mexican competent authorities.

At June 30, 2010, it is not possible to reasonably estimate the expected change to the total amount of unrecognized tax benefits over the next 12 months.

Note 19. Fair Value Measurements

Fair Value Measurements

A three−level valuation hierarchy is used for fair value measurements. The three−level valuation hierarchy is based upon observable and unobservable inputs. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect market assumptions based on the best evidence available. These two types of inputs create the following fair value hierarchy:

- Level 1 — Quoted prices for *identical* instruments in active markets;
- Level 2 — Quoted prices for *similar* instruments in active markets; quoted prices for identical or similar instruments in markets that are not active; and model−derived valuations whose significant inputs are observable; and
- Level 3 — Instruments whose significant inputs are *unobservable*.

Financial instruments are transferred in and/or out of Level 3 in the valuation hierarchy based upon the significance of the unobservable inputs to the overall fair value measurement. Level 3 financial instruments typically include, in addition to the unobservable inputs, observable components that are validated to external sources.

Securities are classified in Level 1 of the valuation hierarchy when quoted prices in an active market for identical securities are available. If quoted market prices are not available, fair values of securities are determined using prices from a pricing vendor, pricing models, quoted prices of securities with similar characteristics or discounted cash flow models and are generally classified in Level 2 of the valuation hierarchy. Our pricing vendor utilizes industry−standard pricing models that consider various inputs, including

benchmark yields, reported trades, broker/dealer quotes, issuer spreads and benchmark securities as well as other relevant economic measures. Securities are classified in Level 3 of the valuation hierarchy in certain cases where there are unobservable inputs to the valuation in the marketplace.

Annually, we conduct a review of our pricing vendor. This review includes discussion and analysis of the inputs used by the pricing vendor to provide prices for the types of securities we hold. These inputs included interest rate yields, bid/ask quotes, prepayment speeds and prices for comparable securities. Based on our review we believe the prices received from our pricing vendor are a reliable representation of exit prices.

All derivatives are recorded at fair value. Internal models are used to value a majority of derivatives. The models use, as their basis, readily observable market inputs, such as time value, forward interest rates, volatility factors, and current and forward market prices for commodities and foreign currency exchange rates. Level 2 of the valuation hierarchy includes certain foreign currency derivatives, commodity derivatives and warrants. Derivative contracts that are valued based upon models with significant unobservable market inputs, primarily estimated forward and prepayment rates, are classified in Level 3 of the valuation hierarchy. Level 3 of the valuation hierarchy includes warrants issued prior to July 10, 2009 to the UST, certain foreign currency derivatives, certain long−dated commodity derivatives and interest rate swaps with notional amounts that fluctuated over time.

The valuation of derivative liabilities takes into account our and Old GM's nonperformance risk. For the periods presented after June 1, 2009, our and Old GM's nonperformance risk was not observable through the credit default swap market as a result of the Chapter 11 Proceedings for Old GM and the lack of traded instruments for us. As a result, an analysis of comparable industrial companies was used to determine the appropriate credit spread which would be applied to us by market participants. In these periods, all derivatives whose fair values contained a significant credit adjustment based on our nonperformance risk were classified in Level 3 of the valuation hierarchy.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Fair Value Measurements on a Recurring Basis

The following tables summarize the financial instruments measured at fair value on a recurring basis (dollars in millions):

	Successor			
	Fair Value Measurements on a Recurring Basis at June 30, 2010			
	Level 1	Level 2	Level 3	Total
Assets				
Cash equivalents				
United States government and agency	$ —	$ 2,456	$ —	$ 2,456
Certificates of deposit	—	3,719	—	3,719
Money market funds	2,699	—	—	2,699
Commercial paper	—	7,293	—	7,293
Marketable securities				
Trading securities				
Equity	16	14	—	30
United States government and agency	—	12	—	12
Mortgage and asset−backed	—	29	—	29
Foreign government	—	30	—	30
Corporate debt	—	29	—	29
Available−for−sale securities				
United States government and agency	—	939	—	939
Certificates of deposit	—	1,326	—	1,326
Corporate debt	—	2,366	—	2,366
Restricted cash and marketable securities				
United States government and Agency	—	160	—	160
Government of Canada bonds	—	956	—	956
Money market funds	389	—	—	389
Other assets				
Equity	8	—	—	8
Derivatives				
Commodity	—	24	—	24
Foreign currency	—	25	29	54
Other	—	25	—	25
Total assets	$ 3,112	$ 19,403	$ 29	$22,544
Liabilities				
Other liabilities				
Options	$ —	$ —	$ 24	$ 24
Derivatives				
Foreign currency	—	3	367	370
Total liabilities	$ —	$ 3	$ 391	$ 394

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Successor			
	Fair Value Measurements on a Recurring Basis at December 31, 2009			
	Level 1	Level 2	Level 3	Total
Assets				
Cash equivalents				
United States government and agency	$ —	$ 580	$ —	$ 580
Certificates of deposit	—	2,140	—	2,140
Money market funds	7,487	—	—	7,487
Commercial paper	—	969	—	969
Marketable securities				
Trading securities				
Equity	15	17	—	32
United States government and agency	—	17	—	17
Mortgage and asset−backed	—	22	—	22
Foreign government	—	24	—	24
Corporate debt	—	29	—	29
Available−for−sale securities				
United States government and agency	—	2	—	2
Certificates of deposit	—	8	—	8
Restricted cash				
Money market funds	12,662	—	—	12,662
Government of Canada bonds	—	955	—	955
Other assets				
Equity	13	—	—	13
Derivatives				
Commodity	—	11	—	11
Foreign currency	—	90	33	123
Other	—	25	—	25
Total assets	$ 20,177	$ 4,889	$ 33	$25,099
Liabilities				
Derivatives				
Foreign currency	$ —	$ 9	$ 705	$ 714
Total liabilities	$ —	$ 9	$ 705	$ 714

Fair Value Measurements on a Recurring Basis using Level 3 Inputs

In the three months ended June 30, 2009 Old GM's mortgage and asset−backed securities were transferred from Level 3 to Level 2 as the significant inputs used to measure fair value and quoted prices for similar instruments were determined to be observable in an active market.

For periods presented after June 1, 2009 our and Old GM's nonperformance risk was not observable through the credit default swap market as a result of the Chapter 11 Proceedings for Old GM and the lack of traded instruments for us. As a result, foreign currency derivatives with a fair market value of $1.6 billion were transferred from Level 2 to Level 3 in the three months ended June 30, 2009.

In the six months ended June 30, 2009 Old GM determined the credit profile of certain foreign subsidiaries was equivalent to Old GM's nonperformance risk which was observable through the credit default swap market and bond market based on prices for recent trades. Accordingly, foreign currency derivatives with a fair value of $2.1 billion were transferred from Level 3 into Level 2 in the six months ended June 30, 2009.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Successor Level 3 Financial Assets and Liabilities					
	Mortgage–backed Securities (a)	Commodity Derivatives, Net (b)	Foreign Currency Derivatives (c)	Options (d)	Other Securities (a)	Total Net Liabilities
Balance at April 1, 2010	$ —	$ —	$ (355)	$ (21)	$ —	$ (376)
Total realized/unrealized gains (losses)						
Included in earnings	—	—	(82)	(3)	—	(85)
Included in Accumulated other comprehensive income (loss)	—	—	20	—	—	20
Purchases, issuances, and settlements	—	—	79	—	—	79
Transfer in and/or out of Level 3	—	—	—	—	—	—
Balance at June 30, 2010	$ —	$ —	$ (338)	$ (24)	$ —	$ (362)
Amount of total gains and (losses) in the period included in earnings attributable to the change in unrealized gains or (losses) relating to assets still held at the reporting date	$ —	$ —	$ (82)	$ (3)	$ —	$ (85)

	Successor Level 3 Financial Assets and Liabilities					
	Mortgage–backed Securities (a)	Commodity Derivatives, Net (b)	Foreign Currency Derivatives (c)	Options (d)	Other Securities (a)	Total Net Liabilities
Balance at January 1, 2010	$ —	$ —	$ (672)	$ —	$ —	$ (672)
Total realized/unrealized gains (losses)						
Included in earnings	—	—	73	(3)	—	70
Included in Accumulated other comprehensive income (loss)	—	—	3	—	—	3
Purchases, issuances, and settlements	—	—	258	(21)	—	237
Transfer in and/or out of Level 3	—	—	—	—	—	—
Balance at June 30, 2010	$ —	$ —	$ (338)	$ (24)	$ —	$ (362)
Amount of total gains and (losses) in the period included in earnings attributable to the change in unrealized gains or (losses) relating to assets still held at the reporting date	$ —	$ —	$ 59	$ (3)	$ —	$ 56

	Predecessor Level 3 Financial Assets and Liabilities					
	Mortgage–backed Securities (a)	Commodity Derivatives, Net (b)	Foreign Currency Derivatives (c)	UST Warrant (a)	Other Securities (a)	Total Net Liabilities
Balance at April 1, 2009	$ 44	$ (13)	$ —	$ (66)	$ 14	$ (21)
Total realized/unrealized gains (losses)						
Included in earnings	(1)	11	—	66	(3)	73
Included in Accumulated other comprehensive income (loss)	—	—	—	—	—	—
Purchases, issuances, and settlements	(10)	2	—	—	(6)	(14)
Transfer in and/or out of Level 3	(33)	—	(1,559)	—	(5)	(1,597)
Balance at June 30, 2009	$ —	$ —	$ (1,559)	$ —	$ —	$ (1,559)
Amount of total gains and (losses) in the period included in earnings attributable to the change in unrealized gains or (losses) relating to assets still held at the reporting date	$ —	$ —	$ —	$ —	$ —	$ —

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Predecessor Level 3 Financial Assets and Liabilities					
	Mortgage−backed Securities (a)	Commodity Derivatives, Net (b)	Foreign Currency Derivatives (c)	UST Warrant (a)	Other Securities (a)	Total Net Liabilities
Balance at January 1, 2009	$ 49	$ (17)	$ (2,144)	$ (164)	$ 17	$ (2,259)
Total realized/unrealized gains (losses)						
Included in earnings	(2)	13	—	164	(5)	170
Included in Accumulated other comprehensive income (loss)	—	—	—	—	—	—
Purchases, issuances, and settlements	(14)	4	—	—	(7)	(17)
Transfer in and/or out of Level 3	(33)	—	585	—	(5)	547
Balance at June 30, 2009	$ —	$ —	$ (1,559)	$ —	$ —	$ (1,559)
Amount of total gains and (losses) in the period included in earnings attributable to the change in unrealized gains or (losses) relating to assets still held at the reporting date	$ —	$ —	$ —	$ —	$ —	$ —

(a) Realized gains (losses) and other than temporary impairments on marketable securities (including the UST warrants outstanding until the closing of the 363 Sale) are recorded in Interest income and other non−operating income, net.

(b) Prior to July 10, 2009 realized and unrealized gains (losses) on commodity derivatives were recorded in Cost of sales. Changes in fair value are attributable to changes in base metal and precious metal prices. Beginning July 10, 2009 realized and unrealized gains (losses) on commodity derivatives are recorded in Interest income and other non−operating income, net.

(c) Prior to July 10, 2009 realized and unrealized gains (losses) on foreign currency derivatives were recorded in the line item associated with the economically hedged item. Beginning July 10, 2009 realized and unrealized gains (losses) on foreign currency derivatives are recorded in Interest income and other non−operating income, net and foreign currency translation gains (losses) are recorded in Accumulated other comprehensive income (loss).

(d) Realized and unrealized gains (losses) on options are recorded in Interest income and other non−operating income, net.

Short−Term and Long−Term Debt

We determined the fair value of debt based on a discounted cash flow model which used benchmark yield curves plus a spread that represented the yields on traded bonds of companies with comparable credit ratings.

The following table summarizes the carrying amount and estimated fair value of short−term and long−term debt, including capital leases, for which it is practicable to estimate fair value (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Carrying amount (a)	$ 8,161	$ 15,783
Fair value (a)	$ 7,751	$ 16,024

(a) Accounts and notes receivable, net and Accounts payable (principally trade) are not included because the carrying amount approximates fair value due to their short−term nature.

Ally Financial Common and Preferred Stock

At December 31, 2009 we estimated the fair value of our investment in Ally Financial common stock using a market approach based on the average price to tangible book value multiples of comparable companies to each of Ally Financial's Auto Finance, Commercial Finance, Mortgage, and Insurance operations to determine the fair value of the individual operations. These values were aggregated to estimate the fair value of Ally Financial common stock. At June 30, 2010 we estimated the fair value of Ally Financial

common stock using a market approach that applies the average price to tangible book value multiples of comparable companies to the consolidated Ally Financial tangible book value. This approach provides our best estimate of the fair value of our investment in Ally Financial common stock at June 30, 2010 due to Ally Financial's transition to a bank holding company and less readily available information with which to value Ally Financial's business operations individually.

We calculated the fair value of our investment in Ally Financial preferred stock using a discounted cash flow approach. The present value of the cash flows was determined using assumptions regarding the expected receipt of dividends on Ally Financial preferred stock and the expected call date.

The following table summarizes the carrying amount and estimated fair value of Ally Financial common and preferred stock (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Common stock		
Carrying amount	$ 966	$ 970
Fair value	$ 1,138	$ 970
Preferred stock		
Carrying amount	$ 665	$ 665
Fair value	$ 1,035	$ 989

Note 20. Restructuring and Other Initiatives

We have and Old GM had previously executed various restructuring and other initiatives, and we plan to execute additional initiatives in the future, if necessary, in order to preserve adequate liquidity, to align manufacturing capacity and other costs with prevailing global automotive sales and to improve the utilization of remaining facilities. Related charges are primarily recorded in Cost of sales and Selling, general and administrative expense.

Estimates of restructuring and other initiative charges are based on information available at the time such charges are recorded. Due to the inherent uncertainty involved, actual amounts paid for such activities may differ from amounts initially recorded. Accordingly, we may record revisions to previous estimates by adjusting previously established reserves.

Refer to Note 21 for asset impairment charges related to our restructuring initiatives.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

GM

The following table summarizes restructuring reserves (excluding restructuring reserves related to dealer wind−down agreements) and charges by segment, including postemployment benefit reserves and charges in the three and six months ended June 30, 2010 (dollars in millions):

	Successor			
	GMNA	GMIO	GME	Total
Balance at January 1, 2010	$2,088	$ 7	$ 451	$2,546
Additions	7	—	273	280
Interest accretion and other	10	—	32	42
Payments	(243)	(3)	(37)	(283)
Revisions to estimates	(104)	—	—	(104)
Effect of foreign currency translation	24	—	(33)	(9)
Balance at March 31, 2010	1,782	4	686	2,472
Additions	21	—	207	228
Interest accretion and other	10	—	28	38
Payments	(178)	(2)	(257)	(437)
Revisions to estimates	(1)	1	(8)	(8)
Effect of foreign currency translation	(25)	—	(63)	(88)
Balance at June 30, 2010 (a)	$1,609	$ 3	$ 593	$2,205

(a) The remaining cash payments related to these restructuring reserves primarily relate to postemployment benefits to be paid.

GMNA

GMNA recorded charges, interest accretion and other and revisions to estimates that increased the restructuring reserves by $30 million in the three months ended June 30, 2010 and decreased the restructuring reserves by $57 million in the six months ended June 30, 2010. The increase was primarily related to a Canadian hourly separation program at the Oshawa Facility in the three months ended June 30, 2010 offset by increased production capacity utilization, which resulted in the recall of idled employees to fill added shifts at multiple production sites in the six months ended June 30, 2010.

GME

GME recorded charges, and interest accretion and other and revisions to estimates of $227 million and $532 million in the three and six months ended June 30, 2010 for separation programs primarily related to the following initiatives:

- Separation charges of $169 million and $353 million in the three and six months ended June 30, 2010 for a separation plan related to the closure of the Antwerp, Belgium facility which affected 1,300 employees in the three months ended June 30, 2010 and will affect 1,300 additional employees.
- Separation charges of $72 million in the six months ended June 30, 2010 and revisions to estimates of $8 million to decrease the reserve in the three months ended June 30, 2010 related to separation/layoff plans and an early retirement plan in Spain which will affect 1,200 employees.
- Separation charges of $25 million in the three months ended June 30, 2010 related to a voluntary separation program in the United Kingdom.
- Separation charges of $11 million and $27 million and interest accretion and other of $26 million and $56 million in the three and six months ended June 30, 2010 related to previously announced programs in Germany.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Dealer Wind−downs

We market vehicles worldwide through a network of independent retail dealers and distributors. As part of achieving and sustaining long−term viability and the viability of our dealer network, we determined that a reduction in the number of GMNA dealerships was necessary. At June 30, 2010 there were approximately 5,900 dealers in GMNA compared to approximately 6,500 at December 31, 2009. Certain dealers in the U.S. that had signed wind−down agreements with us elected to file for reinstatement through a binding arbitration process. In response to the arbitration filings we offered certain dealers reinstatement contingent upon compliance with our core business criteria for operation of a dealership. At June 30, 2010 the arbitration process had been fundamentally resolved.

The following table summarizes GMNA's restructuring reserves related to dealer wind−down agreements in the three and six months ended June 30, 2010 (dollars in millions):

	Successor		
	U.S.	Canada and Mexico	Total
Balance at January 1, 2010	$ 460	$ 41	$ 501
Additions	9	9	18
Payments	(44)	(28)	(72)
Effect of foreign currency translation	—	2	2
Balance at March 31, 2010	425	24	449
Revisions to estimates	(6)	—	(6)
Payments	(140)	(4)	(144)
Effect of foreign currency translation	—	—	—
Balance at June 30, 2010	$ 279	$ 20	$ 299

Old GM

The following table summarizes Old GM's restructuring reserves (excluding restructuring reserves related to dealer wind−down agreements) and charges by segment, including postemployment benefit reserves and charges in the three and six months ended June 30, 2009 (dollars in millions):

	Predecessor			
	GMNA	GMIO	GME	Total
Balance at January 1, 2009	$2,456	$ 58	$468	$2,982
Additions	411	32	10	453
Interest accretion and other	10	—	(3)	7
Payments	(398)	(32)	(33)	(463)
Revisions to estimates	(297)	9	—	(288)
Effect of foreign currency translation	(28)	(2)	(28)	(58)
Balance at March 31, 2009	2,154	65	414	2,633
Additions	1,424	29	9	1,462
Interest accretion and other	5	—	13	18
Payments	(571)	(55)	(30)	(656)
Revisions to estimates	(98)	—	—	(98)
Effect of foreign currency translation	79	10	29	118
Balance at June 30, 2009	$2,993	$ 49	$435	$3,477

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

GMNA recorded charges, interest accretion and other and revisions to estimates that increased the restructuring reserves by $1.3 billion and $1.5 billion for the three and six months ended June 30, 2009 for separation programs related to the following initiatives:

- Supplemental Unemployment Benefit (SUB) and Transitional Support Program (TSP) related charges in the U.S. of $707 million for the three months ended June 30, 2009 recorded as an additional liability determined by an actuarial analysis at the implementation of the SUB and TSP and related suspension of the JOBS Program, Old GM's job security provision in the collective bargaining agreement with the UAW to continue paying idled employees certain wages and benefits.
- Postemployment benefit charges in the U.S. of $529 million and $825 million for the three and six months ended June 30, 2009 related to 13,000 hourly employees who participated in the 2009 Special Attrition Programs.
- Separation charges of $135 million and $250 million for the three and six months ended June 30, 2009 for a U.S. salaried severance program to allow terminated employees to receive ongoing wages and benefits for up to 12 months.
- Revisions to estimates to decrease the reserve by $98 million and $395 million for the three and six months ended June 30, 2009 primarily related to $335 million for the six months ended June 30, 2009 for the suspension of the JOBS Program and $79 million and $136 million for the three and six months ended June 30, 2009 for estimated future wages and benefits due to employees who participated in the 2009 Special Attrition Programs; offset by a net increase of $86 million for the six months ended June 30, 2009 related to Canadian salaried workforce reductions and other restructuring initiatives in Canada.
- Postemployment benefit charges in Canada of $38 million for the three months ended June 30, 2009 related to 380 hourly employees who participated in a special attrition program at the Oshawa Facility.

GMIO recorded charges and revisions to estimates of $29 million and $70 million in the three and six months ended June 30, 2009 primarily related to separation programs in South America and Australia.

GME recorded charges, interest accretion and other and revisions to estimates of $22 million and $29 million in the three and six months ended June 30, 2009 for separation programs primarily related to early retirement programs in Germany and previously announced programs in Germany and Belgium.

Dealer Wind−downs

The following table summarizes Old GM's restructuring reserves related to dealer wind−down agreements in the three months ended June 30, 2009 (dollars in millions):

	Canada
Balance at April 1, 2009	$ —
Additions	120
Payments	—
Effect of foreign currency translation	—
Balance at June 30, 2009	$ 120

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Note 21. Impairments

The following table summarizes impairment charges (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
GMNA				
Product−specific tooling assets	$ —	$ —	$ —	$ 278
Cancelled powertrain programs	—	—	—	42
Equity and cost method investments (other than Ally Financial)	—	—	—	28
Vehicles leased to rental car companies	—	—	—	11
Total GMNA impairment charges	—	—	—	359
GMIO				
Product−specific tooling assets	—	—	—	7
Other long−lived assets	—	—	2	2
Total GMIO impairment charges	—	—	2	9
GME				
Product−specific tooling assets	—	—	237	237
Vehicles leased to rental car companies	6	15	17	34
Total GME impairment charges	6	15	254	271
Corporate				
Other than temporary impairment charges on debt and equity securities (a)	—	—	3	11
Automotive retail leases	—	—	—	16
Total Corporate impairment charges	—	—	3	27
Total impairment charges	$ 6	$ 15	$ 259	$ 666

(a) Refer to Note 5 and Note 19 for additional information on marketable securities and financial instruments measured at fair value on a recurring basis. Other than temporary impairment charges on debt and equity securities were recorded in Interest income and other non−operating income, net.

The following tables summarize assets measured at fair value (all of which utilized Level 3 inputs) on a nonrecurring basis subsequent to initial recognition (dollars in millions):

GM

GME

	Successor				
		Fair Value Measurements Using			
	Three Months Ended June 30, 2010 (a)	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Three Months Ended June 30, 2010 Total Losses
Vehicles leased to rental car companies	$ 563	—	—	$ 563	$ (6)

(a) Amounts represent the fair value measure during the period.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Successor				
		Fair Value Measurements Using			
	Six Months Ended June 30, 2010 (a)	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Six Months Ended June 30, 2010 Total Losses
Vehicles leased to rental car companies	$ 537−563	—	—	$ 537−563	$ (15)

(a) Amounts represent the fair value range of measures during the period.

Vehicles leased to rental car companies were adjusted to their fair value at the time of impairment, resulting in impairment charges of $6 million and $15 million in the three and six months ended June 30, 2010. Fair value measurements utilized projected cash flows which primarily consist of vehicle sales at auction.

Old GM

	Predecessor				
		Fair Value Measurements Using			
	Three Months Ended June 30, 2009 (a)	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Three Months Ended June 30, 2009 Total Losses
Product−specific tooling assets	$ —	—	—	$ —	$ (237)
Other long−lived assets	$ —	—	—	$ —	(2)
Vehicles leased to rental car companies	$ 543	—	—	$ 543	(17)
Total					$ (256)

(a) Amounts represent the fair value measure during the period.

	Predecessor				
		Fair Value Measurements Using			
	Six Months Ended June 30, 2009 (a)	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Six Months Ended June 30, 2009 Total Losses
Product−specific tooling assets	$ 0−85	—	—	$ 0−85	$ (522)
Cancelled powertrain programs	$ —	—	—	$ —	(42)
Other long−lived assets	$ —	—	—	$ —	(2)
Equity and cost method investments (other than Ally Financial)	$ —	—	—	$ —	(28)
Vehicles leased to rental car companies	$ 543−2,057	—	—	$ 543−2,057	(45)
Automotive retail leases	$ 1,519	—	—	$ 1,519	(16)
Total					$ (655)

(a) Amounts represent the fair value measure (or range of measures) during the period.

GMNA

Product−specific tooling assets were adjusted to their fair value at the time of impairment, resulting in impairment charges of $278 million in the six months ended June 30, 2009. Fair value measurements utilized projected cash flows, discounted at a rate commensurate with the perceived business risks related to the assets involved.

Cancelled powertrain programs were adjusted to their fair value at the time of impairment, resulting in impairment charges of $42 million in the six months ended June 30, 2009. Fair value measurements utilized projected cash flows, discounted at a rate commensurate with the perceived business risks related to the assets involved.

CAMI Automotive, Inc. (CAMI), at the time an equity method investee, was adjusted to its fair value, resulting in an impairment charge of $28 million in the six months ended June 30, 2009. The fair value measurement utilized projected cash flows discounted at a rate commensurate with the perceived business risks related to the investment. In March 2009 Old GM determined that due to changes in contractual arrangements, CAMI became a VIE and Old GM was the primary beneficiary, and therefore CAMI was consolidated. In December 2009 we acquired the remaining noncontrolling interest of CAMI from Suzuki for $100 million increasing our ownership interest from 50% to 100%. As a result of this acquisition, CAMI became a wholly−owned subsidiary.

Vehicles leased to rental car companies were adjusted to their fair value at the time of impairment, resulting in impairment charges of $11 million in the six months ended June 30, 2009. Fair value measurements utilized projected cash flows which primarily consist of vehicle sales at auction.

GMIO

Product−specific tooling assets were adjusted to their fair value at the time of impairment, resulting in impairment charges of $7 million in the six months ended June 30, 2009. Fair value measurements utilized projected cash flows, discounted at a rate commensurate with the perceived business risks related to the assets involved.

Other long−lived assets were adjusted to their fair value at the time of impairment, resulting in impairment charges of $2 million in the three months ended June 30, 2009. Fair value measurements utilized projected cash flows, discounted at a rate commensurate with the perceived business risks related to the assets involved.

GME

Product−specific tooling assets were adjusted to their fair value at the time of impairment, resulting in impairment charges of $237 million in the three months ended June 30, 2009. Fair value measurements utilized projected cash flows, discounted at a rate commensurate with the perceived business risks related to the assets involved.

Vehicles leased to rental car companies were adjusted to their fair value at the time of impairment, resulting in impairment charges of $17 million and $34 million in the three and six months ended June 30, 2009. Fair value measurements utilized projected cash flows which primarily consist of vehicle sales at auction.

Corporate

Automotive retail leases were adjusted to their fair value at the time of impairment, resulting in impairment charges of $16 million in the six months ended June 30, 2009. Fair value measurements utilized discounted projected cash flows from lease payments and anticipated future auction proceeds.

Contract Cancellations

The following table summarizes contract cancellation charges primarily related to the cancellation of product programs (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
GMNA	$ 5	$ 36	$ 29	$ 157
GMIO	—	—	—	8
GME	—	—	4	12
Total contract cancellation charges	$ 5	$ 36	$ 33	$ 177

Note 22. Earnings (Loss) Per Share

Basic and diluted earnings (loss) per share have been computed by dividing Net income (loss) attributable to common stockholders by the weighted average number of shares outstanding in the period.

The following table summarizes basic and diluted earnings (loss) per share (in millions, except per share amounts):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Basic				
Net income (loss) attributable to common stockholders (a)	$ 2.67	$ 4.40	$ (21.12)	$ (30.91)
Weighted−average common shares outstanding	500	500	611	611
Diluted				
Net income (loss) attributable to common stockholders (a)	$ 2.55	$ 4.21	$ (21.12)	$ (30.91)
Weighted−average common shares outstanding	522	522	611	611

(a) The three and six months ended June 30, 2010 includes accumulated but undeclared dividends of $34 million on our Series A Preferred Stock, which decreases Net income attributable to common stockholders.

GM

In the three and six months ended June 30, 2010 diluted earnings per share included the potential effect of the assumed exercise of certain warrants to acquire shares of our common stock. The number of shares of common stock, assuming the exercise of the warrants, that were excluded in the computation of diluted earnings per share under the treasury stock method was 68 million in the three and six months ended June 30, 2010. The number of shares of common stock, assuming the exercise of the warrants, that were included in the computation of diluted earnings per share under the treasury stock method was 22 million in the three and six months ended June 30, 2010. The number of shares of common stock that were excluded in the computation of diluted earnings per share because the effect was antidilutive was 15 million in the three and six months ended June 30, 2010.

At June 30, 2010 the Adjustment Shares were excluded from the computation of basic and diluted earnings per share as the condition that would result in the issuance of the Adjustment Shares was not satisfied. At June 30, 2010 we believe it is probable that these claims will exceed $35.0 billion, but it is still possible they will not. The Adjustment Shares may, however, be dilutive in the future. Refer to Note 17 for additional information on the Adjustment Shares.

We have granted restricted stock units and salary stock to certain global executives. As these awards will be payable in cash if settled prior to six months after a completion of a successful initial public offering, the restricted stock and salary stock awards are excluded from the computation of diluted earnings per share. At June 30, 2010 6 million restricted stock units were outstanding.

Old GM

Due to Old GM's net losses in the three and six months ended June 30, 2009, the assumed exercise of stock options and warrants had an antidilutive effect and therefore was excluded from the computation of diluted loss per share. The number of such options and warrants not included in the computation of diluted loss per share was 208 million in the three and six months ended June 30, 2009.

No shares potentially issuable to satisfy the in−the−money amount of Old GM's convertible debentures have been included in the computation of diluted income (loss) per share in the three and six months ended June 30, 2009 as the conversion options in various series of convertible debentures were not in−the−money.

Note 23. Transactions with Ally Financial

Old GM entered into various operating and financing arrangements with Ally Financial. In connection with the 363 Sale, we assumed the terms and conditions of these agreements as more fully discussed in our 2009 Form 10−K. The following tables describe the financial statement effects of and maximum obligations under these agreements (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Operating lease residuals		
Residual support (a)		
Liabilities (receivables) recorded	$ (18)	$ 369
Maximum obligation	$ 881	$ 1,159
Risk sharing (a)		
Liabilities recorded	$ 401	$ 366
Maximum obligation	$ 1,080	$ 1,392
Note payable to Ally Financial (b)	$ 35	$ 35
Vehicle repurchase obligations (c)		
Maximum obligations	$15,881	$ 14,058
Fair value of guarantee	$ 34	$ 46

(a) Represents liabilities (receivables) recorded and maximum obligations for agreements entered into prior to December 31, 2008. Agreements entered into in 2010 and 2009 do not include residual support or risk sharing programs. During the six months ended June 30, 2010 favorable adjustments of $0.4 billion were recorded in the U.S. due to increases in estimated residual values.

(b) Ally Financial retained an investment in a note, which is secured by certain automotive retail leases.

(c) In May 2009 Old GM and Ally Financial agreed to expand Old GM's repurchase obligations for Ally Financial financed inventory at certain dealers in Europe, Asia, Brazil and Mexico. In November 2008 Old GM and Ally Financial agreed to expand Old GM's repurchase obligations for Ally Financial financed inventory at certain dealers in the United States and Canada. The maximum potential amount of future payments required to be made under this guarantee would be based on the repurchase value of total eligible vehicles financed by Ally Financial in dealer stock. The total exposure of repurchased vehicles would be reduced to the extent vehicles are able to be resold to another dealer. The fair value of the guarantee considers the likelihood of dealers terminating and the estimated loss exposure for the ultimate disposition of vehicles.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Marketing incentives and operating lease residual payments (a)	$ 204	$ 511	$ 435	$ 601
Exclusivity fee revenue	$ 25	$ 50	$ 25	$ 50
Royalty income	$ 3	$ 7	$ 6	$ 8

(a) Payments to Ally Financial related to U.S. marketing incentive and operating lease residual programs. Excludes payments to Ally Financial related to the contractual exposure limit.

Balance Sheet

The following table summarizes the balance sheet effects of transactions with Ally Financial (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Assets		
Accounts and notes receivable, net (a)	$ 698	$ 404
Restricted cash and marketable securities (b)	$ —	$ 127
Other assets (c)	$ 27	$ 27
Liabilities		
Accounts payable (d)	$ 100	$ 131
Short−term debt and current portion of long−term debt (e)	$ 893	$ 1,077
Accrued expenses and other liabilities (f)	$ 712	$ 817
Long−term debt (g)	$ 50	$ 59
Other non−current liabilities (h)	$ 154	$ 383

(a) Represents wholesale settlements due from Ally Financial, amounts owed by Ally Financial with respect to automotive retail leases and receivables for exclusivity fees and royalties.

(b) Represents certificates of deposit purchased from Ally Financial that are pledged as collateral for certain guarantees provided to Ally Financial in Brazil in connection with dealer floor plan financing.

(c) Primarily represents distributions due from Ally Financial on our investments in Ally Financial preferred stock.

(d) Primarily represents amounts billed to us and payable related to incentive programs.

(e) Represents wholesale financing, sales of receivable transactions and the short−term portion of term loans provided to certain dealerships which we own or in which we have an equity interest. In addition, it includes borrowing arrangements with various foreign locations and arrangements related to Ally Financial's funding of company−owned vehicles, rental car vehicles awaiting sale at auction and funding of the sale of vehicles to which title is retained while the vehicles are consigned to Ally Financial or dealers, primarily in the United Kingdom. Financing remains outstanding until the title is transferred to the dealers. This amount also includes the short−term portion of a note payable related to automotive retail leases.

(f) Primarily represents accruals for marketing incentives on vehicles which are sold, or anticipated to be sold, to customers or dealers and financed by Ally Financial in North America. This includes the estimated amount of residual support accrued under the residual support and risk sharing programs, rate support under the interest rate support programs, operating lease and finance receivable capitalized cost reduction incentives paid to Ally Financial to reduce the capitalized cost in automotive lease contracts and retail automotive contracts, and amounts owed under lease pull−ahead programs. In addition it includes interest accrued on the transactions in (e) above.

(g) Primarily represents the long−term portion of term loans from Ally Financial to certain consolidated dealerships.

(h) Primarily represents long−term portion of liabilities for marketing incentives on vehicles financed by Ally Financial.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Statement of Operations

The following table summarizes the income statement effects of transactions with Ally Financial (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Net sales and revenue (reduction) (a)	$ (68)	$ (211)	$ (5)	$ 177
Cost of sales and other expenses (b)	$ 5	$ 29	$ 103	$ 179
Interest income and other non−operating income, net (c)	$ 58	$ 116	$ 85	$ 159
Interest expense (d)	$ 58	$ 118	$ 50	$ 95
Servicing expense (e)	$ 1	$ 2	$ 7	$ 16
Derivative gains (losses) (f)	$ —	$ —	$ (1)	$ (2)

(a) Primarily represents the increase (reduction) in net sales and revenues for marketing incentives on vehicles which are sold, or anticipated to be sold, to customers or dealers and financed by Ally Financial. This includes the estimated amount of residual support accrued under residual support and risk sharing programs, rate support under the interest rate support programs, operating lease and finance receivable capitalized cost reduction incentives paid to Ally Financial to reduce the capitalized cost in automotive lease contracts and retail automotive contracts, and costs under lease pull−ahead programs. This amount is offset by net sales for vehicles sold to Ally Financial for employee and governmental lease programs and third party resale purposes.

(b) Primarily represents cost of sales on the sale of vehicles to Ally Financial for employee and governmental lease programs and third party resale purposes. Also includes miscellaneous expenses on services performed by Ally Financial.

(c) Represents income on investments in Ally Financial preferred stock and Preferred Membership Interests, exclusivity and royalty fee income and reimbursements by Ally Financial for certain services provided to Ally Financial. Included in this amount is rental income related to Ally Financial's primary executive and administrative offices located in the Renaissance Center in Detroit, Michigan. The lease agreement expires in November 2016.

(d) Represents interest incurred on term loans, notes payable and wholesale settlements.

(e) Represents servicing fees paid to Ally Financial on certain automotive retail leases.

(f) Represents amounts recorded in connection with a derivative transaction entered into with Ally Financial as the counterparty.

Note 24. Transactions with MLC

We and MLC entered into a Transition Services Agreement (TSA), as more fully discussed in our 2009 Form 10−K. The following tables describe the financial statement effects of the transactions with MLC.

Statement of Operations

The following table summarizes the income statement effects of transactions with MLC (dollars in millions):

	Successor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010
Cost of sales (a)	$ 8	$ 14

(a) Primarily related to royalty income from MLC.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Balance Sheet

The following table summarizes the balance sheet effects of transactions with MLC (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Accounts and notes receivable, net (a)	$ 11	$ 16
Other assets	$ 1	$ 1
Accounts payable (b)	$ 24	$ 59
Accrued expenses and other liabilities	$ —	$ (1)

(a) Primarily related to royalty income from MLC and services provided under the TSA.

(b) Primarily related to the purchase of component parts.

Cash Flow

The following table summarizes the cash flow effects of transactions with MLC (dollars in millions):

	Successor
	Six Months Ended June 30, 2010
Operating (a)	$ (112)
Financing (b)	$ 4

(a) Primarily includes payments to and from MLC related to the purchase and sale of component parts.

(b) Payments received from (funding provided to) a facility in Strasbourg, France, that MLC retained. The terms do not permit additional funding after July 31, 2010. At June 30, 2010 we reserved $12 million against the advanced amounts.

Note 25. Segment Reporting

We develop, produce and market cars, trucks and parts worldwide. We do so through our three segments: GMNA, GMIO and GME.

In the three months ended June 30, 2010 we changed our managerial reporting structure so that certain entities geographically located within Russia and Uzbekistan were transferred from our GME segment to our GMIO segment. We have revised the segment presentation for all periods presented.

Substantially all of the cars, trucks and parts produced are marketed through retail dealers in North America, and through distributors and dealers outside of North America, the substantial majority of which are independently owned.

In addition to the products sold to dealers for consumer retail sales, cars and trucks are also sold to fleet customers, including daily rental car companies, commercial fleet customers, leasing companies and governments. Sales to fleet customers are completed through the network of dealers and in some cases sold directly to fleet customers. Retail and fleet customers can obtain a wide range of after sale vehicle services and products through the dealer network, such as maintenance, light repairs, collision repairs, vehicle accessories and extended service warranties.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

GMNA primarily meets the demands of customers in North America with vehicles developed, manufactured and/or marketed under the following brands:

- Buick
- Cadillac
- Chevrolet
- GMC

The demands of customers outside of North America are primarily met with vehicles developed, manufactured and/or marketed under the following brands:

- Buick
- Cadillac
- Chevrolet
- Daewoo
- GMC
- Holden
- Isuzu
- Opel
- Vauxhall

At June 30, 2010 we also had equity ownership stakes directly or indirectly through various regional subsidiaries, including GM Daewoo, SGM, SGMW, FAW−GM Light Duty Commercial Vehicle Co., Ltd. (FAW−GM) and HKJV. These companies design, manufacture and market vehicles under the following brands:

- Buick
- Cadillac
- Chevrolet
- Daewoo
- FAW
- GMC
- Holden
- Jiefang
- Wuling

Nonsegment operations are classified as Corporate. Corporate includes investments in Ally Financial, certain centrally recorded income and costs, such as interest, income taxes and corporate expenditures, certain nonsegment specific revenues and expenses, including costs related to the Delphi Benefit Guarantee Agreements and a portfolio of automotive retail leases.

All intersegment balances and transactions have been eliminated in consolidation.

	Successor					
	GMNA	GMIO	GME	Eliminations	Corporate	Total
At and For the Three Months Ended June 30, 2010						
Sales						
External customers	$19,457	$ 7,891	$ 5,783	$ —	$ —	$ 33,131
Intersegment	809	721	261	(1,791)	—	—
Other revenue	—	—	—	—	43	43
Total net sales and revenue	$20,266	$ 8,612	$ 6,044	$ (1,791)	$ 43	$ 33,174
Earnings (loss) attributable to stockholders before interest and income taxes	$ 1,592	$ 672	$ (160)	$ (42)	$ (29)	$ 2,033
Interest income					114	114
Interest expense					250	250
Income tax expense (benefit)					361	361
Net income (loss) attributable to stockholders					$ (526)	$ 1,536
Equity in net assets of nonconsolidated affiliates	$ 1,991	$ 6,270	$ 7	$ —	$ 28	$ 8,296
Total assets	$79,258	$27,549	$17,640	$ (32,427)	$ 39,879	$131,899
Depreciation, amortization and impairment	$ 1,082	$ 220	$ 359	$ —	$ 15	$ 1,676
Equity income, net of tax	$ 41	$ 365	$ 4	$ —	$ 1	$ 411

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Successor					
	GMNA	GMIO	GME	Eliminations	Corporate	Total
For the Six Months Ended June 30, 2010						
Sales						
External customers	$37,965	$15,431	$11,157	$ —	$ —	$64,553
Intersegment	1,587	1,233	348	(3,168)	—	—
Other revenue	—	—	—	—	97	97
Total net sales and revenue	$39,552	$16,664	$11,505	$ (3,168)	$ 97	$64,650
Earnings (loss) attributable to stockholders before interest and income taxes	$ 2,810	$ 1,838	$ (637)	$ (30)	$ (124)	$ 3,857
Interest income					204	204
Interest expense					587	587
Income tax expense (benefit)					870	870
Net income (loss) attributable to stockholders					$ (1,377)	$ 2,604
Depreciation, amortization and impairment	$ 2,223	$ 420	$ 744	$ —	$ 66	$ 3,453
Equity income, net of tax	$ 75	$ 727	$ 11	$ —	$ 1	$ 814

	Predecessor					
	GMNA	GMIO	GME	Eliminations	Corporate	Total
For the Three Months Ended June 30, 2009						
Sales						
External customers	$11,177	$5,166	$6,582	$ —	$ —	$ 22,925
Intersegment	268	238	63	(569)	—	—
Other revenue	—	—	—	—	122	122
Total net sales and revenue	$11,445	$5,404	$6,645	$ (569)	$ 122	$ 23,047
Earnings (loss) attributable to stockholders before interest and income taxes	$ (7,026)	$ (660)	$ (757)	$ 38	$ (1,657)	$(10,062)
Interest income					87	87
Interest expense					3,375	3,375
Income tax expense (benefit)					(445)	(445)
Net income (loss) attributable to stockholders					$ (4,500)	$(12,905)
Depreciation, amortization and impairment	$ 2,620	$ 295	$ 834	$ —	$ 15	$ 3,764
Equity income (loss), net of tax	$ (225)	$ 218	$ 4	$ 1	$ —	$ (2)
Equity in income of and disposition of interest in Ally Financial	$ —	$ —	$ —	$ —	$ 1,880	$ 1,880
Significant noncash charges (gains)						
Gain on conversion of UST Ally Financial Loan	$ —	$ —	$ —	$ —	$ (2,477)	$ (2,477)
Loss on extinguishment of UST Ally Financial Loan	—	—	—	—	1,994	1,994
Impairment charges related to long−lived assets	—	2	237	—	—	239
Total significant noncash charges	$ —	$ 2	$ 237	$ —	$ (483)	$ (244)

GENERAL MOTORS COMPANY AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Predecessor					
	GMNA	GMIO	GME	Eliminations	Corporate	Total
For the Six Months Ended June 30, 2009						
Sales						
External customers	$ 22,989	$10,359	$11,809	$ —	$ —	$ 45,157
Intersegment	775	796	137	(1,708)	—	—
Other revenue	—	—	—	—	321	321
Total net sales and revenue	$ 23,764	$11,155	$11,946	$ (1,708)	$ 321	$ 45,478
Earnings (loss) attributable to stockholders before interest and income taxes	$(10,452)	$ (699)	$ (2,711)	$ 64	$ (1,209)	$(15,007)
Interest income					173	173
Interest expense					4,605	4,605
Income tax expense (benefit)					(559)	(559)
Net income (loss) attributable to stockholders					$ (5,082)	$(18,880)
Depreciation, amortization and impairment	$ 4,322	$ 469	$ 1,377	$ —	$ 136	$ 6,304
Equity income (loss), net of tax	$ (284)	$ 326	$ 4	$ —	$ —	$ 46
Equity in income of and disposition of interest in Ally Financial	$ —	$ —	$ —	$ —	$ 1,380	$ 1,380
Significant noncash charges (gains)						
Gain on conversion of UST Ally Financial Loan	$ —	$ —	$ —	$ —	$ (2,477)	$ (2,477)
Loss on extinguishment of UST Ally Financial Loan	—	—	—	—	1,994	1,994
Gain on extinguishment of debt	—	—	—	—	(906)	(906)
Impairment charges related to equipment on operating leases	11	—	34	—	16	61
Impairment charges related to long−lived assets	320	9	237	—	—	566
Impairment charges related to investment in CAMI	28	—	—	—	—	28
Total significant noncash charges	$ 359	$ 9	$ 271	$ —	$ (1,373)	$ (734)

Note 26. Subsequent Events

Sale of Nexteer

On July 7, 2010 we entered into a definitive agreement to sell Nexteer to an unaffiliated party. The transaction is subject to customary closing conditions, regulatory approvals and review by government agencies in the U.S. and China. At June 30, 2010 Nexteer had total assets of $906 million, total liabilities of $458 million, and recorded revenue of $1.0 billion in the six months ended June 30, 2010, of which $543 million were sales to us and our affiliates. Nexteer did not qualify for held for sale classification at June 30, 2010. Once consummated, we do not expect the sale of Nexteer to have a material effect on the condensed consolidated financial statements.

Acquisition of AmeriCredit Corp.

On July 21, 2010 we entered into a definitive agreement to acquire AmeriCredit Corp. (AmeriCredit), an independent automobile finance company, for cash of approximately $3.5 billion. This acquisition will allow us to provide a more complete range of financing options to our customers including additional capabilities in leasing and non−prime financing options. At June 30, 2010 AmeriCredit had total assets of $9.9 billion, total liabilities of $7.5 billion, and recorded revenue of $1.5 billion in the year ended June 30, 2010. The transaction is expected to close in the fourth quarter of 2010.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Item 2. ***Management's Discussion and Analysis of Financial Condition and Results of Operations***

This Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A) should be read in conjunction with the accompanying condensed consolidated financial statements and our Annual Report on Form 10−K for the year ended December 31, 2009 (2009 Form 10−K), as filed with the Securities and Exchange Commission (SEC).

Presentation and Estimates

Basis of Presentation

We analyze the results of our business through our three segments, namely General Motors North America (GMNA), General Motors International Operations (GMIO), and General Motors Europe (GME).

In the three months ended June 30, 2010 we changed our managerial reporting structure so that certain entities geographically located within Russia and Uzbekistan were transferred from our GME segment to our GMIO segment. We have revised the segment presentation for all periods presented.

Consistent with industry practice, market share information includes estimates of industry sales in certain countries where public reporting is not legally required or otherwise available on a consistent basis.

Use of Estimates in the Preparation of the Financial Statements

Our condensed consolidated financial statements are prepared in conformity with U.S. GAAP, which requires the use of estimates, judgments, and assumptions that affect the reported amounts of assets and liabilities at the date of the unaudited condensed consolidated financial statements and the reported amounts of revenue and expenses in the periods presented. We believe that the accounting estimates employed are appropriate and the resulting balances are reasonable; however, due to the inherent uncertainties in making estimates actual results could differ from the original estimates, requiring adjustments to these balances in future periods.

OVERVIEW

Our Company

General Motors Company was formed by The United States Department of the Treasury (UST) in 2009 originally as a Delaware limited liability company, Vehicle Acquisition Holdings LLC, and subsequently converted to a Delaware corporation, NGMCO, Inc. This company acquired substantially all of the assets and assumed certain liabilities of General Motors Corporation (363 Sale) on July 10, 2009 and changed its name to General Motors Company, is sometimes referred to in this Quarterly Report on Form 10−Q for the periods on or subsequent to July 10, 2009 as "we," "our," "us," "ourselves," the "Company," "General Motors," or "GM," and is the successor entity solely for accounting and financial reporting purposes (Successor). General Motors Corporation is sometimes referred to in this Quarterly Report on Form 10−Q, for the periods on or before July 9, 2009, as "Old GM." Prior to July 10, 2009 Old GM operated the business of the Company, and pursuant to the agreement with the SEC Staff, the accompanying unaudited condensed consolidated interim financial statements include the financial statements and related information of Old GM as it is our predecessor entity solely for accounting and financial reporting purposes (Predecessor). On July 10, 2009 in connection with the 363 Sale, General Motors Corporation changed its name to Motors Liquidation Corporation (MLC). MLC continues to exist as a distinct legal entity for the sole purpose of liquidating its remaining assets and liabilities.

We are a leading global automotive company. Our vision is to design, build and sell the world's best vehicles. Our business is diversified across products and geographic markets, with operations and sales in over 120 countries. We assemble our passenger cars, crossover vehicles, light trucks, sport utility vehicles, vans and other vehicles in 71 assembly facilities worldwide and have 87 additional global manufacturing facilities. With a global network of over 21,700 independent dealers we meet the local sales and service needs of our retail and fleet customers. In 2009, we and Old GM sold 7.5 million vehicles, representing 11.6% of total vehicle

sales worldwide. Approximately 72% of our and Old GM's vehicle sales volume was generated outside the United States, including 38.7% from emerging markets, such as Brazil, Russia, India and China (collectively BRIC), which have recently experienced the industry's highest volume growth.

Our business is organized into three geographically−based segments:

- GMNA, with manufacturing and distribution operations in the U.S., Canada and Mexico and distribution operations in Central America and the Caribbean, represented 33.2% of our and Old GM's total 2009 vehicle sales volume. In North America, we sell our vehicles through four brands — Chevrolet, GMC, Buick and Cadillac — which are manufactured at plants across the U.S., Canada and Mexico and imported from other GM regions. In 2009, GMNA had the largest market share of any competitor in this market at 19.0%.
- GMIO, with manufacturing and distribution operations in Asia−Pacific, South America, Russia, the Commonwealth of Independent States, Eastern Europe, Africa and the Middle East, is our largest segment by vehicle sales volume, and represented 44.5% of our and Old GM's total 2009 vehicle sales volume including sales through our joint ventures. In these regions, we sell our vehicles under the Buick, Cadillac, Chevrolet, Daewoo, FAW, GMC, Holden, Isuzu, Jiefang, Opel and Wuling brands, and we plan to commence sales under the Baojun brand in 2011. In 2009, GMIO had the second largest market share for this market at 10.2% and the number one market share across the BRIC markets. Approximately 54.9% of GMIO's volume is from China, where, primarily through our joint ventures, we had the number one market share at 13.3% in 2009. Our Chinese operations are primarily comprised of three joint ventures: Shanghai General Motors Co., Ltd. (SGM; of which we own 49%), SAIC−GM−Wuling Automobile Co., Ltd. (SGMW; of which we own 34%) and FAW−GM Light Duty Commercial Vehicle Co., Ltd. (FAW−GM; of which we own 50%).
- GME, with manufacturing and distribution operations across Western and Central Europe, represented 22.3% of our and Old GM's total 2009 vehicle sales volume. In Western and Central Europe, we sell our vehicles under the Opel and Vauxhall (U.K. only) brands, which are manufactured in Europe, and under the Chevrolet brand, which is imported from South Korea where it is manufactured by GM Daewoo Auto & Technology, Inc. (GM Daewoo) of which we own 70.1%. In 2009, GME had the number five market share in this market, at 8.9%.

We offer a global vehicle portfolio of cars, crossovers and trucks. We are committed to leadership in vehicle design, quality, reliability, telematics (wireless voice and data) and infotainment and safety, as well as to developing key energy efficiency, energy diversity and advanced propulsion technologies, including electric vehicles with range extending capabilities such as the new Chevrolet Volt.

Our company commenced operations on July 10, 2009 when we completed the acquisition of substantially all of the assets and assumption of certain liabilities of Old GM through a 363 Sale under the U.S. Bankruptcy Code (Bankruptcy Code). As a result of the 363 Sale and other recent restructuring and cost savings initiatives, we have improved our financial position and level of operational flexibility as compared to Old GM when it operated the business. We commenced operations upon completion of the 363 Sale with a total amount of debt and other liabilities at July 10, 2009 that was $92.7 billion less than Old GM's total amount of debt and other liabilities at July 9, 2009. We reached a competitive labor agreement with our unions, began restructuring our dealer network and reduced and refocused our brand strategy in the U.S. to our four brands. Although our U.S. and non−U.S. pension plans were underfunded by $17.1 billion and $10.3 billion at December 31, 2009, we have a strong balance sheet, with available liquidity (cash, cash equivalents and marketable securities) of $31.5 billion and an outstanding debt balance of $8.2 billion at June 30, 2010.

In recent quarters, we achieved profitability. Our results for the three months ended March 31 and June 30, 2010 included net income of $1.2 billion and $1.6 billion. We had a net loss of $3.8 billion, which included a settlement loss of $2.6 billion related to the 2009 revised UAW settlement agreement, for the period from July 10, 2009 to December 31, 2009. We reported revenue of $31.5 billion and $33.2 billion in the three months ended March 31 and June 30, 2010, representing 40.3% and 43.9% year−over−year increases as compared to Old GM's revenue for the corresponding periods. For the period from July 10, 2009 to December 31, 2009, our revenue was $57.5 billion.

Our Competitive Strengths

We believe the following strengths provide us with a foundation for profitability, growth and execution on our strategic vision to design, build and sell the world's best vehicles:

- *Global presence, scale and dealer network.* We are currently the world's second largest automaker based on vehicle sales volume and, as a result of our relative market positions in GMNA and GMIO, are positioned to benefit from future growth resulting from economic recovery in developed markets and continued secular growth in emerging markets. In 2009, we and Old GM sold 7.5 million vehicles in over 120 countries and generated $104.6 billion in revenue. We operate a global distribution network with over 21,700 independent dealers, and we maintain 10 design centers, 30 engineering centers, and eight science labs around the world. Our presence and scale enable us to deploy our purchasing, research and development, design, engineering, marketing and distribution resources and capabilities globally across our vehicle production base. For example, we have budgeted approximately $13.0 billion for engineering and capital expenditures in 2010, which will fund the development and production of our products globally.
- *Market share in emerging markets, such as China and Brazil.* Across the BRIC markets, we and Old GM had the industry−leading market share of 12.7% in 2009 based on vehicle sales volume, which has grown from a 9.8% share in 2004. In China, the fastest growing global market by volume of vehicles sold, through our joint ventures we had the number one market position with a share of 13.3% based on vehicle sales volume in 2009. We also held the third largest market share in Brazil at 19.0% in 2009. We established a presence in Brazil in 1925 and in China in 1997 and have substantial operating experience in these markets.
- *Portfolio of high−quality vehicles.* Our global portfolio includes vehicles in most key segments, with 31 nameplates in the U.S. and another 179 nameplates internationally. Our and Old GM's long−term investment over the last decade in our product portfolio has resulted in successful recent vehicle launches such as the Chevrolet Equinox, GMC Terrain, Buick LaCrosse and Cadillac SRX. Sales of these vehicles have had higher transaction prices than the products they replaced and have increased vehicle segment market shares. These vehicles also have had higher residual values. The design, quality, reliability and safety of our vehicles has been recognized worldwide by a number of third parties, including the following:
  - In the U.S., we have three of the top five most dependable models in the industry according to the 2010 J.D. Power Vehicle Dependability Study as well as leading the industry with the most segment leading models in both the 2010 J.D. Power Initial Quality Survey and the 2010 J.D. Power Vehicle Dependability Study;
  - All of our recently introduced U.S. models are Consumers Digest Best Buys;
  - In Europe, the Car of the Year Organizing Committee named the Opel Insignia the 2009 European Car of the Year;
  - In China, the Chinese Automotive Media Association named the new Buick LaCrosse the 2009 Car of the Year; and
  - In Brazil, AutoEsporte Magazine named the Chevrolet Agile the 2010 Car of the Year.
- *Commitment to new technologies.* We have invested in a diverse set of new technologies designed to meet customer needs around the world. Our research and product development efforts in the areas of energy efficiency and energy diversity have been focused on advanced and alternative propulsion and fuel efficiency. For example, the Chevrolet Volt will use lithium−ion battery technology to achieve a 40 mile range on plug−in battery power only, and when the Volt's battery runs low, an onboard gasoline−powered engine/generator will extend its driving range another 300 miles on a full tank of gas. Our investment in telematics and infotainment technology enables us to provide through OnStar a service offering that creates a connection to the customer and a platform for future infotainment initiatives.
- *Competitive cost structure in GMNA.* We have substantially completed the restructuring of our North American operations, which has reduced our cost base and improved our capacity utilization and product line profitability. We accomplished this through brand rationalization, ongoing dealer network optimization, salaried and hourly headcount reductions, labor agreement restructuring, transfer of hourly retiree healthcare obligations to the UAW Retiree Medical Benefits Trust (New VEBA) and manufacturing footprint reduction from 71 North American manufacturing facilities for Old GM at December 31, 2008 to 59 at June 30, 2010, and an expected 53 at December 31, 2010. The reduced costs resulting from these actions, along with our

improved price realization and lower incentives, have reduced our profitability breakeven point in North America. For the six months ended June 30, 2010 and based on GMNA's current market share, GMNA's earnings before interest and income taxes (EBIT) (EBIT is not an operating measure under U.S. GAAP — refer to "Management's Discussion and Analysis of Financial Condition and Results of Operations — Reconciliation of Segment Results" for additional discussion) would have achieved breakeven with annual U.S. industry sales of approximately 10.5 to 11.0 million vehicles.

- *Competitive global cost structure.* Global architectures (that is, vehicle characteristics and dimensions supporting common sets of major vehicle underbody components and subsystems) allow us to streamline our product development and manufacturing processes, which has resulted in reduced material and engineering costs. We have consolidated our product development activities under one global development leadership team with a centralized budget. This allows us to design and engineer our vehicles globally while balancing cost efficient production locations and proximity to the end customer. Approximately 43% of our vehicles are manufactured in regions we believe to be low−cost manufacturing locations, such as China, Mexico, Eastern Europe, India and Russia, with all−in active labor costs of less than $15 per hour and approximately 17% are manufactured in medium−cost countries, such as South Korea and Brazil, with all−in labor costs between $15 and $30 per hour.
- *Strong balance sheet and liquidity.* As of June 30, 2010, we had available liquidity (cash, cash equivalents and marketable securities) of $31.5 billion and outstanding debt of $8.2 billion. In addition, we have no significant contractual debt maturities until 2015. Although our U.S. and non−U.S. pension plans were underfunded by $17.1 billion and $10.3 billion on a U.S. GAAP basis at December 31, 2009, we have no material mandatory pension contributions until 2014. We believe that our combination of cash and cash equivalents plus cash flow from operations should provide sufficient cash to fund our new product and technology development efforts, European restructuring program, growth initiatives and further cost−reduction initiatives in the medium term.
- *Strong leadership team with focused direction.* Our new executive management team combines years of experience at GM and new perspectives on growth, innovation and strategy deployment. Our management team operates in a streamlined organizational structure that allows for:
  - More direct lines of communication;
  - Quicker decision−making; and
  - Direct responsibility for individuals in various areas of our business.

As an example, we have eliminated multiple internal strategy boards and committees and instituted a single, smaller executive committee to focus our management functions and shorten our decision−making processes. The members of our Board of Directors, a majority of whom were not directors of Old GM, are directly involved in strategy formation and review.

Our Strategy

Our vision is to design, build and sell the world's best vehicles. The primary elements of our strategy to achieve this vision are to:

- Deliver a product portfolio of the world's best vehicles, allowing us to maximize sales under any market conditions;
- Sell our vehicles globally by targeting developed markets, which are projected to have increases in vehicle demand as the global economy recovers, and further strengthening our position in high growth emerging markets;
- Improve revenue realization and maintain a competitive cost structure to allow us to remain profitable at lower industry volumes and across the lifecycle of our product portfolio; and
- Maintain a strong balance sheet by reducing financial leverage given the high operating leverage of our business model.

Our management team is focused on hiring new and promoting current talented employees in order to execute on our strategy as follows:

Deliver quality products. We intend to maintain a broad portfolio of vehicles so that we are positioned to meet global consumer preferences. We plan to do this in several ways, including:

- *Concentrate our design, engineering and marketing resources on fewer brands and architectures.* We plan to increase the volume of vehicles produced from common global architectures to more than 50% in 2014 from less than 17% today. We

expect that this initiative will result in greater investment per architecture and brand and will increase our product development and manufacturing flexibility, allowing us to maintain a steady schedule of important new product launches in the future. We believe our four−brand strategy in the U.S. will continue to enable higher marketing expenditures per brand.

- *Develop products across vehicle segments in our global markets.* We plan to develop vehicles in each of the key segments of the global markets in which we compete. For example, in September 2010 we plan to introduce the Chevrolet Cruze in the U.S. small car segment, an important and growing segment where we have historically been under−represented.
- *Continued investment in a portfolio of technologies.* We will continue to invest in technologies that support energy diversity and energy efficiency as well as in safety, telematics and infotainment technology. We are committed to advanced propulsion technologies and intend to offer a portfolio of fuel efficient alternatives that use energy sources such as petroleum, bio−fuels, hydrogen and electricity, including the new Chevrolet Volt. We are committed to increasing the fuel efficiency of our vehicles with internal combustion engines through features such as cylinder deactivation, direct injection, variable valve timing, turbo−charging with engine downsizing and six speed transmissions. For example, we expect the Chevrolet Cruze Eco to be capable of achieving an estimated 40 miles per gallon on the highway with a traditional internal combustion engine. Additionally, we are expanding our telematics and infotainment offerings and, as a result of our OnStar service and our partnerships with companies such as Google, are in a position to deliver safety, security, navigation and connectivity systems and features.

Sell our vehicles globally. We will continue to compete in the largest and fastest growing markets globally.

- *Broaden GMNA product portfolio.* We plan to launch 19 new vehicles in GMNA across our four brands between 2010 and 2012, primarily in the growing car and crossover segments, where, in some cases, we are under−represented, and an additional 27 new vehicles between 2013 and 2014. These near−term launches include the new Chevrolet Volt, Cruze, Spark, Aveo and Malibu and Buick entries in the compact and mid−size segments. We believe that we have achieved a more balanced portfolio in the U.S. market, where we and Old GM maintained a sales volume mix of 42% from cars, 37% from trucks and 21% from crossovers in 2009 compared to 51% from trucks in 2006.
- *Increase sales in GMIO, particularly China and Brazil.* We plan to continue to execute our growth strategies in countries where we already hold strong positions, such as China and Brazil, and to improve share in other important markets, including South Korea, South Africa, Russia, India and the ASEAN region. We aim to launch 77 new vehicles throughout GMIO through 2012. We plan to enhance and strengthen our GMIO product portfolio through three strategies: leveraging our global architectures, pursuing local and regional solutions to meet specific market requirements and expanding our joint venture partner collaboration opportunities.
- *Refresh GME's vehicle portfolio.* To improve our product quality and product perception in Europe, by the start of 2012, we plan to have 80% of our Opel/Vauxhall carlines volume refreshed such that the model stylings are less than three years old. We have three product launches scheduled in 2010 and another four product launches scheduled in 2011. As part of our planned rejuvenation of Chevrolet's portfolio, which increasingly supplements our Opel/Vauxhall brands throughout Europe, we are moving the entire Chevrolet lineup to the new GM global architectures.
- *Ensure competitive financing is available to our dealers and customers.* We currently maintain multiple financing programs and arrangements with third parties for our wholesale and retail customers to utilize when purchasing or leasing our vehicles. Through our long−standing arrangements with Ally Financial Inc., formerly GMAC, Inc. (Ally Financial), and a variety of other worldwide, regional and local lenders, we provide our customers and dealers with access to financing alternatives. We plan to further expand the range of financing options available to our customers and dealers to help grow our vehicle sales. In particular, we have agreed to acquire AmeriCredit Corp. (AmeriCredit), which we expect will, when the acquisition is completed, will enable us to offer increased availability of leasing and non−prime financing for our customers throughout economic cycles. We also plan to use AmeriCredit to initiate targeted customer marketing initiatives to expand our vehicle sales.

Reduce breakeven levels through improved revenue realization and a competitive cost structure. In developed markets, we are improving our cost structure to become profitable at lower industry volumes.

- *Capitalize on cost structure improvement and maintain reduced incentive levels in GMNA.* We plan to sustain the cost reduction and operating flexibility progress we have made as a result of our North American restructuring. In addition to becoming more cost competitive, our current U.S. and Canadian hourly labor agreements provide the flexibility to utilize a lower tiered wage and benefit structure for new hires, part−time employees and temporary employees. We aim to increase our vehicle profitability by maintaining competitive incentive levels with our strengthened product portfolio and by actively managing our production levels through monitoring of our dealer inventory levels.
- *Execute on our Opel/Vauxhall restructuring plan.* We expect our Opel/Vauxhall restructuring plan to lower our vehicle manufacturing costs. The plan includes manufacturing rationalization, headcount reduction, labor cost concessions from the remaining workforce and selling, general and administrative efficiency initiatives. Specifically, we have reached an agreement to reduce our European manufacturing capacity by 20% through, among other things, the closing of our Antwerp facility in Belgium and the rationalization of our powertrain operations in our Bochum and Kaiserslautern facilities in Germany. Additionally, we have reached an agreement with the labor unions in Europe to reduce labor costs by $323 million per year. The objective of our restructuring, along with the refreshed product portfolio pipeline, is to restore the profitability of the GME business.
- *Enhance manufacturing flexibility.* We primarily produce vehicles in locations where we sell them and we have significant manufacturing capacity in medium− and low−cost countries. We intend to maximize capacity utilization across our production footprint to meet demand without requiring significant additional capital investment. For example, we were able to leverage the benefit of a global architecture and start initial production for the U.S. of the Buick Regal 11 months ahead of schedule by temporarily shifting production from North America to Rüsselsheim, Germany.

Maintain a strong balance sheet. Given our business's high operating leverage and the cyclical nature of our industry, we intend to minimize our financial leverage. We plan to use excess cash to repay debt and to make discretionary contributions to our U.S. pension plan. Based on this planned reduction in financial leverage and the anticipated benefits resulting from our operating strategy described above, we will aim to attain an investment grade credit rating over the long term.

Old GM Bankruptcy and 363 Sale

Background

As a result of historical unfavorable economic conditions and a rapid decline in sales in the three months ended December 31, 2008 Old GM determined that, despite the previous actions it had then taken to restructure its U.S. business, it would be unable to pay its obligations in the normal course of business in 2009 or service its debt in a timely fashion, which required the development of a new plan that depended on financial assistance from the U.S. government.

In December 2008 Old GM requested and received financial assistance from the U.S. government and entered into a loan and security agreement with the UST, which was subsequently amended (UST Loan Agreement). In early 2009 Old GM's business results and liquidity continued to deteriorate, and, as a result, Old GM obtained additional funding from the UST under the UST Loan Agreement. Old GM, through its wholly owned subsidiary General Motors of Canada Limited (GMCL), also received funding from Export Development Canada (EDC), a corporation wholly−owned by the Government of Canada, under a loan and security agreement entered into in April 2009 (EDC Loan Facility).

As a condition to obtaining the loans (UST Loan Facility) under the UST Loan Agreement, Old GM was required to submit a plan in February 2009 that included specific actions intended to demonstrate that it was a viable entity and to use its best efforts to achieve certain debt reduction, labor modification and VEBA modification targets.

On March 30, 2009 the Auto Task Force (as defined in Note 2) determined that the plan was not viable and required substantial revisions. In conjunction with the March 30, 2009 announcement, the administration announced that it would offer Old GM adequate working capital financing for a period of 60 days while it worked with Old GM to develop and implement a more accelerated and aggressive restructuring that would provide a sound long−term foundation.

Old GM made further modifications to its plan in an attempt to satisfy the Auto Task Force requirement that it undertake a substantially more accelerated and aggressive restructuring plan. The additional significant cost reduction and restructuring actions included reducing Old GM's indebtedness and VEBA obligations, in addition to other cost reduction and restructuring actions.

Our 2009 Form 10−K provides additional detail on Old GM's liquidity constraints, the terms and conditions of its various funding arrangements with U.S. and Canadian governmental entities, and its various cost reduction and restructuring activities.

Chapter 11 Proceedings

Old GM was not able to complete the cost reduction and restructuring actions, including the debt reductions and VEBA modifications, which resulted in extreme liquidity constraints. As a result, on June 1, 2009 Old GM and certain of its direct and indirect subsidiaries filed voluntary petitions for relief under Chapter 11 (Chapter 11 Proceedings) of the Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of New York (Bankruptcy Court).

In connection with the Chapter 11 Proceedings, Old GM entered into a secured superpriority debtor−in−possession credit agreement with the UST and EDC (DIP Facility) and received additional funding commitments from EDC to support Old GM's Canadian operations.

363 Sale

On July 10, 2009 we completed the acquisition of substantially all of the assets and assumed certain liabilities of Old GM and certain of its direct and indirect subsidiaries (collectively, the Sellers). The 363 Sale was consummated in accordance with the Amended and Restated Master Sale and Purchase Agreement, dated June 26, 2009, as amended (Purchase Agreement), between us and the Sellers, and pursuant to the Bankruptcy Court's sale order dated July 5, 2009.

Accounting for the Effects of the Chapter 11 Proceedings and the 363 Sale

Chapter 11 Proceedings

Accounting Standards Codification (ASC) 852, "Reorganizations," (ASC 852) is applicable to entities operating under Chapter 11 of the Bankruptcy Code. ASC 852 generally does not affect the application of U.S. GAAP that we and Old GM followed to prepare the consolidated financial statements, but it does require specific disclosures for transactions and events that were directly related to the Chapter 11 Proceedings and transactions and events that resulted from ongoing operations.

Old GM prepared its consolidated financial statements in accordance with the guidance in ASC 852 in the period June 1, 2009 through June 30, 2009. Revenues, expenses, realized gains and losses, and provisions for losses directly related to the Chapter 11 Proceedings were recorded in Reorganization expenses, net. Reorganization expenses, net do not constitute an element of operating loss due to their nature and due to the requirement of ASC 852 that they be reported separately. Old GM's balance sheet prior to the 363 Sale distinguished prepetition liabilities subject to compromise from prepetition liabilities not subject to compromise and from postpetition liabilities.

Application of Fresh−Start Reporting

The Bankruptcy Court did not determine a reorganization value in connection with the 363 Sale. Reorganization value is defined as the value of our assets without liabilities. In order to apply fresh−start reporting, ASC 852 requires that total postpetition liabilities and allowed claims be in excess of reorganization value and prepetition stockholders receive less than 50.0% of our common stock. Based on our estimated reorganization value, we determined that on July 10, 2009 both the criteria of ASC 852 were met and, as a result, we applied fresh−start reporting. In applying fresh−start reporting at July 10, 2009, which generally follows the provisions of ASC 805, "Business Combinations," (ASC 805) we recorded the assets acquired and the liabilities assumed from Old GM at fair value except for deferred income taxes and certain liabilities associated with employee benefits. Our consolidated balance sheet at July 10, 2009,

which includes the adjustments to Old GM's consolidated balance sheet as a result of the 363 Sale and the application of fresh−start reporting, and related disclosures are discussed in Note 2 to our consolidated financial statements in our 2009 Form 10−K. These adjustments are final and no determinations of fair value are considered provisional.

Specific Management Initiatives

The execution of certain management initiatives is critical in achieving our goal of sustained future profitability. The following provides a summary of these management initiatives and significant results and events.

Streamline U.S. Operations

Increased Production Volume

We continue to consolidate our U.S. manufacturing operations while maintaining the flexibility to meet increasing 2010 production levels. At December 31, 2009 we had reduced the number of U.S. manufacturing plants to 41 from 47 in 2008, excluding Nexteer and four domestic facilities recently acquired from Delphi.

The moderate improvement in the U.S. economy, resulting increase in U.S. industry vehicle sales and increase in demand for our products has resulted in increased production volumes for GMNA. In the three and six months ended June 30, 2010 GMNA produced 731,000 vehicles and 1.4 million vehicles. This represents an increase of 85.1% and 82.4% compared to 395,000 vehicles and 767,000 vehicles in the three and six months ended June 30, 2009. Production levels increased 63,000 (or 9.4%) in the three months ended June 30, 2010 as compared to the three months ended March 31, 2010.

Improve Vehicle Sales

In the six months ended June 30, 2010 U.S. industry vehicle sales were 5.7 million vehicles, of which our market share was 18.9%. This represents an increase in U.S. industry vehicle sales from 4.9 million vehicles (or 16.6%), of which Old GM's market share was 19.5% in the six months ended June 30, 2009. This increase is consistent with the gradual U.S. vehicle sales recovery from the negative economic effects of the U.S. recession first experienced in the second half of 2008.

GMNA dealers in the U.S. sold 603,000 vehicles and 1.1 million vehicles in the three and six months ended June 30, 2010. This represents an increase from Old GM's U.S. vehicle sales of 541,000 vehicles and 1.0 million vehicles (or 11.4% and 13.2%) in the three and six months ended June 30, 2009. This increase reflects our brand rationalization strategy to focus our product engineering and design and marketing on four brands: Buick, Cadillac, Chevrolet and GMC. This strategy has resulted in increased consumer demand for certain products such as the Chevrolet Equinox, GMC Terrain, Buick LaCrosse and Cadillac SRX. These four brands accounted for 600,000 vehicles and 1.1 million vehicles (or 99.5% and 99.0%) of our U.S. vehicle sales in the three and six months ended June 30, 2010. In addition, the moderate improvement in the U.S. economy has contributed to a slow but steady improvement in U.S. industry vehicle sales and increased consumer confidence.

The continued increase in U.S. industry vehicle sales and the vehicle sales of our four brands is critical for us to achieve our worldwide profitability.

U.S. Dealer Reduction

We market vehicles worldwide through a network of independent retail dealers and distributors. As part of achieving and sustaining long−term viability and the viability of our dealer network, we determined that a reduction in the number of U.S. dealerships was necessary. Certain dealers that had signed wind−down agreements with us elected to file for reinstatement through a binding arbitration process. In response to the arbitration filings we offered certain dealers reinstatement contingent upon compliance with our core business criteria for operation of a dealership. At June 30, 2010 the arbitration process had been fundamentally resolved. At June 30, 2010 there were approximately 5,200 vehicle dealers in the U.S. compared to approximately 5,600 at December 31, 2009.

Repayment of Debt

Proceeds from the DIP Facility were necessary in order to provide sufficient capital for Old GM to operate pending the closing of the 363 Sale. On July 10, 2009 we entered into the UST Credit Agreement and assumed debt of $7.1 billion (UST Loans), which Old GM incurred under the DIP Facility. On July 10, 2009 we also entered into the Canadian Loan Agreement and assumed a CAD $1.5 billion (equivalent to $1.3 billion when entered into) term loan (Canadian Loan). One of our key priorities was to repay the outstanding balances from these loans prior to maturity.

In April 2010 we used funds from our escrow account to repay in full the outstanding amount of the UST Loans of $4.7 billion. In addition, GMCL repaid in full the outstanding amount of the Canadian Loan of $1.1 billion. Both loans were repaid prior to maturity.

Following the repayment of the UST Loans and the Canadian Loan, the remaining funds in an amount of $6.6 billion that were held in escrow became unrestricted. The availability of those funds is no longer subject to the conditions set forth in the UST Credit Agreement.

Brand Rationalization

We completed the sale of Saab Automobile AB (Saab) in February 2010 and the sale of Saab Automobile GB (Saab GB) in May 2010 and have ceased production of our Pontiac, Saturn and HUMMER brands and continue the wind−down process of the related dealers.

Opel/Vauxhall Restructuring Activities

In February 2010 we presented our plan for the long−term viability of our Opel/Vauxhall operations to the German federal government. Our plan included funding requirement estimates of Euro 3.7 billion (equivalent to $5.1 billion) of which we planned to fund Euro 1.9 billion (equivalent to $2.6 billion) with the remaining funding from European governments.

In June 2010 the German federal government notified us of its decision not to provide loan guarantees to Opel/Vauxhall. As a result we have decided to fund the requirements of Opel/Vauxhall internally. Opel/Vauxhall has subsequently withdrawn all applications for government loan guarantees from European governments.

We plan to continue to invest in capital, engineering and innovative fuel efficient powertrain technologies including an extended−range electric vehicle and battery electric vehicles. Our plan also includes aggressive capacity reductions including headcount reductions and the closing of our Antwerp, Belgium facility.

The following provides an update of our restructuring activities related to our Opel/Vauxhall operations.

In the three months ended June 30, 2010 GME recorded charges of $25 million related to a voluntary separation program in the United Kingdom. In the six months ended June 30, 2010 GME recorded charges of $64 million related to separation/layoff plans and an early retirement plan in Spain which will affect 1,200 employees.

In the three and six months ended June 30, 2010 GME recorded charges of $169 million and $353 million related to a separation plan associated with the closure of the Antwerp, Belgium facility. Negotiations for the final termination benefits were concluded in April 2010, and the total separation costs are estimated to be Euro 0.4 billion (equivalent to $0.5 billion). There were 2,600 employees affected, of which 1,300 separated in June 2010. In addition, GME and employee representatives entered into a Memorandum of Understanding whereby both parties will cooperate in a working group, led by the Flemish government, in order to find an outside investor to acquire the facility. The search will conclude at the end of September 2010. If an investor is found, the investor will determine the number of employees that it will hire. If an investor is not found, termination benefits will be offered to the remaining employees and the facility will close by December 31, 2010.

Pursue Section 136 Loans

Section 136 of the Energy Independence and Security Act of 2007 establishes an incentive program consisting of both grants and direct loans to support the development of advanced technology vehicles and associated components in the U.S. The U.S. Congress provided the U.S. Department of Energy (DOE) with $25.0 billion in funding to make direct loans to eligible applicants for the costs of re−equipping, expanding, and establishing manufacturing facilities in the United States to produce advanced technology vehicles and components for these vehicles. In October 2009 we submitted a consolidated application with respect to an aggregate amount of $14.4 billion of Section 136 Loans. Ongoing product portfolio updates and project modifications requested from the DOE have the potential to reduce the maximum loan amount. To date, the DOE has announced that it would provide approximately $8.4 billion in Section 136 Loans to Ford Motor Company, Nissan Motor Company, Tesla Motors, Inc., Fisker Automotive, Inc., and Tenneco Inc. There can be no assurance that we will qualify for any remaining loans or receive any such loans even if we qualify.

Development of Multiple Financing Sources and Acquisition of AmeriCredit Corp.

A significant percentage of our customers and dealers require financing to purchase our vehicles. Historically, Ally Financial has provided most of the financing for our dealers and a significant amount of financing for our customers in the U.S., Canada and various other markets around the world. Additionally, we maintain other financing relationships, such as with U.S. Bank for U.S. leasing, AmeriCredit for non−prime lending and a variety of local and regional financing sources around the world.

In July 2010 we entered into a definitive agreement to acquire AmeriCredit, an independent automobile finance company for cash of approximately $3.5 billion. AmeriCredit, which we expect will, when the acquisition is completed, will allow us to complement our existing relationship with Ally Financial in order to provide a more complete range of financing options to our customers, including additional capabilities in leasing and non−prime financing options. We also plan to use AmeriCredit for targeted customer marketing initiatives to expand our vehicle sales. The transaction is expected to close during the fourth quarter of 2010, pending certain closing conditions, including the approval of AmeriCredit shareholders.

Focus on Chinese Market

Our Chinese operations, which we established beginning in 1997, are primarily composed of three joint ventures: SGM, SGMW and FAW−GM. We view the Chinese market, the fastest growing global market by volume of vehicles sold, as important to our global growth strategy and are employing a multi−brand strategy, led by our Buick division, which we believe is a strong brand in China. In the coming years, we plan to increasingly leverage our global architectures to increase the number of nameplates under the Chevrolet brand in China.

SGM, of which we own 49% and the Shanghai Automotive Industry Corporation (SAIC) owns 51%, produces passenger cars utilizing GM global architectures under the Buick, Chevrolet and Cadillac brands. SGMW, of which we own 34%, SAIC owns 50% and Liuzhou Wuling Motors Co., Ltd. (Wuling) owns 16%, produces mini−commercial vehicles and passenger cars utilizing local architectures under the Wuling and Chevrolet brands. FAW−GM, of which we own 50% and China FAW Group Corporation (FAW) owns 50%, produces light commercial vehicles under the Jiefang brand and medium vans under the FAW brand. Our joint venture agreements allow for significant rights as a member as well as the contractual right to report SGMW and FAW−GM production volume in China. SAIC, one of our joint venture partners, currently produces vehicles under its own name for sale in the Chinese market. At present, vehicles that SAIC produces primarily serve markets that are different from markets served by our joint ventures.

During the three and six months ended June 30, 2010, SGM, SGMW and FAW−GM sold 586,000 and 1.2 million vehicles in China. In the three and six months ended June 30, 2010, SGM and SGMW, the largest of these three joint ventures, combined to provide equity income, net of tax, to us of $378 million and $734 million.

GM South America

In June 2010 we announced that, beginning in the fourth quarter of 2010, we are creating a new regional organization in South America. The new organization, GM South America, will be headquartered in Sao Paulo, Brazil, and its president will report to our chairman and chief executive officer. GM South America will include existing sales and manufacturing operations in Brazil,

Argentina, Colombia, Ecuador and Venezuela, as well as sales activities in those countries and Bolivia, Chile, Paraguay, Peru and Uruguay. As part of our global product operations organization, GM South America will have product design and engineering capabilities, which will allow it to continue creating local cars and trucks that complement our global product architectures. GM South America will initially have approximately 29,000 employees.

Sale of Nexteer

On July 7, 2010 we entered into a definitive agreement to sell Nexteer to an unaffiliated party. The transaction is subject to customary closing conditions, regulatory approvals and review by government agencies in the U.S. and China. At June 30, 2010 Nexteer had total assets of $906 million, total liabilities of $458 million, and recorded revenue of $1.0 billion in the six months ended June 30, 2010, of which $543 million were sales to us and our affiliates. Nexteer did not qualify for held for sale classification at June 30, 2010. Once consummated, we do not expect the sale of Nexteer to have a material effect on the unaudited condensed consolidated financial statements.

Benefit Plan Changes

Patient Protection and Affordable Care Act

The Patient Protection and Affordable Care Act was signed into law in March 2010 and contains provisions that require all future reimbursement receipts under the Medicare Part D retiree drug subsidy program to be included in taxable income. This taxable income inclusion will not significantly affect us because effective January 1, 2010 we no longer provide prescription drug coverage to post−age 65 Medicare−eligible participants and we have a full valuation allowance against our net deferred tax assets in the U.S. We have assessed the other provisions of this new law, based on information known at this time, and we believe that the new law will not have a significant effect on our consolidated financial statements.

Venezuelan Exchange Regulations

Our Venezuelan subsidiaries changed their functional currency from Bolivar Fuerte (BsF), the local currency, to the U.S. dollar, our reporting currency, on January 1, 2010 because of the hyperinflationary status of the Venezuelan economy. Further, pursuant to the official devaluation of the Venezuelan currency and establishment of the dual fixed exchange rates in January 2010, we remeasured the BsF denominated monetary assets and liabilities held by our Venezuelan subsidiaries at the nonessential rate of 4.30 BsF to $1.00. The remeasurement resulted in a charge of $25 million recorded in Cost of sales in the three months ended March 31, 2010. During the six months ended June 30, 2010 all BsF denominated transactions have been remeasured at the nonessential rate of 4.30 BsF to $1.00.

In June 2010, the Venezuelan government introduced additional foreign currency exchange control regulations, which imposed restrictions on the use of the parallel foreign currency exchange market, thereby making it more difficult to convert BsF to U.S. Dollars. We, like most Venezuelan importers, periodically accessed the parallel exchange market, which historically enabled entities to obtain foreign currency for transactions that could not be processed by the Commission for the Administration of Currency Exchange (CADIVI). The restrictions on the foreign currency exchange market could affect our Venezuelan subsidiaries' ability to pay its non−BsF denominated obligations that do not qualify to be processed by CADIVI at the official exchange rates as well as our ability to benefit from those operations.

Effect of Fresh−Start Reporting

The application of fresh−start reporting significantly affected certain assets, liabilities, and expenses. As a result, certain financial information at and in the three and six months ended June 30, 2010 is not comparable to Old GM's financial information. Total net sales and revenue was not significantly affected by fresh−start reporting and facilitates a comparison to combined vehicle sales data. Refer to Note 2 to the unaudited condensed consolidated financial statements for additional information on fresh−start reporting.

Because our and Old GM's financial information is not comparable, we are providing additional financial metrics for the periods presented in addition to disclosures concerning significant transactions and trends at June 30, 2010 and in the periods presented.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Total net sales and revenue is primarily comprised of revenue generated from the sales of vehicles, in addition to revenue from OnStar, our customer subscription service, vehicle sales accounted for as operating leases and sales of parts and accessories.

Cost of sales is primarily comprised of material, labor, manufacturing overhead, freight, foreign currency transaction and translation gains and losses, product engineering, design and development expenses, depreciation and amortization, policy and warranty costs, postemployment benefit gains and losses, and separation and impairment charges. Prior to our application of fresh−start reporting on July 10, 2009, Cost of sales also included gains and losses on derivative instruments. Effective July 10, 2009 gains and losses related to all nondesignated derivatives are recorded in Interest income and other non−operating income, net.

Selling, general and administrative expense is primarily comprised of costs related to the advertising, selling and promotion of products, support services, including central office expenses, labor and benefit expenses for employees not considered part of the manufacturing process, consulting costs, rental expense for offices, bad debt expense and state and local taxes.

Consolidated Results of Operations
(Dollars in millions)

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Net sales and revenue	$ 33,174	$ 64,650	$ 23,047	$ 45,478
Costs and expenses				
Cost of sales	28,759	56,350	29,384	53,995
Selling, general and administrative expense	2,623	5,307	2,936	5,433
Other expenses, net	39	85	169	1,154
Total costs and expenses	31,421	61,742	32,489	60,582
Operating income (loss)	1,753	2,908	(9,442)	(15,104)
Equity in income of and disposition of interest in Ally Financial	—	—	1,880	1,380
Interest expense	(250)	(587)	(3,375)	(4,605)
Interest income and other non−operating income, net	59	544	408	833
Loss on extinguishment of debt	—	(1)	(1,994)	(1,088)
Reorganization expenses, net	—	—	(1,157)	(1,157)
Income (loss) before income taxes and equity income	1,562	2,864	(13,680)	(19,741)
Income tax expense (benefit)	361	870	(445)	(559)
Equity income (loss), net of tax	411	814	(2)	46
Net income (loss)	1,612	2,808	(13,237)	(19,136)
Less: Net income (loss) attributable to noncontrolling interests	76	204	(332)	(256)
Net income (loss) attributable to stockholders	1,536	2,604	(12,905)	(18,880)
Less: Cumulative dividends on preferred stock	202	405	—	—
Net income (loss) attributable to common stockholders	$ 1,334	$ 2,199	$ (12,905)	$ (18,880)

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Vehicle Sales and Production Volume

The following tables summarize total production volume and industry sales of new motor vehicles and competitive position (in thousands):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Production Volume (a)(b)(c)				
GMNA	731	1,399	395	767
GMIO	1,195	2,307	828	1,523
GME	331	636	315	579
Worldwide	2,257	4,342	1,538	2,869

(a) Production volume represents the number of vehicles manufactured by our and Old GM's assembly facilities and also includes vehicles produced by certain joint ventures.

(b) Includes SGM, SGMW, FAW−GM joint venture production in China and SAIC GM Investment Ltd. (HKJV) joint venture production in India.

(c) The joint venture agreements with SGMW (34%) and FAW−GM (50%) allows for significant rights as a member as well as the contractual right to report SGMW and FAW−GM production volume in China.

	Successor						Predecessor					
	Three Months Ended June 30, 2010			Six Months Ended June 30, 2010			Three Months Ended June 30, 2009			Six Months Ended June 30, 2009		
	Industry	GM	GM as a % of Industry	Industry	GM	GM as a % of Industry	Industry	Old GM	Old GM as a % of Industry	Industry	Old GM	Old GM as a % of Industry
Vehicle Sales (a)(b)(c)(d)												
GMNA (d)	3,825	716	18.7%	6,998	1,280	18.3%	3,303	657	19.9%	6,091	1,157	19.0%
GMIO (e)(f)(g)	9,647	995	10.3%	19,742	2,026	10.3%	7,786	807	10.4%	14,934	1,517	10.2%
GME (e)	5,013	442	8.8%	9,782	846	8.6%	5,131	474	9.2%	9,647	881	9.1%
Worldwide (e)	18,485	2,153	11.6%	36,522	4,152	11.4%	16,220	1,938	11.9%	30,672	3,555	11.6%

(a) Includes HUMMER, Saturn and Pontiac vehicle sales data.

(b) Includes Saab vehicle sales data through February 2010.

(c) Vehicle sales data may include rounding differences.

(d) Vehicle sales represent sales to the ultimate customer.

(e) Vehicle sales primarily represent estimated sales to the ultimate customer.

(f) Includes SGM, SGMW and FAW−GM joint venture sales in China and HKJV joint venture sales in India.

(g) The joint venture agreements with SGMW (34%) and FAW−GM (50%) allows for significant rights as a member as well as the contractual right to report SGMW and FAW−GM vehicle sales in China as a part of global market share.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Reconciliation of Segment Results

Management believes EBIT provides meaningful supplemental information regarding our operating results because it excludes amounts that management does not consider part of operating results when assessing and measuring the operational and financial performance of the organization. Management believes these measures allow it to readily view operating trends, perform analytical comparisons, benchmark performance among geographic regions and assess whether our plan to return to profitability is on target. Accordingly, we believe EBIT is useful in allowing for greater transparency of our core operations and it is therefore used by management in its financial and operational decision−making.

While management believes that EBIT provides useful information, it is not an operating measure under U.S. GAAP and there are limitations associated with its use. Our calculation of EBIT may not be completely comparable to similarly titled measures of other companies due to potential differences between companies in the method of calculation. As a result, the use of EBIT has limitations and should not be considered in isolation from, or as a substitute for, other measures such as Net income (loss) or Net income (loss) attributable to common stockholders. Due to these limitations, EBIT is used as a supplement to U.S. GAAP measures.

The following table summarizes the reconciliation of EBIT to Net income (loss) attributable to stockholders for each of our operating segments (dollars in millions):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Operating segments				
GMNA (a)	$ 1,592	$ 2,810	$ (7,026)	$ (10,452)
GMIO (a)	672	1,838	(660)	(699)
GME (a)	(160)	(637)	(757)	(2,711)
Total operating segments	2,104	4,011	(8,443)	(13,862)
Corporate and eliminations	(71)	(154)	(1,619)	(1,145)
Earnings (loss) before interest and taxes	2,033	3,857	(10,062)	(15,007)
Interest income	114	204	87	173
Interest expense	250	587	3,375	4,605
Income tax expense (benefit)	361	870	(445)	(559)
Net income (loss) attributable to stockholders	$ 1,536	$ 2,604	$ (12,905)	$ (18,880)

(a) Interest and income taxes are recorded centrally in Corporate; therefore, there are no reconciling items for our operating segments between Earnings (loss) attributable to stockholders before interest and taxes and Net income (loss) attributable to stockholders.

Three and Six Months Ended June 30, 2010 and 2009
(Dollars in millions)

Total Net Sales and Revenue

	Successor		Predecessor					
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009	Three Months Ended 2010 vs. 2009 Change Amount	Three Months Ended 2010 vs. 2009 Change %	Six Months Ended 2010 vs. 2009 Change Amount	Six Months Ended 2010 vs. 2009 Change %
Total net sales and revenue	$ 33,174	$ 64,650	$ 23,047	$ 45,478	$10,127	43.9%	$19,172	42.2%

GENERAL MOTORS COMPANY AND SUBSIDIARIES

In the three months ended June 30, 2010 Total net sales and revenue increased compared to the corresponding period in 2009 by $10.1 billion (or 43.9%), primarily due to: (1) higher wholesale volumes of $6.9 billion, which primarily resulted from increased volumes in GMNA of $6.6 billion; (2) favorable mix of $1.7 billion, which primarily resulted from GMNA of $1.5 billion; (3) favorable price effects of $0.8 billion; (4) derivative losses of $0.8 billion, which primarily resulted from derivative losses of $0.7 billion that GMIO recorded in the three months ended June 30, 2009; and (5) net favorable foreign currency translation and transaction gains of $0.2 billion.

In the six months ended June 30, 2010 Total net sales and revenue increased compared to the corresponding period in 2009 by $19.2 billion (or 42.2%), primarily due to: (1) higher wholesale volumes of $13.3 billion, which primarily resulted from increased volumes in GMNA of $12.1 billion; (2) favorable pricing of $2.8 billion partially offset by less favorable adjustments to the accrual for U.S. residual support programs for leased vehicles in GMNA of $0.6 billion; (3) favorable mix of $1.7 billion; (4) Net foreign currency translation and transaction gains of $1.4 billion; and (5) derivative losses of $1.0 billion that GMIO recorded in the six months ended June 30, 2009.

Cost of Sales

	Successor				Predecessor			
	Three Months Ended June 30, 2010	Percentage of Total net sales and revenue	Six Months Ended June 30, 2010	Percentage of Total net sales and revenue	Three Months Ended June 30, 2009	Percentage of Total net sales and revenue	Six Months Ended June 30, 2009	Percentage of Total net sales and revenue
Cost of sales	$ 28,759	86.7%	$ 56,350	87.2%	$ 29,384	127.5%	$ 53,995	118.7%
Gross margin	$ 4,415	13.3%	$ 8,300	12.8%	$ (6,337)	(27.5)%	$ (8,517)	(18.7)%

GM

In the three months ended June 30, 2010 Cost of sales included: (1) restructuring charges of $0.2 billion; (2) charges of $0.2 billion for a recall campaign on windshield fluid heaters; partially offset by (3) foreign currency translation and transaction gains of $0.3 billion.

In the six months ended June 30, 2010 Cost of sales included: (1) net restructuring charges of $0.4 billion; (2) charges of $0.2 billion for a recall campaign on windshield fluid heaters; partially offset by (3) net foreign currency translation and transaction gains of $0.2 billion.

Old GM

In the three months ended June 30, 2009 Cost of sales included: (1) a curtailment loss of $1.4 billion upon the interim remeasurement of the U.S. Hourly and U.S. Salaried Defined Benefit Pension Plans and a charge of $1.1 billion related to the Supplemental Unemployment Benefit (SUB) and Transitional Support Program (TSP), partially offset by a favorable adjustment of $0.4 billion primarily related to the suspension of the JOBS Program (as defined in Note 20 to the condensed consolidated financial statements); (2) incremental depreciation charges of $1.8 billion; (3) foreign currency translation losses of $1.0 billion; (4) separation program charges and Canadian restructuring activities of $0.7 billion; and (5) impairment charges of $0.3 billion.

In the six months ended June 30, 2009 Cost of sales included: (1) incremental depreciation charges of $2.3 billion; (2) a curtailment loss of $1.4 billion upon the interim remeasurement of the U.S. Hourly and U.S. Salaried Defined Benefit Pension Plans and a charge of $1.1 billion related to the SUB and TSP, partially offset by a favorable adjustment of $0.7 billion primarily related to the suspension of the JOBS Program; (3) separation program charges and Canadian restructuring activities of $1.1 billion; (4) foreign currency translation losses of $1.0 billion; (5) impairment charges of $0.7 billion; and (6) charges of $0.3 billion related to obligations associated with various Delphi agreements.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Selling, General and Administrative Expense

	Successor				Predecessor			
	Three Months Ended June 30, 2010	Percentage of Total net sales and revenue	Six Months Ended June 30, 2010	Percentage of Total net sales and revenue	Three Months Ended June 30, 2009	Percentage of Total net sales and revenue	Six Months Ended June 30, 2009	Percentage of Total net sales and revenue
Selling, general and administrative expense	$ 2,623	7.9%	$ 5,307	8.2%	$ 2,936	12.7%	$ 5,433	11.9%

GM

In the three months ended June 30, 2010 Selling, general and administrative expense included advertising expenses of $0.9 billion primarily in GMNA of $0.6 billion for promotional campaigns and GME of $0.2 billion for promotional campaigns to support the launch of new vehicles.

In the six months ended June 30, 2010 Selling, general and administrative expense included advertising expenses of $1.9 billion primarily in GMNA of $1.3 billion and GME of $0.3 billion for promotional campaigns to support the launch of new vehicles.

Old GM

In the three and six months ended June 30, 2009 Selling, general and administrative expense included curtailment loss of $0.3 billion upon the interim remeasurement of the U.S. Salary Defined Benefit Pension Plan as a result of global salaried workforce reductions and reserves related to the wind−down of dealerships of $0.1 billion.

Other Expenses, net

	Successor				Predecessor			
	Three Months Ended June 30, 2010	Percentage of Total net sales and revenue	Six Months Ended June 30, 2010	Percentage of Total net sales and revenue	Three Months Ended June 30, 2009	Percentage of Total net sales and revenue	Six Months Ended June 30, 2009	Percentage of Total net sales and revenue
Other expenses, net	$ 39	0.1%	$ 85	0.1%	$ 169	0.7%	$ 1,154	2.5%

GM

In the three and six months ended June 30, 2010 Other expenses, net included ongoing expenses related to our portfolio of automotive retail leases.

Old GM

In the three months ended June 30, 2009 Other expenses, net included charges of $0.1 billion for Old GM's obligations related to Delphi and charges related to adjustments to contingencies associated with the deconsolidation of Saab of $0.1 billion.

In the six months ended June 30, 2009 Other expenses, net included: (1) charges of $0.8 billion related to the deconsolidation of Saab. Saab filed for reorganization protection under the laws of Sweden in February 2009; (2) charges of $0.1 billion for Old GM's obligations related to Delphi; and (3) expenses of $0.1 billion primarily related to ongoing expenses related to Old GM's portfolio of automotive retail leases, including depreciation and realized losses.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Interest Expense

	Successor				Predecessor			
	Three Months Ended June 30, 2010	Percentage of Total net sales and revenue	Six Months Ended June 30, 2010	Percentage of Total net sales and revenue	Three Months Ended June 30, 2009	Percentage of Total net sales and revenue	Six Months Ended June 30, 2009	Percentage of Total net sales and revenue
Interest expense	$ (250)	(0.8)%	$ (587)	(0.9)%	$ (3,375)	(14.6)%	$ (4,605)	(10.1)%

GM

In the three months ended June 30, 2010 Interest expense included interest expense on GMIO debt of $0.1 billion and VEBA Note interest expense and premium amortization of $0.1 billion.

In the six months ended June 30, 2010 Interest expense included interest expense on GMIO debt of $0.2 billion, VEBA Note interest expense and premium amortization of $0.1 billion and interest expense on the UST Loan of $0.1 billion.

Old GM

In the three months ended June 30, 2009 Interest expense included amortization of discounts related to the UST Loan Facility of $2.6 billion and interest expense on the UST Loan Facility of $0.3 billion.

In the six months ended June 30, 2009 Interest expense included: (1) amortization of discounts related to the UST Loan Facility of $2.9 billion; (2) interest expense on unsecured debt of $0.9 billion; and (3) interest expense on the UST Loan Facility of $0.4 billion.

Interest Income and Other Non−Operating Income, net

	Successor				Predecessor			
	Three Months Ended June 30, 2010	Percentage of Total net sales and revenue	Six Months Ended June 30, 2010	Percentage of Total net sales and revenue	Three Months Ended June 30, 2009	Percentage of Total net sales and revenue	Six Months Ended June 30, 2009	Percentage of Total net sales and revenue
Interest income and other non−operating income, net	$ 59	0.2%	$ 544	0.8%	$ 408	1.8%	$ 833	1.8%

GM

In the three months ended June 30, 2010 Interest income and other non−operating income, net included: (1) interest income of $0.1 billion on cash deposits and marketable securities and (2) rental and royalty income of $0.1 billion; offset by (3) foreign currency and other derivative losses of $0.2 billion.

In the six months ended June 30, 2010 Interest income and other non−operating income, net included interest income of $0.2 billion on cash deposits and marketable securities and gain on the sale of Saab of $0.1 billion.

Old GM

In the three months ended June 30, 2009 Interest income and other non−operating income, net included interest income of $0.1 billion and foreign currency and other derivative gains of $0.1 billion.

In the six months ended June 30, 2009 Interest income and other non−operating income, net included foreign currency and other derivative gains of $0.3 billion, interest income of $0.2 billion and a gain of $0.1 billion on a warrant that Old GM issued to the UST in connection with the UST Loan Agreement.

Loss on Extinguishment of Debt

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Loss on extinguishment of debt	$ —	$ (1)	$(1,994)	$ (1,088)

Old GM

In the three months ended June 30, 2009 Loss on the extinguishment of debt included a loss of $2.0 billion related to the UST exercising its option to convert outstanding amounts of the UST Ally Financial Loan (as defined in Note 7 to the condensed consolidated financial statements) into shares of Ally Financial's Class B Common Membership Interests.

In the six months ended June 30, 2009 Loss on the extinguishment of debt included a loss of $2.0 billion related to the UST exercising its option to convert outstanding amounts of the UST Ally Financial Loan into shares of Ally Financial's Class B Common Membership Interests. This loss was partially offset by a gain on extinguishment of debt of $0.9 billion related to an amendment to Old GM's U.S. term loan.

Reorganization Expenses, net

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Reorganization expenses, net	$ —	$ —	$(1,157)	$ (1,157)

Old GM

In the three and six months ended June 30, 2009 Reorganization expenses, net included: (1) Old GM's loss on the extinguishment of debt resulting from repayment of its secured revolving credit facility, U.S. term loan, and secured credit facility due to the fair value of the U.S. term loan exceeding its carrying amount by $1.0 billion; (2) a loss on contract rejections, settlements of claims and other lease terminations of $0.4 billion; partially offset by (3) gains related to release of Accumulated other comprehensive income (loss) associated with derivatives of $0.2 billion.

Income Tax Expense (Benefit)

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Income tax expense (benefit)	$ 361	$ 870	$ (445)	$ (559)

GM

In the three months ended June 30, 2010 Income tax expense primarily related to income tax provisions for profitable entities.

In the six months ended June 30, 2010 Income tax expense primarily related to income tax provisions for profitable entities and a taxable foreign exchange gain in Venezuela.

The effective tax rate fluctuated in the six months ended June 30, 2010 primarily as a result of changes in the mix of earnings in valuation allowance and non−valuation allowance jurisdictions.

Old GM

In the three and six months ended June 30, 2009 Income tax benefit primarily related to a resolution of a U.S. and Canada transfer pricing matter and other discrete items offset by income tax provisions for profitable entities.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Equity Income, net of tax

	Successor				Predecessor			
	Three Months Ended June 30, 2010	Percentage of Total net sales and revenue	Six Months Ended June 30, 2010	Percentage of Total net sales and revenue	Three Months Ended June 30, 2009	Percentage of Total net sales and revenue	Six Months Ended June 30, 2009	Percentage of Total net sales and revenue
SGM and SGMW	$ 378	1.1%	$ 734	1.1%	$ 183	0.8%	$ 289	0.6%
Other equity interests	33	0.1%	80	0.1%	(185)	(0.8)%	(243)	(0.5)%
Total equity income, net of tax	$ 411	1.2%	$ 814	1.3%	$ (2)	—%	$ 46	0.1%

GM

In the three months ended June 30, 2010 Equity income, net of tax included equity income of $0.4 billion related to our China joint ventures primarily SGM and SGMW.

In the six months ended June 30, 2010 Equity income, net of tax included equity income of $0.7 billion related to our China joint ventures primarily SGM and SGMW and $0.1 billion of equity income related to New Delphi (as defined in Note 4 to the condensed consolidated financial statements).

Old GM

In the three months ended June 30, 2009 Equity income, net of tax included equity income of $0.2 billion related to our China joint ventures, SGM and SGMW, offset by a loss related to our investment in New United Motor Manufacturing, Inc. (NUMMI) of $0.2 billion.

In the six months ended June 30, 2009 Equity income, net of tax included equity income of $0.3 billion related to our China joint ventures, SGM and SGMW, offset by losses related to our investments in NUMMI and CAMI Automotive, Inc. (CAMI) of $0.3 billion.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Changes in Consolidated Financial Condition
(Dollars in millions, except share amounts)

	Successor	
	June 30, 2010	December 31, 2009
ASSETS		
Current Assets		
Cash and cash equivalents	$ 26,773	$ 22,679
Marketable securities	4,761	134
Total cash, cash equivalents and marketable securities	31,534	22,813
Restricted cash and marketable securities	1,393	13,917
Accounts and notes receivable (net of allowance of $272 and $250)	8,662	7,518
Inventories	11,533	10,107
Assets held for sale	—	388
Equipment on operating leases, net	3,008	2,727
Other current assets and deferred income taxes	1,677	1,777
Total current assets	57,807	59,247
Non−Current Assets		
Equity in net assets of nonconsolidated affiliates	8,296	7,936
Assets held for sale	—	530
Property, net	18,106	18,687
Goodwill	30,186	30,672
Intangible assets, net	12,820	14,547
Other assets	4,684	4,676
Total non−current assets	74,092	77,048
Total Assets	$ 131,899	$ 136,295
LIABILITIES AND EQUITY (DEFICIT)		
Current Liabilities		
Accounts payable (principally trade)	$ 20,755	$ 18,725
Short−term debt and current portion of long−term debt (including debt at GM Daewoo of $1,021 at June 30, 2010)	5,524	10,221
Liabilities held for sale	—	355
Accrued expenses (including derivative liabilities at GM Daewoo of $352 at June 30, 2010)	24,068	23,134
Total current liabilities	50,347	52,435
Non−Current Liabilities		
Long−term debt (including debt at GM Daewoo of $722 at June 30, 2010)	2,637	5,562
Liabilities held for sale	—	270
Postretirement benefits other than pensions	8,649	8,708
Pensions	25,990	27,086
Other liabilities and deferred income taxes	13,377	13,279
Total non−current liabilities	50,653	54,905
Total Liabilities	101,000	107,340
Commitments and contingencies		
Preferred stock, $0.01 par value, (1,000,000,000 shares authorized, 360,000,000 shares issued and outstanding (each with a $25.00 liquidation preference) at June 30, 2010 and December 31, 2009)	6,998	6,998
Equity		
Common stock, $0.01 par value, (2,500,000,000 shares authorized, 500,000,000 shares issued and outstanding at June 30, 2010 and December 31, 2009)	5	5
Capital surplus (principally additional paid−in capital)	24,052	24,050
Accumulated deficit	(2,195)	(4,394)
Accumulated other comprehensive income	1,153	1,588
Total stockholders' equity	23,015	21,249
Noncontrolling interests	886	708
Total equity	23,901	21,957
Total Liabilities and Equity	$ 131,899	$ 136,295

Current Assets

At June 30, 2010 Marketable securities of $4.8 billion increased by $4.6 billion reflecting investments in securities with maturities exceeding 90 days.

At June 30, 2010 Restricted cash and marketable securities of $1.4 billion decreased by $12.5 billion (or 90.0%), primarily due to: (1) our payments of $1.2 billion on the UST Loans and Canadian Loan in March 2010; and (2) our repayment of the full outstanding amount of $4.7 billion on the UST Loans in April 2010. Following the repayment of the UST Loans and our repayment of the Canadian Loan of $1.1 billion in April 2010, the remaining UST escrow funds of $6.6 billion became unrestricted.

At June 30, 2010 Accounts and notes receivable of $8.7 billion increased by $1.1 billion (or 15.2%), primarily due to higher sales in GMNA.

At June 30, 2010 Inventories of $11.5 billion increased by $1.4 billion (or 14.1%), primarily due to: (1) increased production resulting from higher demand for our products and new product launches; (2) higher finished goods inventory of $6.3 billion compared to low levels at December 31, 2009 of $5.9 billion, resulting from the year−end shut−down in some locations; primarily offset by (3) a decrease of $0.5 billion due to the effect of foreign currency translation.

At June 30, 2010 Assets held for sale were reduced to $0 from $0.4 billion at December 31, 2009 due to the sale of Saab in February 2010 and the sale of Saab GB in May 2010 to Spyker Cars NV.

At June 30, 2010 Equipment on operating leases, net of $3.0 billion increased by $0.3 billion (or 10.3%) due to: (1) an increase of $0.6 billion in GMNA, primarily related to vehicles leased to daily rental car companies (vehicles leased to U.S. daily rental car companies increased from 97,000 vehicles at December 31, 2009 to 129,000 vehicles at June 30, 2010); partially offset by (2) a decrease of $0.3 billion due to the continued liquidation of our portfolio of automotive retail leases.

Non−Current Assets

At June 30, 2010 Equity in net assets of nonconsolidated affiliates of $8.3 billion increased by $0.4 billion (or 4.5%) due to: (1) equity income of $0.8 billion in the six months ended June 30, 2010, primarily related to our China joint ventures; and (2) an investment of $0.2 billion in the HKJV joint venture; partially offset by (3) a decrease of $0.3 billion for dividends received; (4) a decrease of $0.2 billion related to the sale of our 50% interest in a joint venture; and (5) a decrease of $0.1 billion related to the sale of a 1% ownership interest in SGM to SAIC.

At June 30, 2010 Assets held for sale were reduced to $0 from $0.5 billion at December 31, 2009 due to the sale of certain of our India operations (India Operations) in February 2010. We classified these Assets held for sale as long−term at December 31, 2009 because we received a promissory note in exchange for the India Operations that does not convert to cash within one year.

At June 30, 2010 Property, net of $18.1 billion decreased by $0.6 billion (or 3.1%), primarily due to depreciation of $1.8 billion and foreign currency translation, partially offset by capital expenditures of $1.9 billion.

At June 30, 2010 Intangible assets, net of $12.8 billion decreased by $1.7 billion (or 11.9%), primarily due to amortization of $1.4 billion and foreign currency translation of $0.3 billion.

Current Liabilities

At June 30, 2010 Accounts payable of $20.8 billion increased by $2.0 billion (or 10.8%), primarily due to: (1) higher payables for materials due to increased production volumes; and (2) increased payables of $0.2 billion related to the consolidation of GM Egypt upon our adoption of amendments to ASC 810−10, “Consolidation” (ASC 810−10) in January 2010.

At June 30, 2010 Short−term debt and current portion of long−term debt of $5.5 billion decreased by $4.7 billion (or 46.0%), primarily due to our full repayments of the UST Loans and Canadian Loan of $5.7 billion and $1.3 billion and paydowns on other obligations of $0.6 billion. This was partially offset by an increase of $2.9 billion due to the reclassification of our VEBA Notes from long−term to short−term.

At June 30, 2010 Liabilities held for sale were reduced to $0 from $0.4 billion at December 31, 2009 due to the sale of Saab and Saab GB.

At June 30, 2010 Accrued expenses of $24.1 billion increased by $0.9 billion (or 4.0%). The change in Accrued expenses was primarily driven by GMNA due to higher customer deposits related to the increased number of vehicles leased to daily rental car companies of $1.2 billion and timing of other miscellaneous accruals of $0.4 billion. This was partially offset by the favorable effect of foreign currency translation of $0.7 billion.

Non−Current Liabilities

At June 30, 2010 Long−term debt of $2.6 billion decreased by $2.9 billion (or 52.6%) primarily due to the reclassification of our VEBA Notes from long−term to short−term.

At June 30, 2010 Liabilities held for sale were reduced to $0 from $0.3 billion at December 31, 2009 due to the sale of our India Operations in February 2010. We classified these Liabilities held for sale as long−term at December 31, 2009 because we received a promissory note in exchange for the India Operations that does not convert to cash within one year.

At June 30, 2010 our Pensions obligation of $26.0 billion decreased by $1.1 billion (or 4.0%) due to the favorable effect of foreign currency translation of $1.1 billion and an increase in net contributions of $0.4 billion partially offset by the effects of interim pension remeasurements of $0.4 billion.

Further information on each of our businesses and geographic segments is subsequently discussed.

Segment Results of Operations

GM North America
(Dollars in millions)

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Total net sales and revenue	$20,266	$ 39,552	$11,445	$ 23,764
Earnings (loss) before interest and income taxes	$ 1,592	$ 2,810	$ (7,026)	$ (10,452)

Vehicle Sales and Production Volume

The following tables summarize total production volume and industry sales of new motor vehicles and competitive position (in thousands):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Production Volume (a)				
Cars	279	523	170	287
Trucks	452	876	225	480
Total	731	1,399	395	767

(a) Production volume represents the number of vehicles manufactured by our and Old GM's assembly facilities and also includes vehicles produced by certain joint ventures.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

	Successor						Predecessor					
	Three Months Ended June 30, 2010			Six Months Ended June 30, 2010			Three Months Ended June 30, 2009			Six Months Ended June 30, 2009		
	Industry	GM	GM as a % of Industry	Industry	GM	GM as a % of Industry	Industry	Old GM	Old GM as a % of Industry	Industry	Old GM	Old GM as a % of Industry
Vehicle Sales (a)(b)(c)(d)												
Total GMNA	3,825	716	18.7%	6,998	1,280	18.3%	3,303	657	19.9%	6,091	1,157	19.0%
Total U.S.	3,117	603	19.4%	5,708	1,081	18.9%	2,647	541	20.5%	4,893	954	19.5%
U.S. — Cars	1,527	234	15.4%	2,811	425	15.1%	1,349	236	17.5%	2,440	403	16.5%
U.S. Trucks	1,590	369	23.2%	2,896	656	22.6%	1,298	306	23.5%	2,453	552	22.5%
Canada	466	75	16.2%	798	123	15.5%	442	84	19.0%	732	135	18.4%
Mexico	189	36	19.2%	382	72	19.0%	165	29	17.8%	365	65	17.7%

(a) Vehicle sales represent sales to the ultimate customer.

(b) Includes HUMMER, Saturn and Pontiac vehicle sales data.

(c) Includes Saab vehicle sales data through February 2010.

(d) Vehicle sales data may include rounding differences.

Three and Six Months Ended June 30, 2010 and 2009
(Dollars in millions)

Total Net Sales and Revenue

	Successor		Predecessor					
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009	Three Months Ended 2010 vs. 2009 Change Amount	Three Months Ended 2010 vs. 2009 Change %	Six Months Ended 2010 vs. 2009 Change Amount	Six Months Ended 2010 vs. 2009 Change %
Total net sales and revenue	$ 20,266	$ 39,552	$ 11,445	$ 23,764	$ 8,821	77.1%	$ 15,788	66.4%

In the three months ended June 30, 2010 our vehicle sales in the United States increased compared to the corresponding period in 2009 by 62,000 vehicles (or 11.4%), our United States market share was 19.4%, our vehicle sales in Canada decreased by 9,000 vehicles (or 10.3%) and our vehicle sales in Mexico increased by 7,000 vehicles (or 23.4%).

In the three months ended June 30, 2010 Total net sales and revenue increased compared to the corresponding period in 2009 by $8.8 billion (or 77.1%), primarily due to: (1) higher volumes of $5.8 billion due to an improving economy and successful recent vehicle launches such as the Chevrolet Equinox, GMC Terrain, Buick LaCrosse and Cadillac SRX and increased U.S. daily rental auction volume of $0.8 billion; (2) favorable mix of $1.5 billion due to increased crossover and truck sales; and (3) favorable price of $0.5 billion due to lower sales allowances.

In the six months ended June 30, 2010 our vehicle sales in the United States increased compared to the corresponding period in 2009 by 126,000 vehicles (or 13.2%), our United States market share was 18.9%, our vehicle sales in Canada decreased by 11,000 vehicles (or 8.3%) and our vehicle sales in Mexico increased by 8,000 vehicles (or 12.3%).

In the six months ended June 30, 2010 Total net sales and revenue increased compared to the corresponding period in 2009 by $15.8 billion (or 66.4%), primarily due to: (1) higher volumes of $11.3 billion due to an improving economy and successful recent vehicle launches such as the Chevrolet Equinox, GMC Terrain, Buick LaCrosse and Cadillac SRX and increased U.S. daily rental auction volume of $0.8 billion; (2) favorable pricing of $2.3 billion due to lower sales allowances partially offset by less favorable adjustments in the U.S. (favorable of $1.0 billion in 2009 compared to favorable of $0.4 billion in 2010) to the accrual for U.S. residual support programs for leased vehicles of $0.6 billion; and (3) favorable mix of $1.7 billion due to increased crossover and truck sales.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Earnings (Loss) Before Interest and Income Taxes

In the three and six months ended June 30, 2010 EBIT was income of $1.6 billion and $2.8 billion driven by higher revenues. In the three and six months ended June 30, 2009 EBIT was a loss of $7.0 billion and $10.5 billion.

Cost and expenses includes both fixed costs as well as costs which generally vary with production levels. In the three and six months ended June 30, 2010 certain fixed costs, primarily labor related, have continued to decrease in relation to historical levels primarily due to various separation and other programs implemented in 2009 in order to reduce labor costs as subsequently discussed. In the three and six months ended June 30, 2009, Old GM's sales volumes were at historically low levels and Cost of sales exceeded Total net sales and revenue by $5.4 billion and $7.4 billion.

In the three months ended June 30, 2010 results included foreign currency translation gains of $0.2 billion driven by the weakening of the Canadian Dollar versus the U.S. Dollar which were offset by charges of $0.2 billion for a recall campaign on windshield fluid heaters.

In the six months ended June 30, 2010 results included: (1) charges of $0.2 billion for a recall campaign on windshield fluid heaters; (2) foreign currency translation losses of $0.2 billion driven by the strengthening of the Canadian Dollar versus the U.S. Dollar; partially offset by (3) favorable adjustments of $0.1 billion to restructuring reserves due to increased production capacity utilization, which resulted in the recall of idled employees to fill added shifts at multiple U.S. production sites.

In the three months ended June 30, 2009 results included: (1) a curtailment loss of $1.7 billion upon the interim remeasurement of the U.S. Hourly and U.S. Salaried Defined Benefit Pension Plan as a result of the 2009 Special Attrition Programs and salaried workforce reductions; (2) incremental depreciation charges of $1.5 billion recorded by Old GM prior to the 363 Sale for facilities included in GMNA's restructuring activities and for certain facilities that MLC retained; (3) a charge of $1.1 billion related to the SUB and TSP, partially offset by a favorable adjustment of $0.4 billion primarily related to the suspension of the JOBS Program; (4) foreign currency translation losses of $0.8 billion driven by the strengthening of the Canadian Dollar versus the U.S. Dollar; (5) U.S. Hourly and Salary separation program charges and Canadian restructuring activities of $0.7 billion; and (6) equity losses of $0.2 billion related to impairment charges at NUMMI, which was retained by MLC.

In the six months ended June 30, 2009 results included: (1) incremental depreciation charges of $1.8 billion recorded by Old GM prior to the 363 Sale for facilities included in GMNA's restructuring activities and for certain facilities that MLC retained; (2) curtailment loss of $1.7 billion upon the interim remeasurement of the U.S. Hourly and U.S. Salaried Defined Benefit Pension Plan as a result of the 2009 Special Attrition Programs and salaried workforce reductions; (3) a charge of $1.1 billion related to the SUB and TSP, partially offset by a favorable adjustment of $0.7 billion primarily related to the suspension of the JOBS Program; (4) U.S. Hourly and Salary separation program charges and Canadian restructuring activities of $1.1 billion; (5) foreign currency translation losses of $0.6 billion driven by the strengthening of the Canadian Dollar versus the U.S. Dollar; (6) charges of $0.4 billion primarily for impairments for special tooling and product related machinery and equipment; (7) charges of $0.3 billion related to obligations associated with various Delphi agreements; and (8) equity losses of $0.3 billion related to impairment charges at NUMMI and our proportionate share of losses at CAMI. MLC retained the investment in NUMMI and CAMI has been consolidated since March 1, 2009.

GM International Operations
(Dollars in millions)

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Total net sales and revenue	$ 8,612	$ 16,664	$ 5,404	$ 11,155
Earnings (loss) before interest and income taxes	$ 672	$ 1,838	$ (660)	$ (699)

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Vehicle Sales and Production Volume

The following tables summarize total production volume and industry sales of new motor vehicles and competitive position (in thousands):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Production Volume (a)(b)(c)	1,195	2,307	828	1,523

(a) Production volume represents the number of vehicles manufactured by our and Old GM's assembly facilities and also includes vehicles produced by certain joint ventures.

(b) Includes SGM, SGMW, FAW−GM joint venture production in China and HKJV joint venture production in India.

(c) The joint venture agreements with SGMW (34%) and FAW−GM (50%) allows for significant rights as a member as well as the contractual right to report SGMW and FAW−GM production volume in China.

	Successor						Predecessor					
	Three Months Ended June 30, 2010			Six Months Ended June 30, 2010			Three Months Ended June 30, 2009			Six Months Ended June 30, 2009		
	Industry	GM	GM as a % of Industry	Industry	GM	GM as a % of Industry	Industry	Old GM	Old GM as a % of Industry	Industry	Old GM	Old GM as a % of Industry
Vehicle Sales (a)(b)(c)												
Total GMIO	9,647	995	10.3%	19,742	2,026	10.3%	7,786	807	10.4%	14,934	1,517	10.2%
China (d)(e)	4,466	586	13.1%	9,143	1,209	13.2%	3,421	451	13.2%	6,110	814	13.3%
Brazil	792	146	18.4%	1,580	302	19.1%	782	147	18.8%	1,450	271	18.7%
Australia	279	35	12.6%	531	69	12.9%	242	29	12.2%	455	57	12.5%
India (f)	703	28	4.0%	1,461	60	4.1%	513	14	2.8%	1,056	28	2.7%
Argentina	157	25	15.8%	338	56	16.5%	125	19	15.3%	280	42	15.1%
South Korea (g)	383	31	8.2%	752	58	7.7%	379	27	7.0%	649	45	7.0%
Middle−East Operations	289	30	10.2%	565	55	9.8%	269	30	11.3%	522	57	10.8%
Colombia	57	19	33.2%	107	36	33.6%	41	15	37.6%	86	33	38.9%
Egypt	65	17	26.0%	122	32	26.3%	51	11	22.4%	90	23	25.3%
Venezuela	31	12	37.7%	59	24	41.4%	32	12	38.7%	81	35	43.4%

(a) Vehicle sales primarily represent estimated sales to the ultimate customer.

(b) Vehicle sales data may include rounding differences.

(c) Includes Saab vehicle sales data through February 2010.

(d) Includes SGM, SGMW and FAW−GM joint venture sales in China.

(e) The joint venture agreements with SGMW (34%) and FAW−GM (50%) allows for significant rights as a member as well as the contractual right to report SGMW and FAW−GM vehicle sales in China as part of global market share. SGMW and FAW−GM sales in China included in our vehicle sales and market share data was 324,000 vehicles and 686,000 vehicles in the three and six months ended June 30, 2010 and 262,000 vehicles and 493,000 vehicles in the three and six months ended June 30, 2009.

(f) Includes HKJV joint venture sales in India.

(g) Vehicle sales and market share data from sales of GM Daewoo produced Chevrolet brand products in Europe are reported as part of GME. Sales of GM Daewoo produced Chevrolet brand products in Europe was 91,000 vehicles and 166,000 vehicles in the three and six months ended June 30, 2010 and 102,000 vehicles and 185,000 vehicles in the three and six months ended June 30, 2009.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Three and Six Months Ended June 30, 2010 and 2009
(Dollars in millions)

Total Net Sales and Revenue

	Successor		Predecessor					
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009	Three Months Ended 2010 vs. 2009 Change Amount	Three Months Ended 2010 vs. 2009 Change %	Six Months Ended 2010 vs. 2009 Change Amount	Six Months Ended 2010 vs. 2009 Change %
Total net sales and revenue	$ 8,612	$ 16,664	$ 5,404	$ 11,155	$ 3,208	59.4%	$ 5,509	49.4%

In the three months ended June 30, 2010 Total net sales and revenue increased compared to the corresponding period in 2009 by $3.2 billion (or 59.4%) primarily due to: (1) higher wholesale volumes of $1.9 billion (or 139,000 vehicles) resulting primarily from the market recovery in three key businesses, GM Daewoo (57,000 vehicles), Brazil (14,000 vehicles) and Australia (10,000 vehicles). The primary driver was the global economic recovery as well as the continuing effect of government incentive programs, lower interest rates and availability of consumer credit to customers; (2) derivative losses of $0.7 billion that Old GM recorded in the three months ended June 30, 2009, primarily driven by the depreciation of the Korean Won against the U.S. Dollar in that period. Subsequent to July 10, 2009, all gains and losses on non−designated derivatives were recorded in Interest income and other non−operating income, net; (3) net foreign currency translation and transaction gains of $0.3 billion, primarily driven by the strengthening of major currencies against the U.S. Dollar such as the Korean Won, Australian Dollar and Brazilian Real, partially offset by devaluation of the Venezuelan Bolivar; (4) favorable vehicle mix of $0.1 billion driven by launches of new vehicles; and (5) favorable pricing effect of $0.2 billion primarily in Venezuela of $0.1 billion driven by the hyperinflationary economy.

In the six months ended June 30, 2010 Total net sales and revenue increased compared to the corresponding period in 2009 by $5.5 billion (or 49.4%) primarily due to: (1) higher wholesale volumes of $3.4 billion (or 225,000 vehicles) resulting primarily from the market recovery in three key businesses, GM Daewoo (77,000 vehicles), Brazil (60,000 vehicles) and Australia (24,000 vehicles); (2) derivative losses of $1.0 billion that Old GM recorded in the six months ended June 30, 2009, primarily driven by the depreciation of the Korean Won against the U.S. Dollar in that period. Subsequent to July 10, 2009, all gains and losses on non−designated derivatives were recorded in Interest income and other non−operating income, net; (3) net foreign currency translation and transaction gains of $0.8 billion, primarily driven by the strengthening of major currencies against the U.S. Dollar such as the Korean Won, Australian Dollar and Brazilian Real, partially offset by devaluation of the Venezuelan Bolivar; and (4) the favorable pricing effect of $0.3 billion primarily in Venezuela of $0.2 billion driven by the hyperinflationary economy.

The increase in vehicle sales related to our joint venture operations in China and India is not reflected in Total net sales and revenue as their revenue is not consolidated in our financial results.

Earnings (Loss) Before Interest and Income Taxes

In the three and six months ended June 30, 2010 EBIT was income of $0.7 billion and $1.8 billion. In the three and six months ended June 30, 2009 EBIT was a loss of $0.7 billion in each period presented.

In the three months ended June 30, 2010 results included: (1) Equity income, net of tax of $0.4 billion from the operating results of our China joint ventures; (2) net income of $0.1 billion attributable to non−controlling interests of GM Daewoo; partially offset by (3) an unfavorable fair value adjustment of $0.1 billion on derivative instruments primarily resulting from the depreciation of the Korean Won against the U.S. Dollar.

In the six months ended June 30, 2010 results included Equity income, net of tax, of $0.7 billion from the operating results of our China joint ventures and net income of $0.2 billion attributable to non−controlling interests of GM Daewoo.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

In the three months ended June 30, 2009 results included: (1) an unfavorable fair value adjustment of $0.7 billion on derivative instruments primarily resulting from the depreciation of the Korean Won against the U.S. Dollar and release of Accumulated other comprehensive loss; (2) foreign currency translation loss of $0.4 billion primarily resulting from the purchase of U.S dollars on the parallel market in Venezuela; (3) Net loss of $0.3 billion attributable to non−controlling interests in GM Daewoo; partially offset by (4) Equity income, net of tax, of $0.2 billion from the operating results of our China joint ventures.

In the six months ended June 30, 2009 results included: (1) an unfavorable fair value adjustment of $1.0 billion on derivative instruments primarily resulting from the depreciation of Korean Won against the U.S. Dollar and release of Accumulated other comprehensive loss; (2) foreign currency translation loss of $0.5 billion primarily resulting from the purchase of U.S Dollars on the parallel market in Venezuela; (3) a Net loss of $0.3 billion attributable to non−controlling interests in GM Daewoo; partially offset by (4) Equity income, net of tax, of $0.2 billion from the operating results of our China joint ventures, which benefited from China's increasing vehicle industry during the global financial crises.

GM Europe
(Dollars in millions)

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Total net sales and revenue	$ 6,044	$ 11,505	$ 6,645	$ 11,946
Loss before interest and income taxes	$ (160)	$ (637)	$ (757)	$ (2,711)

Vehicle Sales and Production Volume

The following tables summarize total production volume and industry sales of new motor vehicles and competitive position (in thousands):

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Production Volume (a)	331	636	315	579

(a) Production volume represents the number of vehicles manufactured by our and Old GM's assembly facilities and also includes vehicles produced by certain joint ventures.

	Successor						Predecessor					
	Three Months Ended June 30, 2010			Six Months Ended June 30, 2010			Three Months Ended June 30, 2009			Six Months Ended June 30, 2009		
	Industry	GM	GM as a % of Industry	Industry	GM	GM as a % of Industry	Industry	Old GM	Old GM as a % of Industry	Industry	Old GM	Old GM as a % of Industry
Vehicle Sales (a)(b)(c)(d)												
Total GME	5,013	442	8.8%	9,782	846	8.6%	5,131	474	9.2%	9,647	881	9.1%
United Kingdom	559	77	13.7%	1,235	158	12.8%	499	70	14.1%	1,039	150	14.4%
Germany	869	69	8.0%	1,598	129	8.1%	1,253	131	10.4%	2,180	211	9.7%
Italy	534	45	8.5%	1,265	96	7.6%	643	54	8.4%	1,235	102	8.3%
Spain	357	33	9.2%	677	63	9.3%	265	23	8.6%	493	42	8.4%
Russia	508	40	7.9%	810	67	8.3%	387	41	10.5%	785	84	10.7%
France	736	36	4.9%	1,441	63	4.4%	735	33	4.4%	1,348	56	4.1%

(a) Vehicle sales primarily represent estimated sales to the ultimate customer.

(b) The financial results from sales of GM Daewoo produced Chevrolet brand products are reported as part of GMIO. Sales of GM Daewoo produced Chevrolet brand products included in vehicle sales and market share data was 91,000 vehicles and 166,000 vehicles in the three and six months ended June 30, 2010 and 102,000 vehicles and 185,000 vehicles in the three and six months ended June 30, 2009.

(c) Includes Saab vehicle sales data through February 2010.

(d) Vehicle sales data may include rounding differences.

Three and Six Months Ended June 30, 2010 and 2009
(Dollars in millions)

Total Net Sales and Revenue

	Successor		Predecessor					
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009	Three Months Ended 2010 vs. 2009 Change Amount	Three Months Ended 2010 vs. 2009 Change %	Six Months Ended 2010 vs. 2009 Change Amount	Six Months Ended 2010 vs. 2009 Change %
Total net sales and revenue	$ 6,044	$ 11,505	$ 6,645	$ 11,946	$ (601)	(9.0)%	$ (441)	(3.7)%

In the three months ended June 30, 2010 Total net sales and revenue decreased compared to the corresponding period in 2009 by $0.6 billion (or 9.0%) primarily due to: (1) lower wholesale volumes of $0.4 billion; (2) unfavorable net foreign currency translation of $0.3 billion, driven primarily by the weakening of the Euro and British Pound versus the U.S. Dollar; (3) lower powertrain revenue of $0.1 billion primarily due to the Strasbourg facility which was retained by MLC in connection with the 363 Sale; partially offset by (4) favorable vehicle pricing of $0.1 billion due to higher pricing on new vehicle launches; and (5) favorable vehicle mix of $0.1 billion due to higher proportion of lower content cars in the three months ended June 30, 2009 resulting from government scrappage programs.

Revenue decreased compared to the corresponding period in 2009 due to wholesale volume decreases of 24,000 vehicles (or 6.8%). Wholesale volumes decreased in Germany by 55,000 vehicles (or 46.5%), this was partially offset by wholesale increases in Spain of 7,000 vehicles (or 43.2%), wholesale increases in the United Kingdom of 5,000 vehicles (or 7.8%), and wholesale increases to the United States of 9,000 vehicles primarily related to the Buick Regal and smaller increases in various other European countries in the three months ended June 30, 2010.

In the six months ended June 30, 2010 Total net sales and revenue decreased compared to the corresponding period in 2009 by $0.4 billion (or 3.7%) primarily due to: (1) lower wholesale volumes of $0.7 billion; (2) lower powertrain revenue of $0.1 billion primarily due to the Strasbourg facility which was retained by MLC in connection with the 363 Sale; partially offset by (3) favorable vehicle pricing of $0.2 billion due to higher pricing on new vehicle launches.

Revenue decreased compared to the corresponding period in 2009 due to wholesale volume decreases of 18,000 vehicles (or 2.8%). Wholesale volumes decreased in Germany by 85,000 vehicles (or 43.8%), partially offset by wholesale increases in Spain of 20,000 vehicles (or 76.7%), wholesale increases in the United Kingdom of 7,000 vehicles (or 5.2%), and wholesale increases to the United States of 8,000 vehicles primarily related to the Buick Regal and smaller increases in various other European countries in the six months ended June 30, 2010.

Loss Before Interest and Income Taxes

In the three and six months ended June 30, 2010 EBIT was a loss of $0.2 billion and $0.6 billion. In the three and six months ended June 30, 2009 EBIT was a loss of $0.8 billion and $2.7 billion.

In the three months ended June 30, 2010 results included restructuring charges of $0.2 billion to restructure our European operations, primarily for separation programs announced in Belgium, Spain and the United Kingdom.

In the six months ended June 30, 2010 results included restructuring charges of $0.5 billion to restructure our European operations, primarily for separation programs announced in Belgium, Spain and the United Kingdom.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

In the three months ended June 30, 2009 results included incremental depreciation charges of $0.3 billion related to restructuring activities and charges recorded in Other expenses, net of $0.1 billion related to adjustments to contingencies associated with the deconsolidation of Saab, which filed for reorganization protection under the laws of Sweden in February 2009.

In the six months ended June 30, 2009 results included: (1) charges recorded in Other expenses, net of $0.8 billion related to the deconsolidation of Saab; (2) incremental depreciation charges of $0.5 billion related to restructuring activities; and (3) operating losses related to Saab of $0.2 billion.

Corporate Results of Operations
(Dollars in millions)

	Successor		Predecessor	
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Total net sales and revenue	$ 43	$ 97	$ 122	$ 321
Net income (loss) attributable to stockholders	$ (526)	$ (1,377)	$(4,500)	$ (5,082)

Three and six months ended June 30, 2010 and 2009
(Dollars in millions)

Total Net Sales and Revenue

	Successor		Predecessor					
	Three Months Ended June 30, 2010	Six Months Ended June 30, 2010	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009	Three Months Ended 2010 vs. 2009 Change Amount	Three Months Ended 2010 vs. 2009 Change %	Six Months Ended 2010 vs. 2009 Change Amount	Six Months Ended 2010 vs. 2009 Change %
Total net sales and revenue	$ 43	$ 97	$ 122	$ 321	$ (79)	(64.8)%	$ (224)	(69.8)%

In the three months ended June 30, 2010 Total net sales and revenue decreased compared to the corresponding period in 2009 by $0.1 billion (or 64.8%) primarily due to decreased lease financing revenue related to the liquidation of the portfolio of automotive retail leases. Average outstanding automotive retail leases on−hand for GM and Old GM were 7,000 and 86,000 for the three months ended June 30, 2010 and 2009.

In the six months ended June 30, 2010 Total net sales and revenue decreased compared to the corresponding period in 2009 by $0.2 billion (or 69.8%) primarily due to decreased lease financing revenues related to the liquidation of the portfolio of automotive leases. Average outstanding automotive retail leases on−hand for GM and Old GM were 13,000 and 104,000 for the six months ended June 30, 2010 and 2009.

Net Loss Attributable to Stockholders

In the three and six months ended June 30, 2010 Net loss attributable to stockholders was $0.5 billion and $1.4 billion. In the three and six months ended June 30, 2009 Net loss attributable to stockholders was $4.5 billion and $5.1 billion.

In the three months ended June 30, 2010 results included Income tax expense of $0.4 billion primarily related to income tax provisions for profitable entities and Interest expense of $0.3 billion primarily related to interest expense on GMIO debt of $0.1 billion and VEBA Note interest expense and premium amortization of $0.1 billion.

In the six months ended June 30, 2010 results included Income tax expense of $0.9 billion primarily related to income tax provisions for profitable entities and a taxable foreign exchange gain in Venezuela; and Interest expense of $0.6 billion related to interest expense on GMIO debt of $0.2 billion, VEBA Note interest expense and premium amortization of $0.1 billion and interest expense on the UST Loans of $0.1 billion.

The effective tax rate fluctuated in the six months ended June 30, 2010 primarily as a result of changes in the mix of earnings in valuation allowance and non−valuation allowance jurisdictions.

In the three months ended June 30, 2009 results included: (1) interest expense of $3.4 billion primarily related to amortization of discounts related to the UST Loan Facility of $2.6 billion and interest on the UST Loan Facility of $0.3 billion; (2) loss on the extinguishment of the UST Ally Financial Loan of $2.0 billion when the UST exercised its option to convert outstanding amounts into shares of Ally Financial's Class B Common Membership Interests; (3) centrally recorded Reorganization expenses, net of $1.2 billion which primarily related to Old GM's loss on the extinguishment of debt resulting from repayment of its secured revolving credit facility, U.S. term loan, and secured credit facility due to the fair value of the U.S. term loan exceeding its carrying amount by $1.0 billion, loss on contract rejections, settlements of claims and other lease terminations of $0.4 billion partially offset by gains related to release of Accumulated other comprehensive income (loss) associated with derivatives of $0.2 billion; partially offset by (4) a gain recorded on the UST Ally Financial Loan of $2.5 billion upon the UST's conversion of the UST Ally Financial Loan for Class B Common Membership Interests in Ally Financial. The gain resulted from the difference between the fair value and the carrying amount of the Ally Financial equity interests given to the UST in exchange for the UST Ally Financial Loan. The gain was partially offset by Old GM's proportionate share of Ally Financial's losses of $0.6 billion; and (5) income tax benefit of $0.4 billion primarily related to a resolution of a U.S. and Canada transfer pricing matter and other discrete items offset by income tax provisions for profitable entities.

In the six months ended June 30, 2009 results included: (1) interest expense of $4.6 billion primarily related to amortization of discounts related to the UST Loan Facility of $2.9 billion and interest expense on unsecured debt of $0.9 billion and on the UST Loan Facility of $0.4 billion; (2) centrally recorded Reorganization expenses, net of $1.2 billion which primarily related to Old GM's loss on the extinguishment of debt resulting from repayment of its secured revolving credit facility, U.S. term loan, and secured credit facility due to the fair value of the U.S. term loan exceeding its carrying amount by $1.0 billion, loss on contract rejections, settlements of claims and other lease terminations of $0.4 billion partially offset by gains related to release of Accumulated other comprehensive income (loss) associated with derivatives of $0.2 billion; (3) a loss on the extinguishment of the UST Ally Financial Loan of $2.0 billion when the UST exercised its option to convert outstanding amounts into shares of Ally Financial's Class B Common Membership Interests. This loss was partially offset by a gain on extinguishment of debt of $0.9 billion related to an amendment to Old GM's U.S. term loan; partially offset by (4) a gain recorded on the UST Ally Financial Loan of $2.5 billion upon the UST's conversion of the UST Ally Financial Loan for Class B Common Membership Interests in Ally Financial. The gain resulted from the difference between the fair value and the carrying amount of the Ally Financial equity interests given to the UST in exchange for the UST Ally Financial Loan. The gain was partially offset by Old GM's proportionate share of Ally Financial's losses of $1.1 billion; and (5) Income tax benefit of $0.6 billion primarily related to a resolution of a U.S. and Canada transfer pricing matter and other discrete items offset by income tax provisions for profitable entities.

Liquidity and Capital Resources

We believe that our current level of cash and marketable securities will be sufficient to meet our liquidity needs. However, we expect to have substantial cash requirements going forward. Our known material future uses of cash include, among other possible demands: (1) Pension and OPEB payments; (2) continuing capital expenditures; (3) spending to implement long−term cost savings and restructuring plans such as restructuring our Opel/Vauxhall operations and potential capacity reduction programs; (4) reducing our overall debt levels which may include repayment of the VEBA Notes that we issued under the VEBA Note Agreement with the New VEBA, GM Daewoo's revolving credit facility and other debt payments; (5) acquisition of AmeriCredit, an independent automobile finance company, for cash of approximately $3.5 billion; and (6) certain South American tax−related administrative and legal proceedings may require that we deposit funds in escrow, such escrow deposits may range from $725 million to $900 million.

Our liquidity plans are subject to a number of risks and uncertainties, including those described in the "Risk Factors" sections of our 2009 Form 10−K and this report, some of which are outside our control. Macro−economic conditions could limit our ability to successfully execute our business plans and, therefore, adversely affect our liquidity plans.

Recent Initiatives

We continue to monitor and evaluate opportunities to optimize the structure of our liquidity position.

In the three months ended June 30, 2010 we made investments of $4.6 billion in highly liquid marketable securities instruments with maturities between 90 days and 365 days. Previously, these funds would have been invested in short−term instruments less than 90 days and classified as a component of Cash and cash equivalents. Investments in these longer−term securities will increase the interest we earn on these investments. We continue to monitor our investment mix and may reallocate investments based on business requirements.

In June 2010 the German federal government notified us of its decision not to provide loan guarantees to Opel/Vauxhall. As a result we have decided to fund the requirements of Opel/Vauxhall internally. Opel/Vauxhall has subsequently withdrawn all applications for government loan guarantees from European governments. In July 2010 we committed an additional Euro 1.1 billion (equivalent to $1.3 billion) to fund Opel/Vauxhall's restructuring and ongoing cash requirements.

In July 2010 we entered into a definitive agreement to acquire AmeriCredit, an independent automobile finance company, for cash of approximately $3.5 billion. This acquisition will allow us to provide a more complete range of financing options to our customers including additional capabilities in leasing and non−prime financing options. The transaction is expected to close in the fourth quarter of 2010 and we expect to fund the transaction using cash on hand.

The repayment of debt remains a key strategic initiative. We continue to evaluate potential debt repayments prior to maturity. Any such repayments may negatively affect our liquidity in the short−term. In July 2010 our Russian subsidiary repaid a loan facility of $150 million to cure a technical default. In the six months ended June 30, 2010 we repaid the remaining amounts owed under the UST Loans of $5.7 billion and Canadian Loan of $1.3 billion. Additionally, GM Daewoo repaid a portion of its revolving credit facility in the amount of $225 million.

We have entered into negotiations with financial institutions regarding a credit facility. While we do not believe we would require these proceeds to fund operating activities, the agreement would provide additional liquidity and financing flexibility. There is no assurance that we will reach a final agreement on this facility.

If we successfully execute a credit facility, we expect to prepay the VEBA Notes with available cash. Accordingly, at June 30, 2010 we reclassified the VEBA Notes from long−term debt to short−term debt in an amount of $2.9 billion (including unamortized premium of $209 million).

We continue to pursue our application for loans available under Section 136 of the Energy Independence and Security Act of 2007. While no assurance exists that we may qualify for the loans, any funds that we may receive would be used for costs associated with re−equipping, expanding and establishing manufacturing facilities in the United States to produce advanced technology vehicles and components for these vehicles.

Available Liquidity

Available liquidity includes cash balances and marketable securities. At June 30, 2010 available liquidity was $31.5 billion, not including funds available under credit facilities of $1.1 billion or in the Canadian Health Care Trust (HCT) escrow account of $1.0 billion. The amount of available liquidity is subject to intra−month and seasonal fluctuations and includes balances held by various business units and subsidiaries worldwide that are needed to fund their operations.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

We manage our global liquidity using cash investments in the U.S., cash held at our international treasury centers and available liquidity at consolidated overseas subsidiaries. The following table summarizes global liquidity (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Cash and cash equivalents	$ 26,773	$ 22,679
Marketable securities	4,761	134
Available liquidity	31,534	22,813
Available under credit facilities	1,115	618
Total available liquidity	32,649	23,431
UST and HCT escrow accounts (a)	956	13,430
Total liquidity including UST and HCT escrow accounts	$ 33,605	$ 36,861

(a) Classified as Restricted cash and marketable securities. Refer to Note 12 to the condensed consolidated financial statements. The remaining funds held in the UST Escrow account were released in April 2010 following the repayment of the UST Loans and Canadian Loan.

Total available liquidity increased by $9.2 billion in the six months ended June 30, 2010 primarily due to positive cash flows from operating activities of $5.7 billion, investing activities less net marketable securities acquisitions of $11.1 billion, which were partially offset by negative cash flows from financing activities of $7.8 billion.

Credit Facilities

At June 30, 2010 we had committed credit facilities of $2.0 billion, under which we had borrowed $1.6 billion leaving $440 million available. Of these committed credit facilities GM Daewoo held $1.1 billion and other entities held $0.9 billion. In addition, at June 30, 2010 we had uncommitted credit facilities of $0.9 billion, under which we had borrowed $228 million leaving $675 million available. Uncommitted credit facilities include lines of credit which are available to us, but under which the lenders have no legal obligation to provide funding upon our request. We and our subsidiaries use credit facilities to fund working capital needs, product programs, facilities development and other general corporate purposes.

Our largest credit facility is GM Daewoo's $1.1 billion revolving credit facility, which was established in October 2002 with a syndicate of banks. All outstanding amounts at October 2010 will convert into a term loan and are required to be paid in four equal annual installments by October 2014. Borrowings under this facility bear interest based on Korean Won denominated certificates of deposit. The average interest rate on outstanding amounts under this facility at June 30, 2010 was 5.6%. The borrowings are secured by certain GM Daewoo property, plant and equipment and are used by GM Daewoo for general corporate purposes, including working capital needs. In the three months ended June 30, 2010 GM Daewoo repaid $225 million of the $1.1 billion revolving credit facility. At June 30, 2010 the credit facility had an outstanding balance of $931 million leaving $207 million available.

The balance of our credit facilities are held by geographically dispersed subsidiaries, with available capacity on the facilities primarily concentrated at a few of our subsidiaries. At June 30, 2010 GM Hong Kong had $170 million of capacity on a $200 million term facility secured by a portion of our equity interest in SGM, with an additional $200 million revolving facility secured by the same collateral set to become available in late 2010. In addition, we have $355 million of capacity on a $370 million secured term facility available to certain of our subsidiaries in Thailand over 2010 and 2011. The facilities were entered into to fund growth opportunities within GMIO and meet potential cyclical cash needs.

Restricted Cash and Marketable Securities

In April 2010 we used funds from the UST Credit Agreement escrow account of $4.7 billion to repay in full the outstanding amount of the UST Loans. In addition, GMCL repaid in full the outstanding amount of the Canadian Loan of $1.1 billion. Both loans were repaid prior to maturity.

Following the repayment of the UST Loans and the Canadian Loan, the remaining UST escrow funds in an amount of $6.6 billion became unrestricted. The availability of those funds is no longer subject to the conditions set forth in the UST Credit Agreement.

Pursuant to an agreement between GMCL, EDC and an escrow agent we had $1.0 billion remaining in an escrow account at June 30, 2010 to fund certain of GMCL's health care obligations pending the satisfaction of certain preconditions which have not yet been met.

Cash Flow

Operating Activities

In the six months ended June 30, 2010 we had positive cash flows from operating activities of $5.7 billion primarily due to: (1) net income of $2.8 billion, which included non−cash charges of $3.5 billion resulting from depreciation, impairment and amortization expense; (2) change in income tax related balances of $0.6 billion; partially offset by (3) pension contributions and OPEB cash payments of $0.9 billion; and (4) unfavorable changes in working capital of $0.8 billion. The unfavorable changes in working capital were related to increases in accounts receivables and inventories, partially offset by an increase in accounts payable as a result of increased production.

In the six months ended June 30, 2009 Old GM had negative cash flows from operating activities of $15.1 billion primarily due to: (1) net loss of $19.1 billion, which included non−cash charges of $6.3 billion resulting from depreciation, impairment and amortization expense; and (2) unfavorable working capital of $2.1 billion due to decreases in accounts payable partially offset by a decrease in accounts receivable and inventories.

Investing Activities

In the six months ended June 30, 2010 we had positive cash flows from investing activities of $6.4 billion primarily due to: (1) a reduction in Restricted cash and marketable securities of $12.6 billion primarily related to withdrawals from the UST Credit Agreement escrow account; (2) liquidations of operating leases of $0.3 billion; partially offset by (3) net investments in marketable securities of $4.6 billion due to investments in securities with maturities greater than 90 days; and (4) capital expenditures of $1.9 billion.

In the six months ended June 30, 2009 Old GM had negative cash flows from investing activities of $3.5 billion primarily due to: (1) capital expenditures of $3.1 billion; and (2) investment in Ally Financial of $0.9 billion; and (3) increase in Restricted cash and marketable securities of $0.6 billion; partially offset by (4) liquidations of automotive retail leases of $1.1 billion.

Financing Activities

In the six months ended June 30, 2010 we had negative cash flows from financing activities of $7.8 billion primarily due to: (1) repayments on the UST Loans of $5.7 billion, Canadian Loan of $1.3 billion and the program announced by the UST in March 2009 to provide financial assistance to automotive suppliers (Receivables Program) of $0.2 billion; (2) preferred dividend payments of $0.4 billion; and (3) a net decrease in short−term debt of $0.2 billion.

In the six months ended June 30, 2009 Old GM had positive cash flows from financing activities of $21.7 billion primarily due to: (1) proceeds from the UST Loan Facility and UST Ally Financial Loan of $16.6 billion; (2) proceeds from the DIP Facility of $10.7 billion; (3) proceeds from the EDC Loan Facility of $1.9 billion (4) proceeds from the German Facility of $0.4 billion; (5) proceeds from the Receivables Program of $0.3 billion; partially offset by (6) net payments on other debt of $7.1 billion; and (7) a net decrease in short−term debt of $1.0 billion.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Net Liquid Assets (Debt)

Management believes the use of net liquid assets (debt) provides meaningful supplemental information regarding our liquidity. Accordingly, we believe net liquid assets (debt) is useful in allowing for greater transparency of supplemental information used by management in its financial and operational decision making to assist in identifying resources available to meet cash requirements. Our calculation of net liquid assets (debt) may not be completely comparable to similarly titled measures of other companies due to potential differences between companies in the method of calculation. As a result, the use of net liquid assets (debt) has limitations and should not be considered in isolation from, or as a substitute for, other measures such as Cash and cash equivalents and Debt. Due to these limitations, net liquid assets (debt) is used as a supplement to U.S. GAAP measures.

The following table summarizes net liquid assets (debt) (dollars in millions):

	Successor	
	June 30, 2010	December 31, 2009
Cash and cash equivalents	$ 26,773	$ 22,679
Marketable securities	4,761	134
UST Credit Agreement and Canadian HCT escrow accounts	956	13,430
Total liquid assets	32,490	36,243
Short−term debt and current portion of long−term debt	(5,524)	(10,221)
Long−term debt	(2,637)	(5,562)
Net liquid assets	$ 24,329	$ 20,460

Our net liquid assets increased by $3.9 billion in the six months ended June 30, 2010. This change was due to an increase of $4.1 billion in Cash and cash equivalents (as previously discussed); an increase of $4.6 billion in Marketable securities; and a decrease of $7.6 billion in Short−term and Long−term debt; partially offset by a reduction of $12.5 billion in the UST Credit Agreement escrow balance. The decrease in Short−term and Long−term debt primarily related to: (1) repayment in full of the UST Loans of $5.7 billion; (2) repayment in full of the Canadian Loan of $1.3 billion; and (3) repayment in full of the loans related to the Receivables Program of $0.2 billion.

Other Liquidity Issues

In connection with the 363 Sale, we assumed the obligation of the Receivables Program. At December 31, 2009 our equity contributions were $55 million and the UST had outstanding loans of $150 million to the Receivables Program. In the three months ended March 31, 2010 we repaid these loans in full and the Receivables Program was terminated in accordance with its terms in April 2010. Upon termination, we shared residual capital of $25 million in the program equally with the UST and paid a termination fee of $44 million.

Ally Financial currently finances our vehicles while they are in−transit to dealers in a number of markets including the U.S. In the event Ally Financial significantly limits or ceases to finance in−transit vehicles, our liquidity will be adversely affected.

We have extended loan commitments to certain affiliated companies and critical business partners. These commitments can be triggered under certain conditions and expire in the years 2010, 2011 and 2014. At June 30, 2010 we had a total commitment of $782 million outstanding with $25 million loaned.

We have covenants in our VEBA Note Agreement that could limit the amount and type of additional financing that we could raise to bolster our liquidity if needed.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Non−Cash Charges (Gains)

The following table summarizes significant non−cash charges (gains) (dollars in millions):

	Predecessor	
	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Impairment charges related to equipment on operating leases	$ 17	$ 61
Long−lived asset impairment charges	239	566
Impairment charges related to equity and cost method investments	—	28
Gain on extinguishment of debt	—	(906)
Gain on conversion of UST Ally Financial Loan	(2,477)	(2,477)
Loss on extinguishment of UST Ally Financial Loan	1,994	1,994
Total significant non−cash charges (gains)	$ (227)	$ (734)

Defined Benefit Pension Plan Contributions

We are considering making a discretionary contribution to the U.S. hourly defined benefit pension plan. This discretionary contribution is being considered to offset the effect of the increase to the projected benefit obligation of the U.S. hourly defined benefit pension plan incurred as a result of the Delphi Benefit Guarantee Agreements being triggered as well as to possibly reduce the projected future cash funding requirements. We are currently evaluating the amount, timing and form of assets that may be contributed.

Guarantees Provided to Third Parties

We have provided guarantees related to the residual value of operating leases, certain suppliers' commitments, certain product−related claims and commercial loans made by Ally Financial and outstanding with certain third parties excluding residual support and risk sharing related to Ally Financial. The maximum potential obligation under these commitments is $843 million at June 30, 2010.

Our current agreement with Ally Financial requires the repurchase of Ally Financial financed inventory invoiced to dealers after September 1, 2008, with limited exclusions, in the event of a qualifying voluntary or involuntary termination of the dealer's sales and service agreement. Repurchase obligations exclude vehicles which are damaged, have excessive mileage or have been altered. The repurchase obligation ends in August 2010 for vehicles invoiced through August 2009 and ends in August 2011 for vehicles invoiced through August 2010.

The maximum potential amount of future payments required to be made to Ally Financial under this guarantee would be based on the repurchase value of total eligible vehicles financed by Ally Financial in dealer stock and is estimated to be $15.9 billion at June 30, 2010. If vehicles are required to be repurchased under this arrangement, the total exposure would be reduced to the extent vehicles are able to be resold to another dealer or at auction. The fair value of the guarantee was $34 million at June 30, 2010, which considers the likelihood of dealers terminating and estimated loss exposure for the ultimate disposition of vehicles.

Refer to Notes 17 and 23 to the condensed consolidated financial statements for additional information on guarantees we have provided.

Contractual Obligations and Other Long−Term Liabilities

We have the following minimum commitments under contractual obligations, including purchase obligations. A purchase obligation is defined as an agreement to purchase goods or services that is enforceable and legally binding on us and that specifies all significant terms, including: fixed or minimum quantities to be purchased; fixed, minimum, or variable price provisions; and the

approximate timing of the transaction. Other long−term liabilities are defined as long−term liabilities that are recorded on our consolidated balance sheet. Based on this definition, the following table includes only those contracts which include fixed or minimum obligations. The majority of our purchases are not included in the table as they are made under purchase orders which are requirements based and accordingly do not specify minimum quantities.

The following table summarizes aggregated information about our outstanding contractual obligations and other long−term liabilities at June 30, 2010 (dollars in millions):

	Payments Due by Period				
	July 1, 2010 Through December 31, 2010	2011−2012	2013−2014	2015 and after	Total
Debt (a)(b)	$ 4,623	$ 960	$ 229	$ 3,094	$ 8,906
Capital lease obligations	76	141	86	317	620
Interest payments (c)	379	391	265	812	1,847
Operating lease obligations	240	668	403	583	1,894
Contractual commitments for capital expenditures	1,267	147	—	—	1,414
Postretirement benefits (d)	251	611	—	—	862
Other contractual commitments:					
Material	585	1,317	258	74	2,234
Information technology	990	132	48	—	1,170
Marketing	396	256	169	60	881
Facilities	89	192	83	33	397
Rental car repurchases	2,135	2,521	—	—	4,656
Policy, product warranty and recall campaigns liability	1,610	4,065	1,200	275	7,150
Other	44	25	5	—	74
Total contractual commitments (e)(f)(g)	$ 12,685	$ 11,426	$ 2,746	$ 5,248	$32,105
Non−contractual postretirement benefits (h)	$ 122	$ 645	$ 1,209	$ 18,507	$20,483

(a) Debt obligations in the period July 1, 2010 through December 31, 2010 include VEBA Notes of $2.5 billion that have been classified as short−term debt due to our expectation to prepay in the event that we are able to successfully execute a credit facility, and a $150 million loan facility that was classified as short−term at June 30, 2010 and repaid early in July 2010. Refer to Note 13 to the condensed consolidated financial statements for additional information on the VEBA Notes and the $150 million loan facility. Interest payments related to the VEBA Notes and the $150 million loan facility are included in the period July 1, 2010 through December 31, 2010 to correspond to the expected timing of the payments.

(b) Projected future payments on lines of credit were based on outstanding amounts drawn at June 30, 2010.

(c) Amounts include interest payments based on contractual terms and current interest rates on our debt and capital lease obligations. Interest payments based on variable interest rates were determined using the current interest rate in effect at June 30, 2010.

(d) Amounts include other postretirement benefit payments under the current U.S. contractual labor agreements for the remainder of 2010 and 2011 and Canada labor agreements for the remainder of 2010 through 2012. Post−2009, the UAW hourly medical plan cash payments are capped at the contribution to the New VEBA.

(e) Future payments in local currency amounts were translated into U.S. Dollars using the balance sheet spot rate at June 30, 2010.

(f) Amounts do not include future cash payments for long−term purchase obligations which were recorded in Accounts payable or Accrued expenses at June 30, 2010.

(g) Amounts exclude the cash commitment of approximately $3.5 billion in the period July 1, 2010 through December 31, 2010 to acquire AmeriCredit as well as future annual contingent obligations of Euro 265 million in the years 2011 to 2014 related to our Opel/Vauxhall restructuring plan.

(h) Amount includes all expected future payments for both current and expected future service at June 30, 2010 for other postretirement benefit obligations for salaried employees and hourly postretirement benefit obligations extending beyond the current North American union contract agreements.

The table above does not reflect unrecognized tax benefits of $4.6 billion due to the high degree of uncertainty regarding the future cash outflows associated with these amounts.

The table above also does not reflect certain contingent loan and funding commitments that we have made with suppliers, other third parties and certain joint ventures. At June 30, 2010 we had commitments of $1.0 billion under these arrangements that were undrawn.

We do not have any contributions due to our U.S. qualified plans in 2010. The next pension funding valuation date based on the requirements of the Pension Protection Act (PPA) of 2006 will be October 1, 2010. At that time, based on the PPA, we have the option to select a funding interest rate for the valuation based on either the Full Yield Curve method or the 3−Segment method, both of which are considered to be acceptable methods. PPA also provides the flexibility of selecting a 3−Segment rate up to the preceding five months from the valuation date of October 1, 2010, i.e., the 3−Segment rate at May 31, 2010. Therefore, for a hypothetical valuation at June 30, 2010, we have assumed the 3−Segment rate at May 31, 2010 as the potential floor for funding interest rate that we could use for the actual funding valuation. Since this hypothetical election does not limit us to only using the 3−Segment rate beyond 2010, we have assumed that we retain the flexibility of selecting a funding interest rate based on either the Full Yield Curve method or the 3−Segment method. A hypothetical funding valuation at June 30, 2010, using the 3−Segment rate at May 31, 2010 and assuming the June 30, 2010 Full Yield Curve funding interest rate for all future valuations projects contributions of $4.3 billion and $5.7 billion in 2014 and 2015 and additional contributions may be required thereafter. Contributions of $0.2 billion and $0.1 billion may be required in 2012 and 2013 in order to preserve our flexibility to use credit balances to reduce cash contributions.

Alternatively, a hypothetical funding valuation at June 30, 2010 using the 3−Segment rate at May 31, 2010 and assuming that same funding interest rate for all future valuations projects contributions of $2.4 billion in 2015 and additional contributions may be required thereafter.

In both cases, we have assumed that the pension plans earn the expected return of 8.5% in the future. The hypothetical valuations do not comprehend the potential election of relief provisions that are available to us under the Pension Relief Act of 2010 (PRA) for the 2010 and 2011 plan year valuations. Electing the relief provisions for either the 2010, 2011 or both these valuations is projected to provide additional funding flexibility and allow additional deferral of significant contributions. However, the final regulations under the PRA have not yet been released, and as such we are not currently able to determine whether we would qualify or whether we would elect to avail ourselves of these relief provisions. In addition to the funding interest rate and rate of return on assets, the pension contributions could be affected by various other factors including the effect of any legislative changes.

Fair Value Measurements

In January 2009 Old GM adopted ASC 820−10, “Fair Value Measurements and Disclosures,” for nonfinancial assets and nonfinancial liabilities. Refer to Note 21 to the condensed consolidated financial statements for additional information regarding fair value measurements of nonfinancial assets and nonfinancial liabilities. Refer to Note 19 to the condensed consolidated financial statements for additional information regarding fair value measurements of financial assets and financial liabilities.

Significant assets and liabilities classified as Level 3, with the related Level 3 inputs, are as follows:

- Foreign currency derivatives — Level 3 inputs used to determine the fair value of foreign currency derivative liabilities include the appropriate credit spread to measure our nonperformance risk. Given our nonperformance risk is not observable through the credit default swap market we based this measurement on an analysis of comparable industrial companies to determine the appropriate credit spread which would be applied to us and Old GM by market participants in each period.

Level 3 Assets and Liabilities

At June 30, 2010 we used Level 3 inputs to measure net liabilities of $362 million (or 0.4%) of our total liabilities. These net liabilities included $29 million (or 0.1%) of the total assets, and $391 million (or 99.2%) of the total liabilities (of which $370 million were derivative liabilities) that we measured at fair value.

At June 30, 2010 net liabilities of $362 million measured using Level 3 inputs were primarily comprised of foreign currency derivatives. Foreign currency derivatives were classified as Level 3 due to an unobservable input which relates to our nonperformance risk. Given our nonperformance risk is not observable through the credit default swap market we based this measurement on an analysis of comparable industrial companies to determine the appropriate credit spread which would be applied to us by market participants. At June 30, 2010 we included a non−performance risk adjustment of $15 million in the fair value measurement of these derivatives which reflects a discount of 4.2% to the fair value before considering our credit risk. We anticipate settling these derivatives at maturity at fair value unadjusted for our nonperformance risk. Credit risk adjustments made to a derivative liability reverse as the derivative contract approaches maturity. This effect is accelerated if a contract is settled prior to maturity.

In the three months ended June 30, 2010 assets and liabilities measured using Level 3 inputs decreased $14 million from a net liability of $376 million to a net liability of $362 million primarily due to unrealized and realized gains on and the settlement of derivatives. In the six months ended June 30, 2010 assets and liabilities measured using Level 3 inputs decreased by $310 million from a net liability of $672 million to a net liability of $362 million primarily due to unrealized and realized gains on the settlement of derivatives.

At December 31, 2009 we used Level 3 inputs to measure net liabilities of $672 million (or 0.6%) of our total liabilities. These net liabilities included $33 million (or 0.1%) of the total assets, and $705 million (or 98.7%) of the total liabilities (all of which were derivative liabilities) that we measured at fair value. At December 31, 2009 we also included a non−performance risk adjustment of $47 million in the fair value measurement of these derivatives which reflects a discount of 6.5% to the fair value before considering our credit risk.

At June 30, 2009 Old GM's mortgage− and asset−backed securities were transferred from Level 3 to Level 2 as the significant inputs used to measure fair value and quoted prices for similar instruments were determined to be observable in an active market.

For periods presented after June 1, 2009 nonperformance risk for us and Old GM was not observable through the credit default swap market as a result of the Chapter 11 Proceedings for Old GM and the lack of traded instruments for us. As a result, foreign currency derivatives with a fair market value of $1.6 billion were transferred from Level 2 to Level 3 in the three months ended June 30, 2009.

In the three months ended March 31, 2009 Old GM determined the credit profile of certain foreign subsidiaries was equivalent to Old GM's nonperformance risk which was observable through the credit default swap market and bond market based on prices for recent trades. Accordingly, foreign currency derivatives with a fair value of $2.1 billion were transferred from Level 3 into Level 2 in the six months ended June 30, 2009.

Realized gains and losses related to assets and liabilities measured using Level 3 inputs did not have a material effect on operations, liquidity or capital resources in the three and six months ended June 30, 2010 and 2009.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Dividends

Since our formation, we have not paid any dividends on our common stock. We have no current plans to pay any dividends on our common stock. So long as any share of our Series A Fixed Rate Cumulative Perpetual Preferred Stock (Series A Preferred Stock) remains outstanding, no dividend or distribution may be declared or paid on our common stock unless all accrued and unpaid dividends have been paid on our Series A Preferred Stock subject to exceptions such as dividends on our common stock payable solely in shares of our common stock. In addition, the VEBA Note Agreement contains certain restrictions on our ability to pay dividends, other than dividends payable solely in our shares of common stock.

In particular, the VEBA Note Agreement provides that we may not pay any such dividends on our common stock unless no default or event of default has occurred under such agreement and is continuing at the time of such payment and, immediately prior to and after giving effect to such dividend, our consolidated leverage ratio is less than 3.00 to 1.00.

Our payment of dividends in the future, if any, will be determined by our Board of Directors and will be paid out of funds legally available for that purpose.

We paid dividends of $203 million on March 15, 2010 and $202 million on June 15, 2010 on our Series A Preferred Stock for the periods December 15, 2009 to March 14, 2010 and March 15, 2010 to June 14, 2010 following approval by our Board of Directors.

Employees

At June 30, 2010 we employed 208,000 employees. The following table summarizes employment by region (in thousands):

	Successor	
	June 30, 2010	December 31, 2009
GMNA	105	103
GMIO (a)	61	62
GME (b)	42	50
Total Worldwide	208	215
United States — Salaried	26	26
United States — Hourly	53	51

(a) Decrease in GMIO reflects a reduction of 2,400 employees due to the sale of our India Operations.

(b) Decrease in GME primarily relates to the sale of Saab, employees located within Russia and Uzbekistan transferred from our GME segment to our GMIO segment and restructuring initiatives in Germany, Spain, and the United Kingdom.

Critical Accounting Estimates

The condensed consolidated financial statements are prepared in conformity with U.S. GAAP, which require the use of estimates, judgments and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses in the periods presented. The critical accounting estimates that affect the condensed consolidated financial statements and the judgments and assumptions used are consistent with those described in the MD&A section in our 2009 Form 10−K.

We believe that the accounting estimates employed are appropriate and resulting balances are reasonable; however, due to inherent uncertainties in making estimates actual results could differ from the original estimates, requiring adjustments to these balances in future periods. We have discussed the development, selection and disclosures of our critical accounting estimates with the Audit Committee of the Board of Directors, and the Audit Committee has reviewed the disclosures relating to these estimates. Updates to our critical accounting estimates related to events occurring subsequent to the filing of our 2009 Form 10−K are discussed below.

GENERAL MOTORS COMPANY AND SUBSIDIARIES

Pensions

The defined benefit pension plans are accounted for on an actuarial basis, which requires the selection of various assumptions, including an expected rate of return on plan assets and a discount rate. Due to significant events including those discussed in Note 19 to our 2009 Form 10−K, certain of the pension plans were remeasured at various dates in the periods January 1, 2010 through June 30, 2010, July 10, 2009 through December 31, 2009, January 1, 2009 through July 9, 2009 and in the years ended 2008 and 2007.

Net pension expense is calculated based on the expected return on plan assets and not the actual return on plan assets. The expected return on U.S. plan assets that is included in pension expense is determined from periodic studies, which include a review of asset allocation strategies, anticipated future long−term performance of individual asset classes, risks using standard deviations, and correlations of returns among the asset classes that comprise the plans' asset mix. While the studies give appropriate consideration to recent plan performance and historical returns, the assumptions are primarily long−term, prospective rates of return. Differences between the expected return on plan assets and the actual return on plan assets are recorded in Accumulated other comprehensive income (loss) as an actuarial gain or loss, and subject to possible amortization into net pension expense over future periods. A market−related value of plan assets, which averages gains and losses over a period of years, is utilized in the determination of future pension expense. For substantially all pension plans, market−related value is defined as an amount that initially recognizes 60.0% of the difference between the actual fair value of assets and the expected calculated value, and 10.0% of that difference over each of the next four years. The market−related value of assets at December 31, 2009 used to determine net periodic pension income for the year ending December 31, 2010 was $2.8 billion lower than the actual fair value of plan assets at December 31, 2009.

Another key assumption in determining net pension expense is the assumed discount rate to be used to discount plan obligations. We estimate this rate for U.S. plans, using a cash flow matching approach, also called a spot rate yield curve approach, which uses projected cash flows matched to spot rates along a high quality corporate yield curve to determine the present value of cash flows to calculate a single equivalent discount rate. Old GM used an iterative process based on a hypothetical investment in a portfolio of high−quality bonds rated AA or higher by a recognized rating agency and a hypothetical reinvestment of the proceeds of such bonds upon maturity using forward rates derived from a yield curve until the U.S. pension obligation was defeased. This reinvestment component was incorporated into the methodology because it was not feasible, in light of the magnitude and time horizon over which U.S. pension obligations extend, to accomplish full defeasance through direct cash flows from an actual set of bonds selected at any given measurement date.

The benefit obligation for pension plans in Canada, the United Kingdom and Germany comprise 92% of the non−U.S. pension projected benefit obligation at December 31, 2009. The discount rates for Canadian plans are determined using a cash flow matching approach, similar to the U.S. The discount rates for plans in the United Kingdom and Germany use a curve derived from high quality corporate bonds with maturities consistent with the plans' underlying duration of expected benefit payments.

In the U.S., from December 31, 2009 to June 30, 2010, interest rates on high quality corporate bonds have decreased. We believe that a discount rate calculated as of June 30, 2010 using the methods described previously for U.S. pensions would be approximately 65 to 75 basis points lower than the rates used to measure the pension plans at December 31, 2009, the date of the last remeasurement for the U.S. Plans. As a result, funded status would decrease if the plans were remeasured at June 30, 2010, holding all other factors (e.g., actuarial assumptions and asset returns) constant. Refer to the following table, which presents the 25 basis point sensitivity for U.S. Pension Plans. It is not possible for us to predict what the economic environment will be at our next scheduled remeasurement as of December 31, 2010. Accordingly, discount rates and plan assets may be considerably different than those at June 30, 2010. Under U.S. GAAP, we are not obligated to remeasure the pension plans as of June 30, 2010.

	25 basis point increase	25 basis point decrease
U. S. Plans (a)		
Effect on Annual Pension Expense (in millions)	$ 90	$ (95)
Effect on December 31, 2009 PBO (in billions)	$ (2.3)	$ 2.4

(a) Based on December 31, 2009 remeasurements

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There were multiple remeasurements of certain non−U.S. plans during the six months ended June 30, 2010. If all non−U.S. plans were remeasured as of June 30, 2010, we believe that the weighted average discount rate would not change significantly from the discount rates used to measure the obligations included in our balance sheet at June 30, 2010. Refer to the following table, which presents the 25 basis point sensitivity for non−U.S. plans.

	25 basis point increase	25 basis point decrease
Non−U. S. Plans (a)		
Effect on Annual Pension Expense (in millions)	$ (6)	$ 11
Effect on December 31, 2009 PBO (in billions)	$ (0.6)	$ 0.7

(a) Our largest plans are in Canada, Germany and the U.K. The largest plans in Germany and the U.K. were remeasured at June 30, 2010 and our plans in Canada at December 31, 2009.

The following table summarizes rates used to determine net pension expense:

	Successor		Predecessor		
	January 1, 2010 Through June 30, 2010 (1)	July 10, 2009 Through December 31, 2009	January 1, 2009 Through July 9, 2009	Year Ended December 31, 2008	Year Ended December 31, 2007
Weighted−average expected long−term rate of return on U.S. plan assets	8.50%	8.50%	8.50%	8.50%	8.50%
Weighted−average expected long−term rate of return on non−U.S. plan assets	7.34%	7.97%	7.74%	7.78%	7.85%
Weighted−average discount rate for U.S. plan obligations	5.52%	5.63%	6.27%	6.56%	5.97%
Weighted−average discount rate for non−U.S. plan obligations	5.31%	5.82%	6.23%	5.77%	4.97%

(1) No remeasurement except for pension plans in the United Kingdom, Belgium, and Germany.

Significant differences in actual experience or significant changes in assumptions may materially affect the pension obligations. The effect of actual results differing from assumptions and the changing of assumptions are included in unamortized net actuarial gains and losses that are subject to amortization to expense over future periods.

The following table summarizes the unamortized actuarial (gain) loss (before tax) on U.S. and non−U.S. pension plans (dollars in billions):

	Successor		Predecessor
	June 30, 2010	December 31, 2009	December 31, 2008
Unamortized actuarial (gain) loss	$ (2.7)	$ (3.0)	$ 41.1

The unamortized actuarial gain of $2.7 million as of June 30, 2010, reflects the December 31, 2009 amount updated for accounting activity during the six months ended June 30, 2010, arising primarily from the remeasurements in the United Kingdom, Belgium and Germany and foreign currency translation.

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The following table summarizes the actual and expected return on pension plan assets (dollars in billions):

	Successor	Predecessor		
	July 10, 2009 Through December 31, 2009	January 1, 2009 Through July 9, 2009	Year Ended December 31, 2008	Year Ended December 31, 2007
U.S. actual return (a)	$ 9.9	$ (0.2)	$ (11.4)	$ 10.1
U.S. expected return	$ 3.0	$ 3.8	$ 8.0	$ 8.0
Non−U.S. actual return (a)	$ 1.2	$ 0.2	$ (2.9)	$ 0.5
Non−U.S. expected return	$ 0.4	$ 0.4	$ 1.0	$ 1.0

(a) Actual return not available for the six months ended June 30, 2010 as all of the plans were not remeasured.

Based on the last full set of pension plan remeasurements that was completed as of December 31, 2009, a change in the expected return on assets (EROA) assumption has the following effects: For the U.S. plans, an increase in the EROA of 25 basis points will decrease annual pension expense by $193 million; a decrease to the EROA will increase pension expense by $193 million. For the non−U.S. plans, an increase in the EROA of 25 basis points will decrease annual pension expense by $32 million, a decrease to the EROA of 25 basis points will increase pension expense by $32 million.

The U.S. pension plans generally provide covered U.S. hourly employees hired prior to October 15, 2007 with pension benefits of negotiated, flat dollar amounts for each year of credited service earned by an individual employee. Early retirement supplements are also provided to those who retire prior to age 62. Hourly employees hired after October 15, 2007 participate in a cash balance pension plan. Formulas providing for such stated amounts are contained in the applicable labor contract. Pension expense in the six months ended June 30, 2010, the periods July 10, 2009 through December 31, 2009, January 1, 2009 through July 9, 2009, and in the years ended 2008 and 2007 and the pension obligations at June 30, 2010, December 31, 2009 and 2008 do not comprehend any future benefit increases or decreases that may occur beyond current labor contracts. The usual cycle for negotiating new labor contracts is every four years. There is not a past practice of maintaining a consistent level of benefit increases or decreases from one contract to the next.

The following data illustrates the sensitivity of changes in pension expense and pension obligation based on the last remeasurement of the U.S hourly pension plan at December 31, 2009, as a result of changes in future benefit units for U.S. hourly employees, effective after the expiration of the current contract:

Change in future benefit units	Effect on 2010 Pension Expense	Effect on December 31, 2009 PBO
One percentage point increase in benefit units	+$82 million	+$ 239 million
One percentage point decrease in benefit units	–$79 million	–$ 232 million

Other Postretirement Benefits

OPEB plans are accounted for on an actuarial basis, which requires the selection of various assumptions, including a discount rate and healthcare cost trend rates. Old GM used an iterative process based on a hypothetical investment in a portfolio of high−quality bonds rated AA or higher by a recognized rating agency and a hypothetical reinvestment of the proceeds of such bonds upon maturity using forward rates derived from a yield curve until the U.S. OPEB obligation was defeased. This reinvestment component was incorporated into the methodology because it was not feasible, in light of the magnitude and time horizon over which the U.S. OPEB obligations extend, to accomplish full defeasance through direct cash flows from an actual set of bonds selected at any given measurement date.

Beginning in September 2008, the discount rate used for the benefits to be paid from the UAW retiree medical plan during the period September 2008 through December 2009 is based on a yield curve which uses projected cash flows of representative high−quality AA rated bonds matched to spot rates along a yield curve to determine the present value of cash flows to calculate a single equivalent discount rate. All other U.S. OPEB plans started using a discount rate based on a yield curve on July 10, 2009. The UAW retiree medical plan was settled on December 31, 2009 and the plan assets were contributed to the New VEBA as part of the payment terms under the 2009 Revised UAW Settlement Agreement. We are released from UAW retiree health care claims incurred after December 31, 2009.

An estimate is developed of the healthcare cost trend rates used to value benefit obligations through review of historical retiree cost data and near−term healthcare outlook which includes appropriate cost control measures that have been implemented. Changes in the assumed discount rate or healthcare cost trend rate can have significant effect on the actuarially determined obligation and related U.S. OPEB expense. As a result of modifications made as part of the 363 Sale, there are no significant uncapped U.S. healthcare plans remaining at December 31, 2009 and, therefore, the healthcare cost trend rate no longer has a significant effect in the U.S.

The significant non−U.S. OPEB plans cover Canadian employees. The discount rates for the Canadian plans are determined using a cash flow matching approach, similar to the U.S. OPEB obligations plans.

Due to the significant events discussed in Note 19 to our 2009 Form 10−K, the U.S. and non−U.S. OPEB plans were remeasured at various dates in the periods July 10, 2009 through December 31, 2009, January 1, 2009 through July 9, 2009 and in the years ended 2008 and 2007.

Significant differences in actual experience or significant changes in assumptions may materially affect the OPEB obligations. The effects of actual results differing from assumptions and the effects of changing assumptions are included in net actuarial gains and losses in Accumulated other comprehensive income (loss) that are subject to amortization over future periods.

In the U.S., from December 31, 2009 to June 30, 2010, interest rates on high quality corporate bonds have decreased. We believe that a discount rate calculated as of June 30, 2010 using the methods described previously for U.S. OPEB plans would be approximately 65 to 75 basis points lower than the rates used to measure the plans at December 31, 2009, the date of the last remeasurement for U.S. OPEB Plans. As a result, funded status would decrease if the plans were remeasured at June 30, 2010, holding all other factors constant (e.g., actuarial assumptions). Our significant non−U.S. OPEB plans are in Canada. We do not believe that there has been a significant change in interest rates on high quality corporate bonds in Canada from December 31, 2009 to June 30, 2010. Accordingly, we believe that the weighted average discount rate would not change significantly from December 31, 2009. It is not possible for us to predict what the economic environment will be at our next scheduled remeasurement as of December 31, 2010. Accordingly, discount rates may be considerably different than those at June 30, 2010. Under U.S. GAAP, we are not obligated to remeasure the plans as of June 30, 2010.

The estimated effect of a 25 basis point change in discount rate is summarized in the sensitivity table which follows.

	Change in Assumption	
	25 basis point increase	25 basis point decrease
U. S. Plans		
Effect on Annual OPEB Expense (in millions)	$ 5	$ (3)
Effect on December 31, 2009 APBO (in billions)	$ (0.1)	$ 0.1
Non−U. S. Plans		
Effect on Annual OPEB Expense (in millions)	$ 1	$ (1)
Effect on December 31, 2009 APBO (in billions)	$ (0.1)	$ 0.1

The following table summarizes the weighted−average discount rate used to determine net OPEB expense for the significant plans:

	Successor		Predecessor		
	January 1, 2010 Through June 30, 2010	July 10, 2009 Through December 31, 2009	January 1, 2009 Through July 9, 2009	Year Ended December 31, 2008	Year Ended December 31, 2007
Weighted−average discount rate for U.S. plans	5.57%	6.81%	8.11%	7.02%	5.90%
Weighted−average discount rate for non−U.S. plans	5.22%	5.47%	6.77%	5.90%	5.00%

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The following table summarizes the health care cost trend rates used in the last remeasurement of the accumulated postretirement benefit obligations (APBO) at December 31:

	Successor		Predecessor	
	December 31, 2009		December 31, 2008	
Assumed Healthcare Trend Rates	U.S. Plans(a)	Non U.S. Plans(b)	U.S. Plans	Non U.S. Plans
Initial healthcare cost trend rate	—%	5.4%	8.0%	5.5%
Ultimate healthcare cost trend rate	—%	3.3%	5.0%	3.3%
Number of years to ultimate trend rate	—	8	6	8

(a) As a result of modifications made to health care plans in connection with the 363 Sale, there are no significant uncapped U.S. healthcare plans remaining at December 31, 2009 and, therefore, the healthcare cost trend rate does not have a significant effect on the U.S. plans.

(b) The implementation of the HCT in Canada is anticipated in the near future, which will significantly reduce our exposure to changes in the healthcare cost trend rate.

The following table summarizes the effect of a one−percentage point change in the assumed healthcare trend rates based on the last remeasurement of the benefit plans at December 31, 2009:

	U.S. Plans(a)		Non−U.S. Plans	
Change in Assumption	Effect on 2010 Aggregate Service and Interest Cost	Effect on December 31, 2009 APBO	Effect on 2010 Aggregate Service and Interest Cost	Effect on December 31, 2009 APBO
One percentage point increase	$ —	$ —	+$ 14 million	+$ 413 million
One percentage point decrease	$ —	$ —	–$ 11 million	–$ 331 million

(a) As a result of modifications made to health care plans in connection with the 363 Sale, there are no significant uncapped U.S. healthcare plans remaining at December 31, 2009 and, therefore, the healthcare cost trend rate does not have a significant effect in the U.S.

Impairment of Goodwill

Goodwill is tested for impairment in the fourth quarter of each year for all reporting units, or more frequently if events occur or circumstances change that would warrant such a review. Our reporting units are GMNA, GME, and various components within the GMIO segment. The fair values of the reporting units are determined based on valuation techniques using the best available information, primarily discounted cash flow projections. We make significant assumptions and estimates about the extent and timing of future cash flows, growth rates and discount rates. The cash flows are estimated over a significant future period of time, which makes those estimates and assumptions subject to a high degree of uncertainty. While we believe that the assumptions and estimates used to determine the estimated fair values of each of our reporting units are reasonable, a change in assumptions underlying these estimates could result in a material effect on the financial statements.

At June 30, 2010 and December 31, 2009 we had goodwill of $30.2 billion and $30.7 billion, which predominately arose upon the application of fresh−start reporting. When applying fresh−start reporting, certain accounts, primarily employee benefit and income tax related, were recorded at amounts determined under specific U.S. GAAP rather than fair value, and the difference between the U.S. GAAP and fair value amounts gives rise to goodwill, which is a residual. Our employee benefit related accounts were recorded in accordance with ASC 712 and ASC 715 and deferred income taxes were recorded in accordance with ASC 740. Further, we recorded valuation allowances against certain of our deferred tax assets, which under ASC 852 also resulted in goodwill. If all identifiable assets and liabilities had been recorded at fair value upon application of fresh−start reporting, no goodwill would have resulted.

In the future, we have an increased likelihood of measuring goodwill for possible impairment during our annual or event−triggered goodwill impairment testing. An event driven impairment test is required if it is more likely than not that the fair value of a reporting unit is less than its net book value. Because our reporting units were recorded at their fair values upon application of fresh−start reporting, it is more likely that a decrease in the fair value of our reporting units from their fresh−start reporting values could occur, and such a decrease would trigger the need to measure for possible goodwill impairments.

Future goodwill impairments would occur should the fair value−to−U.S. GAAP adjustments differences decrease. Goodwill resulted from our recorded liabilities for certain employee benefit obligations being higher than the fair value of these obligations because lower discount rates were utilized in determining the U.S. GAAP values compared to those utilized to determine fair values. The discount rates utilized to determine the fair value of these obligations were based on our incremental borrowing rates, which included our nonperformance risk. Our incremental borrowing rates are also impacted by changes in market interest rates. Further, the recorded amounts of our assets were lower than their fair values because of the recording of valuation allowances on certain of our deferred tax assets. The difference between these fair value to U.S. GAAP amounts would decrease upon an improvement in our credit rating, thus resulting in a decrease in the spread between our employee benefit related obligations under U.S. GAAP and their fair values. A decrease will also occur upon reversal of our deferred tax asset valuation allowances. Should the fair value to U.S. GAAP adjustments differences decrease for these reasons, the implied goodwill balance will decline. Accordingly, at the next annual or event−driven goodwill impairment test, to the extent the carrying value of a reporting unit exceeds its fair value, a goodwill impairment could occur.

In the three months ended June 30, 2010 there were event driven changes in circumstances within our GME reporting unit that warranted the testing of goodwill for impairment. Anticipated competitive pressure on our margins in the near− and medium−term led us to believe that the goodwill associated with our GME reporting unit may be impaired. Utilizing the best available information as of June 30, 2010 we performed a step one goodwill impairment test for our GME reporting unit, and concluded that goodwill was not impaired. The fair value of our GME reporting unit was estimated to be approximately $325 million over its carrying amount. If we had not passed step one, we believe the amount of any goodwill impairment would approximate $140 million based on the estimated differences between the fair value to U.S. GAAP adjustments at June 30, 2010 primarily for employee benefit plans and income taxes that gave rise to goodwill.

We utilized a discounted cash flow methodology to estimate the fair value of our GME reporting unit. The valuation methodologies utilized were consistent with those used in our application of fresh−start reporting on July 10, 2009, as discussed in Note 2 to our 2009 Form 10−K, and in our 2009 annual and event driven GME impairment tests and result in Level 3 measures within the valuation hierarchy. Assumptions used in our discounted cash flow analysis that had the most significant effect on the estimated fair value of our GME reporting unit include:

- Our estimated weighted−average cost of capital (WACC);
- Our estimated long−term growth rates; and
- Our estimate of industry sales and our market share.

We used a WACC of 22.0% that considered various factors including bond yields, risk premiums, and tax rates; a terminal value that was determined using a growth model that applied a long−term growth rate of 0.5% to our projected cash flows beyond 2015; and industry sales of 18.4 million vehicles and a market share for Opel/Vauxhall of 6.45% in 2010 increasing to industry sales of 22.0 million vehicles and a 7.4% market share in 2015.

Our fair value estimate assumes the achievement of the future financial results contemplated in our forecasted cash flows, and there can be no assurance that we will realize that value. The estimates and assumptions used are subject to significant uncertainties, many of which are beyond our control, and there is no assurance that anticipated financial results will be achieved.

The following table summarizes the approximate effects that a change in the WACC and long−term growth rate assumptions would have had on our determination of the fair value of our GME reporting unit at June 30, 2010 keeping all other assumptions constant (dollars in millions):

Change in Assumption	Effect on Fair Value of GME Reporting Unit at June 30, 2010
One percentage point decrease in WACC	+$ 272
One percentage point increase in WACC	−$ 247
One−half percentage point increase in long−term growth rate	+$ 38
One−half percentage point decrease in long−term growth rate	−$ 36

Refer to Note 8 to the unaudited condensed consolidated financial statements for additional information on goodwill impairments.

During the three months ended December 31, 2009 we performed our annual goodwill impairment testing for all of our reporting units and event driven impairment testing for our GME and certain other reporting units in GMIO. Based on this testing, we determined that goodwill was not impaired. Refer to Notes 12 and 25 to the 2009 Form 10−K for additional information on goodwill impairments.

Deferred Taxes

We establish and Old GM established valuation allowances for deferred tax assets based on a more likely than not threshold. The ability to realize deferred tax assets depends on the ability to generate sufficient taxable income within the carryback or carryforward periods provided for in the tax law for each applicable tax jurisdiction. We consider and Old GM considered the following possible sources of taxable income when assessing the realization of deferred tax assets:

- Future reversals of existing taxable temporary differences;
- Future taxable income exclusive of reversing temporary differences and carryforwards;
- Taxable income in prior carryback years; and
- Tax−planning strategies.

The assessment regarding whether a valuation allowance is required or should be adjusted also considers, among other matters, the nature, frequency and severity of recent losses, forecasts of future profitability, the duration of statutory carryforward periods, our and Old GM's experience with tax attributes expiring unused and tax planning alternatives. In making such judgments, significant weight is given to evidence that can be objectively verified.

Concluding that a valuation allowance is not required is difficult when there is significant negative evidence that is objective and verifiable, such as cumulative losses in recent years. Although we are a new company, and our ability to achieve future profitability was enhanced by the cost and liability reductions that occurred as a result of the Chapter 11 Proceedings and 363 Sale, Old GM's historic operating results remain relevant as they are reflective of the industry and the effect of economic conditions. The fundamental businesses and inherent risks in which we globally operate did not change from those in which Old GM operated. We utilize and Old GM utilized a rolling three years of actual and current year anticipated results as the primary measure of cumulative losses in recent years. However, because a substantial portion of those cumulative losses relate to various non−recurring matters, those three−year cumulative results are adjusted for the effect of these items. In addition the near− and medium−term financial outlook is considered when assessing the need for a valuation allowance.

If, in the future, we generate taxable income in jurisdictions where we have recorded full valuation allowances, on a sustained basis, our conclusion regarding the need for full valuation allowances in these tax jurisdictions could change, resulting in the reversal of

some or all of the valuation allowances. If our operations generate taxable income prior to reaching profitability on a sustained basis, we would reverse a portion of the valuation allowance related to the corresponding realized tax benefit for that period, without changing our conclusions on the need for a full valuation allowance against the remaining net deferred tax assets.

The valuation of deferred tax assets requires judgment and accounting for deferred tax consequences of events that have been recorded in the financial statements or in the tax returns and our future profitability represents our best estimate of those future events. Changes in our current estimates, due to unanticipated events or otherwise, could have a material effect on our financial condition and results of operations. In 2008 because Old GM concluded there was substantial doubt related to its ability to continue as a going concern, it was determined that it was more likely than not that it would not realize its net deferred tax assets in most jurisdictions even though certain of these entities were not in three−year adjusted cumulative loss positions. In July 2009 with U.S. parent company liquidity concerns resolved in connection with the Chapter 11 Proceedings and the 363 Sale, to the extent there was no other significant negative evidence, we concluded that it is more likely than not that we would realize the deferred tax assets in jurisdictions not in three−year adjusted cumulative loss positions.

Accounting Standards Not Yet Adopted

Refer to Note 3 to the condensed consolidated financial statements.

Forward−Looking Statements

In this report and in reports we subsequently file with the SEC on Forms 10−K and 10−Q and file or furnish on Form 8−K, and in related comments by our management, we use words like “anticipate,” “believe,” “continue,” “could,” “designed,” “effect,” “estimate,” “evaluate,” “expect,” “forecast,” “goal,” “initiative,” “intend,” “may,” “objective,” “outlook,” “plan,” “potential,” “priorities,” “project,” “pursue,” “seek,” “should,” “target,” “when,” “would,” or the negative of any of those words or similar expressions to identify forward−looking statements that represent our current judgment about possible future events. In making these statements we rely on assumptions and analyses based on our experience and perception of historical trends, current conditions and expected future developments as well as other factors we consider appropriate under the circumstances. We believe these judgments are reasonable, but these statements are not guarantees of any events or financial results, and our actual results may differ materially due to a variety of important factors, both positive and negative. These factors, which may be revised or supplemented in subsequent reports on SEC Forms 10−K, 10−Q and 8−K, include among others the following:

- Our ability to realize production efficiencies and to achieve reductions in costs as a result of our restructuring initiatives and labor modifications;
- Our ability to maintain quality control over our vehicles and avoid material vehicle recalls;
- Our ability to maintain adequate liquidity and financing sources and an appropriate level of debt, including as required to fund our planned significant investment in new technology, and, even if funded, our ability to realize successful vehicle applications of new technology;
- The effect of business or liquidity difficulties for us or one or more subsidiaries on other entities in our corporate group as a result of our highly integrated and complex corporate structure and operation;
- Our ability to continue to attract customers, particularly for our new products, including cars and crossover vehicles;
- Availability of adequate financing on acceptable terms to our customers, dealers, distributors and suppliers to enable them to continue their business relationships with us;
- The financial viability and ability to borrow of our key suppliers and their ability to provide systems, components and parts without disruption;
- Our ability to take actions we believe are important to our long−term strategy, including our ability to enter into certain material transactions outside of the ordinary course of business, which may be limited due to significant covenants in the VEBA Note Agreement;

- Our ability to manage the distribution channels for our products, including our ability to consolidate our dealer network;
- Our ability to qualify for federal funding of our advanced technology vehicle programs under Section 136 of the Energy Independence and Security Act of 2007;
- The ability to successfully restructure our European operations;
- The continued availability of both wholesale and retail financing from Ally Financial and its affiliates in the United States, Canada and the other markets in which we operate to support our ability to sell vehicles in those markets, which is dependent on Ally Financial's ability to obtain funding and which may be suspended by Ally Financial if Ally Financial's credit exposure to us exceeds certain limitations provided in our operating arrangements with Ally Financial;
- Our ability to develop captive financing capability, including by closing the acquisition of AmeriCredit, which is contingent upon certain closing conditions such as the approval of AmeriCredit shareholders;
- Overall strength and stability of general economic conditions and of the automotive industry, both in the United States and in global markets;
- Continued economic instability or poor economic conditions in the United States and global markets, including the credit markets, or changes in economic conditions, commodity prices, housing prices, foreign currency exchange rates or political stability in the markets in which we operate;
- Shortages of and increases or volatility in the price of oil;
- Significant changes in the competitive environment, including the effect of competition and excess manufacturing capacity in our markets, on our pricing policies or use of incentives and the introduction of new and improved vehicle models by our competitors;
- Significant changes in economic and market conditions in China, including the effect of competition from new market entrants, on our vehicle sales and market position in China;
- Changes in the existing, or the adoption of new, laws, regulations, policies or other activities of governments, agencies and similar organizations, including where such actions may affect the production, licensing, distribution or sale of our products, the cost thereof or applicable tax rates;
- Costs and risks associated with litigation;
- Significant increases in our pension expense or projected pension contributions resulting from changes in the value of plan assets, the discount rate applied to value the pension liabilities or other assumption changes;
- Changes in accounting principles, or their application or interpretation, and our ability to make estimates and the assumptions underlying the estimates, which could have an effect on earnings; and
- Other risks described from time to time in periodic and current reports that we file with the SEC.

We caution readers not to place undue reliance on forward−looking statements. We undertake no obligation to update publicly or otherwise revise any forward−looking statements, whether as a result of new information, future events or other factors that affect the subject of these statements, except where we are expressly required to do so by law.

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Item 3. ***Quantitative and Qualitative Disclosures About Market Risk***

We and Old GM entered into a variety of foreign currency exchange, interest rate and commodity forward contracts and options to manage exposures arising from market risks resulting from changes in foreign currency exchange rates, interest rates and certain commodity prices. We do not enter into derivative transactions for speculative purposes.

The overall financial risk management program is under the responsibility of the Risk Management Committee, which reviews and, where appropriate, approves strategies to be pursued to mitigate these risks. A risk management control framework is utilized to monitor the strategies, risks and related hedge positions, in accordance with the policies and procedures approved by the Risk Management Committee.

In August 2010 we changed our risk management policy. Our prior policy was intended to reduce volatility of forecasted cash flows primarily through the use of forward contracts and swaps. The intent of the new policy is primarily to protect against risk arising from extreme adverse market movements on our key exposures and involves a shift to greater use of purchased options.

A discussion of our and Old GM's accounting policies for derivative financial instruments is included in Note 4 to the consolidated financial statements in our 2009 10−K. Further information on our exposure to market risk is included in Note 20 to the consolidated financial statements in our 2009 10−K.

In 2008 credit market volatility increased significantly, creating broad credit concerns. In addition, Old GM's credit standing and liquidity position in the first half of 2009 and the Chapter 11 Proceedings severely limited its ability to manage risks using derivative financial instruments as most derivative counterparties were unwilling to enter into transactions with Old GM. Subsequent to the 363 Sale and through December 31, 2009, we were largely unable to enter forward contracts pending the completion of negotiations with potential derivative counterparties. In August 2010 we executed new agreements with counterparties that enable us to enter into options, forward contracts and swaps.

In accordance with the provisions of ASC 820−10, "Fair Value Measurements and Disclosures," which requires companies to consider nonperformance risk as part of the measurement of fair value of derivative liabilities, we record changes in the fair value of our derivative liabilities based on our current credit standing. At June 30, 2010 the fair value of derivatives in a net liability position was $340 million.

The following analyses provide quantitative information regarding exposure to foreign currency exchange rate risk, interest rate risk, commodity price risk and equity price risk. Sensitivity analysis is used to measure the potential loss in the fair value of financial instruments with exposure to market risk. The models used assume instantaneous, parallel shifts in exchange rates, interest rate yield curves and commodity prices. For options and other instruments with nonlinear returns, models appropriate to these types of instruments are utilized to determine the effect of market shifts. There are certain shortcomings inherent in the sensitivity analyses presented, primarily due to the assumption that interest rates and commodity prices change in a parallel fashion and that spot exchange rates change instantaneously. In addition, the analyses are unable to reflect the complex market reactions that normally would arise from the market shifts modeled and do not contemplate the effects of correlations between foreign currency pairs, or offsetting long−short positions in currency pairs which may significantly reduce the potential loss in value.

Foreign Currency Exchange Rate Risk

We have and Old GM had foreign currency exposures related to buying, selling, and financing in currencies other than the functional currencies of our and Old GM's operations. Derivative instruments, such as foreign currency forwards, swaps and options are used primarily to hedge exposures with respect to forecasted revenues, costs and commitments denominated in foreign currencies. At June 30, 2010 such contracts have remaining maturities of up to 14 months. At June 30, 2010 our three most significant foreign currency exposures are the U.S. Dollar/Korean Won, Euro/British Pound and Euro/Korean Won.

At June 30, 2010, December 31, 2009 and 2008 the net fair value liability of financial instruments with exposure to foreign currency risk was $3.6 billion, $5.9 billion and $6.3 billion. This presentation utilizes a population of foreign currency exchange derivatives and foreign currency denominated debt and excludes the offsetting effect of foreign currency cash, cash equivalents and other assets. The potential loss in fair value for such financial instruments from a 10% parallel shift in all quoted foreign currency exchange rates would be $589 million, $941 million and $2.3 billion at June 30, 2010, December 31, 2009 and 2008.

We are and Old GM was also exposed to foreign currency risk due to the translation of the results of certain international operations into U.S. Dollars as part of the consolidation process. Fluctuations in foreign currency exchange rates can therefore create volatility in

the results of operations and may adversely affect our and Old GM's financial position. The effect of foreign currency exchange rate translation on our consolidated financial position was a net translation loss of $189 million in the six months ended June 30, 2010 and a gain of $157 million in the period July 10, 2009 through December 31, 2009. The effect of foreign currency exchange rate translation on Old GM's consolidated financial position was a net translation gain of $232 million in the period January 1, 2009 through July 9, 2009 and a net translation loss of $1.2 billion in the year ended December 31, 2008. These gains and losses were recorded as an adjustment to Total stockholders' deficit through Accumulated other comprehensive income (loss). The effects of foreign currency exchange rate transactions were a loss of $33 million in the six months ended June 30, 2010 a loss of $755 million in the period July 10, 2009 through December 31, 2009, a loss of $1.1 billion in the period January 1, 2009 through July 9, 2009 and a gain of $1.7 billion in the year ended December 31, 2008.

Interest Rate Risk

We are and Old GM was subject to market risk from exposure to changes in interest rates due to financing activities. Interest rate risk in Old GM was managed primarily with interest rate swaps. The interest rate swaps Old GM entered into usually involved the exchange of fixed for variable rate interest payments to effectively convert fixed rate debt into variable rate debt in order to achieve a target range of variable rate debt. At June 30, 2010 we did not have any interest rate swap derivative positions to manage interest rate exposures.

At June 30, 2010 we had fixed rate short−term debt of $4.4 billion and variable rate short−term debt of $1.1 billion. Of this fixed rate short−term debt, $3.2 billion was denominated in U.S. Dollars and $1.2 billion was denominated in foreign currencies. Of the variable rate short−term debt, $339 million was denominated in U.S. Dollars and $796 million was denominated in foreign currencies.

At December 31, 2009 we had fixed rate short−term debt of $592 million and variable rate short−term debt of $9.6 billion. Of this fixed rate short−term debt, $232 million was denominated in U.S. Dollars and $360 million was denominated in foreign currencies. Of the variable rate short−term debt, $6.2 billion was denominated in U.S. Dollars and $3.4 billion was denominated in foreign currencies.

At June 30, 2010 we had fixed rate long−term debt of $2.1 billion and variable rate long−term debt of $588 million. Of this fixed rate long−term debt, $576 million was denominated in U.S. Dollars and $1.5 billion was denominated in foreign currencies. Of the variable rate long−term debt, $358 million was denominated in U.S. Dollars and $230 million was denominated in foreign currencies.

At December 31, 2009 we had fixed rate long−term debt of $4.7 billion and variable rate long−term debt of $873 million. Of this fixed rate long−term debt, $3.4 billion was denominated in U.S. Dollars and $1.3 billion was denominated in foreign currencies. Of the variable rate long−term debt, $551 million was denominated in U.S. Dollars and $322 million was denominated in foreign currencies.

At June 30, 2010, December 31, 2009 and 2008 the net fair value liability of financial instruments with exposure to interest rate risk was $7.8 billion, $16.0 billion and $17.0 billion. The potential increase in fair value at June 30, 2010 resulting from a 10% decrease in quoted interest rates would be $226 million. The potential increase in fair value at December 31, 2009 resulting from a 10% decrease in quoted interest rates would be $402 million. The potential increase in fair value at December 31, 2008 resulting from a 10 percentage point increase in quoted interest rates would be $3.6 billion.

Commodity Price Risk

We are and Old GM was exposed to changes in prices of commodities used in the automotive business, primarily associated with various non−ferrous and precious metals for automotive components and energy used in the overall manufacturing process. Certain commodity purchase contracts meet the definition of a derivative. Old GM entered into various derivatives, such as commodity swaps and options, to offset its commodity price exposures. We resumed a derivative commodity hedging program using options in December 2009.

At June 30, 2010, December 31, 2009 and 2008 the net fair value asset (liability) of commodity derivatives was $24 million, $11 million and ($553) million. The potential loss in fair value resulting from a 10% adverse change in the underlying commodity prices

would be $13 million, $6 million and $109 million at June 30, 2010, December 31, 2009 and 2008. This amount excludes the offsetting effect of the commodity price risk inherent in the physical purchase of the underlying commodities.

Equity Price Risk

We are and Old GM was exposed to changes in prices of equity securities held. We typically do not attempt to reduce our market exposure to these equity instruments. Our exposure includes certain investments we hold in warrants of other companies. At June 30, 2010 and December 31, 2009 the fair value of these warrants was $25 million. At June 30, 2010 and December 31, 2009 our exposure also includes investments of $30 million and $32 million in equity securities classified as trading. At December 31, 2008 Old GM had investments of $24 million in equity securities classified as available−for−sale. These amounts represent the maximum exposure to loss from these investments.

At June 30, 2010, the carrying amount of cost method investments was $1.7 billion, of which the carrying amounts of our investments in Ally Financial common stock and Ally Financial preferred stock were $966 million and $665 million. At December 31, 2009 the carrying amount of cost method investments was $1.7 billion, of which the carrying amounts of our investments in Ally Financial common stock and preferred stock were $970 million and $665 million. At December 31, 2008 the carrying amount of cost method investments was $98 million, of which the carrying amount of the investment in Ally Financial Preferred Membership Interests was $43 million. These amounts represent the maximum exposure to loss from these investments. On June 30, 2009 Ally Financial converted from a tax partnership to a C corporation and, as a result, our equity ownership in Ally Financial was converted from membership interests to shares of capital stock. Also, on June 30, 2009 Old GM began to account for its investment in Ally Financial common stock as a cost method investment. On July 10, 2009 as a result of our application of fresh−start reporting, we recorded an increase of $1.3 billion and $629 million to the carrying amounts of our investments in Ally Financial common stock and preferred stock to reflect their estimated fair value of $1.3 billion and $665 million. In the period July 10, 2009 through December 31, 2009 we recorded impairment charges of $270 million related to our investment in Ally Financial common stock and $4 million related to other cost method investments. In the year ended 2008 Old GM recorded impairment charges of $1.0 billion related to its investment in Ally Financial Preferred Membership Interests.

Counterparty Risk

We are exposed to counterparty risk on derivative contracts, which is the loss we could incur if a counterparty to a derivative contract defaulted. We enter into agreements with counterparties that allow the set−off of certain exposures in order to manage this risk.

Our counterparty risk is managed by our Risk Management Committee, which establishes exposure limits by counterparty. We monitor and report our exposures to the Risk Management Committee and our Treasurer on a periodic basis. At June 30, 2010 a majority of all of our counterparty exposures are with counterparties that are rated A or higher.

Concentration of Credit Risk

We are exposed to concentration of credit risk primarily through holding cash and cash equivalents (which include money market funds), short− and long−term investments and derivatives. As part of our risk management process, we monitor and evaluate the credit standing of the financial institutions with which we do business. The financial institutions with which we do business are generally highly rated and geographically dispersed.

We are exposed to credit risk related to the potential inability to access liquidity in money market funds we invested in if the funds were to deny redemption requests. As part of our risk management process, we invest in large funds that are managed by reputable financial institutions. We also follow investment guidelines to limit our exposure to individual funds and financial institutions.

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Item 4. ***Controls and Procedures***

Disclosure Controls and Procedures

We maintain disclosure controls and procedures designed to provide reasonable assurance that information required to be disclosed in reports filed under the Securities Exchange Act of 1934, as amended (Exchange Act), is recorded, processed, summarized, and reported within the specified time periods and accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Our management, with the participation of our Chairman and CEO and Vice Chairman and CFO, evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a−15(e) or 15d−15(e) promulgated under the Exchange Act) at June 30, 2010. Based on this evaluation, our CEO and CFO concluded that, at that date, the disclosure controls and procedures required by paragraph (b) of Rules 13a−15 or 15d−15 were not effective at a reasonable assurance level because of a material weakness in internal control over financial reporting at GM as reported in our 2009 Form 10−K at December 31, 2009 that continues to exist.

Material Weakness, Remediation, and Changes in Internal Controls

The material weakness relates to controls that were not effective over the period−end financial reporting process. This ineffective process resulted in a significant number and magnitude of out−of−period adjustments to the consolidated financial statements. Specifically, controls have not been effective to ensure that accounting estimates and other adjustments were appropriately reviewed, analyzed and monitored by competent accounting staff on a timely basis. Additionally, some of the adjustments that were recorded related to account reconciliations not being performed effectively. Such a material weakness in the period−end financial reporting process has a pervasive effect on the reliability of financial reporting and could result in a company not being able to meet its regulatory filing deadlines. If not remediated, it is reasonably possible that our condensed consolidated financial statements could contain a material misstatement or that we could miss a filing deadline in the future.

We believe that the remediation activities completed at December 31, 2009 and discussed in our 2009 Form 10−K would have been sufficient to allow us to conclude that the previously identified material weakness no longer existed at December 31, 2009. However, due to the complexity of fresh−start adjustments resulting from the Chapter 11 Proceedings and the related 363 Sale in 2009 and the number of accounting periods open at one time, management did not have clear visibility into the operational effectiveness of newly remediated controls within the period−end financial reporting process. In some cases, management was not able to sufficiently test the operating effectiveness of certain remediated controls in 2009 and to conclude that the controls related to the period−end financial reporting process were operating effectively. During the six months ended June 30, 2010, management led various initiatives, including training, to help ensure the controls related to the period−end financial close process would operate as they had been designed and deployed during the 2009 material weakness remediation efforts. Testing is underway to assess operational effectiveness during 2010. Also, management identified additional opportunities to improve the effectiveness and efficiency of the Company's internal controls related to the period−end financial reporting process, including procedures and controls related to the preparation of the statement of cash flows.

Corporate Accounting and other key departments had their resources augmented by utilizing external resources and performing additional closing procedures in 2010. As a result, we believe that there are no material inaccuracies or omissions of material fact and, to the best of our knowledge, believe that the condensed consolidated financial statements of the Company at and for the three and six months ended June 30, 2010, fairly present in all material respects, the financial condition and results of operations in conformity with U.S. GAAP.

There have not been any other changes in internal control over financial reporting in the six months ended June 30, 2010 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations on the Effectiveness of Controls

Our management, including our CEO and CFO, does not expect that our disclosure controls and procedures or internal control over financial reporting will prevent or detect all errors and all fraud. A control system cannot provide absolute assurance due to its inherent limitations; it is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. A control system also can be circumvented by collusion or improper management override. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of such limitations, disclosure controls and procedures and internal control over financial reporting cannot prevent or detect all misstatements, whether unintentional errors or fraud. However, these inherent limitations are known features of the financial reporting process, therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

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GENERAL MOTORS COMPANY AND SUBSIDIARIES

PART II

Item 1. ***Legal Proceedings***

The discussion in the following paragraphs is limited to an update of developments that have occurred in various material pending legal proceedings to which we are a party, other than in the ordinary routine litigation incidental to our business. These proceedings are fully described in our 2009 Form 10−K as updated in our Form 10−Q for the three months ended March 31, 2010. We and other defendants affiliated with us intend to defend all of the following actions vigorously.

OnStar Analog Equipment Litigation

As previously reported, our wholly−owned subsidiary OnStar Corporation is a party to more than 20 putative class actions filed in various states, including Michigan, Ohio, New Jersey, Pennsylvania and California. All of these cases have been consolidated for pretrial purposes in a multi−district proceeding under the caption *In re OnStar Contract Litigation* in the U.S. District Court for the Eastern District of Michigan. On August 2, 2010 plaintiffs filed a motion seeking to add General Motors LLC as an additional defendant. We will oppose that motion, which we believe is barred by the Sale Approval Order entered by the United States Bankruptcy Court for the Southern District of New York on July 5, 2009.

Unintended Acceleration Class Actions

As previously reported, we have been named as a co−defendant in two of the many class action lawsuits brought against Toyota arising from Toyota's recall of certain vehicles related to reports of unintended acceleration. The two cases are *Nimishabahen Patel v. Toyota Motors North America, Inc. et al.* (filed in the United States District Court for the District of Connecticut on February 9, 2010) *and Darshak Shah v. Toyota Motors North America, Inc. et al.* (filed in the United States District court for the District of Massachusetts on or about February 16, 2010). The cases were consolidated in the multi−district proceeding pending in the Central District of California created to administer all cases in the Federal court system addressing Toyota unintended acceleration issues. On August 2, 2010, a consolidated Complaint was filed in the multi−district proceeding and we were omitted from the list of named defendants. Accordingly, it is possible that the claims asserted will not be further pursued against us.

AmeriCredit Transaction Claims

On July 27, 2010 *Robert Hatfield, Derivatively on behalf of AmeriCredit Corp v, Clifton Morris, Jr. et al* , was filed in the district court for Tarrant County, Texas. General Motors Holdings, LLC and General Motors Company ("the GM entities") are two of the named defendants. Among other allegations, the complaint alleges that the individual defendants breached their fiduciary duty with regard to the proposed transaction between AmeriCredit and General Motors. The GM Entities are accused of aiding and abetting the alleged breach of fiduciary duty by the individual defendants (officers and directors of AmeriCredit). Among other relief, the complaint seeks to enjoin the transaction from closing. It is not possible to determine the likelihood of success or reasonably ascertain the amount of any attorneys' fees or costs that may be awarded.

On July 28, 2010 *Labourers Pension Fund of Eastern and Central Canada, on behalf of itself and all others similarly situated v. AmeriCredit Corp, et al*. was filed in the district court for Tarrant County, Texas. General Motors Company is one of the named defendants. The plaintiff seeks class action status and alleges that AmeriCredit and the individual defendants (officers and directors of AmeriCredit) breached their fiduciary duties in negotiating and approving the proposed transaction between AmeriCredit and General Motors. General Motors is accused of aiding and abetting the alleged breach of fiduciary duty. Among other relief, the complaint seeks to enjoin both the transaction from closing as well as a shareholder vote on the proposed transaction. No determination has been made that the case may be maintained as a class action, and it is not possible to determine the likelihood of liability or reasonably ascertain the amount of any damages.

On or about August 6, 2010, *Clara Butler, Derivatively on behalf of AmeriCredit Corp v, Clifton Morris, Jr. et al*, was filed in the district court for Tarrant County, Texas. General Motors Holdings, LLC and General Motors Company are among the named

defendants. Like previously filed litigation related to the proposed AmeriCredit acquisition, the complaint initiating this case alleges that individual officers and directors of AmeriCredit breached their fiduciary duties to AmeriCredit shareholders. The GM Entities are accused of breaching a fiduciary duty and aiding and abetting the individual defendants in usurping a corporate opportunity. Among other relief, the complaint seeks to rescind the AmeriCredit transaction and enjoin its consummation, and also to award plaintiff costs and disbursements including attorneys' and expert fees. It is not possible to determine the likelihood of success or reasonably ascertain the amount of any attorneys' fees or costs that may be awarded.

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Item 1A. ***Risk Factors***

We face a number of significant risks and uncertainties in connection with our operations. Our business, results of operations and financial condition could be materially adversely affected by these risk factors.

While we described each risk separately, some of these risks are interrelated and certain risks could trigger the applicability of other risks.

Our business is highly dependent on sales volume. Global vehicle sales have declined significantly from their peak levels, and there is no assurance that the global automobile market will recover in the near future or that it will not suffer a significant further downturn.

Our business and financial results are highly sensitive to sales volume, as demonstrated by the effect of sharp declines in vehicle sales on our business in the U.S. since 2007 and globally since 2008. Vehicle sales in the U.S. have fallen significantly on an annualized basis since their peak in 2007, and sales globally have shown steep declines on an annualized basis since their peak in January 2008. Many of the economic and market conditions that drove the drop in vehicle sales, including declines in real estate and equity values, increases in unemployment, tightened credit markets, depressed consumer confidence and weak housing markets, continue to impact sales. In addition, recent concerns over levels of sovereign indebtedness have contributed to a renewed tightening of credit markets in some of the markets in which we do business. Although vehicle sales began to recover in certain of our markets in the three months ended December 31, 2009 there is no assurance that this recovery in vehicle sales will continue or spread across all our markets. Further, sales volumes may again decline severely or take longer to recover than we expect, and if they do, our results of operations and financial condition will be materially adversely affected.

Our ability to attract a sufficient number of consumers to consider our vehicles, particularly our new products, is essential to our ability to achieve long−term profitability.

Our ability to achieve long−term profitability depends on our ability to entice consumers to consider our products when purchasing a new vehicle. The automotive industry, particularly in the U.S., is very competitive, and our competitors have been very successful in persuading customers that previously purchased our products to purchase their vehicles instead as is reflected by our loss of market share over the past three years. We believe that this is due, in part, to a negative public perception of our products in relation to those of some of our competitors. Changing this perception, including with respect to the fuel efficiency of our products, will be critical to our long−term profitability. If we are unable to change public perception of our company and products, especially our new products, including cars and crossovers, our results of operations and financial condition could be materially adversely affected.

The pace of introduction and market acceptance of new vehicles is important to our success, and the frequency of new vehicle introductions may be materially adversely affected by reductions in capital expenditures.

Our competitors have introduced new and improved vehicle models designed to meet consumer expectations and will continue to do so. Our profit margins, sales volumes, and market shares may decrease if we are unable to produce models that compare favorably to these competing models. If we are unable to produce new and improved vehicle models on a basis competitive with the models introduced by our competitors, including models of smaller vehicles, demand for our vehicles may be materially adversely affected. Further, the pace of our development and introduction of new and improved vehicles depends on our ability to implement successfully improved technological innovations in design, engineering, and manufacturing, which requires extensive capital investment. Any

capital expenditure cuts in these areas that we may determine to implement in the future to reduce costs and conserve cash could reduce our ability to develop and implement improved technological innovations, which may materially reduce demand for our vehicles.

Our continued ability to achieve cost reductions and to realize production efficiencies for our automotive operations is critical to our ability to achieve long−term profitability.

We are continuing to implement a number of cost reduction and productivity improvement initiatives in our automotive operations, including labor modifications and substantial restructuring initiatives for our European operations. Our future competitiveness depends upon our continued success in implementing these restructuring initiatives throughout our automotive operations, especially in North America and Europe. In addition, while some of the elements of cost reduction are within our control, others such as interest rates or return on investments, which influence our expense for pensions, depend more on external factors, and there can be no assurance that such external factors will not materially adversely affect our ability to reduce our structural costs. Reducing costs may prove difficult due to our focus on increasing advertising and our belief that engineering expenses necessary to improve the performance, safety, and customer satisfaction of our vehicles are likely to increase.

Failure of our suppliers, due to difficult economic conditions affecting our industry, to provide us with the systems, components, and parts that we need to manufacture our automotive products and operate our business could result in a disruption in our operations and have a material adverse effect on our business.

We rely on many suppliers to provide us with the systems, components, and parts that we need to manufacture our automotive products and operate our business. In recent years, a number of these suppliers have experienced severe financial difficulties and solvency problems, and some have sought relief under the Bankruptcy Code or similar reorganization laws. This trend intensified in 2009 due to the combination of general economic weakness, sharply declining vehicle sales, and tightened credit availability that has affected the automotive industry generally. Suppliers may encounter difficulties in obtaining credit or may receive an opinion from their independent public accountants regarding their financial statements that includes a statement expressing substantial doubt about their ability to continue as a going concern, which could trigger defaults under their financings or other agreements or impede their ability to raise new funds.

When comparable situations have occurred in the past, suppliers have attempted to increase their prices, pass through increased costs, alter payment terms, or seek other relief. In instances where suppliers have not been able to generate sufficient additional revenues or obtain the additional financing they need to continue their operations, either through private sources or government funding, which may not be available, some have been forced to reduce their output, shut down their operations, or file for bankruptcy protection. Such actions would likely increase our costs, create challenges to meeting our quality objectives, and in some cases make it difficult for us to continue production of certain vehicles. To the extent we take steps in such cases to help key suppliers remain in business, our liquidity would be adversely affected. It may also be difficult to find a replacement for certain suppliers without significant delay.

Increase in cost, disruption of supply, or shortage of raw materials could materially harm our business.

We use various raw materials in our business including steel, non−ferrous metals such as aluminum and copper, and precious metals such as platinum and palladium. The prices for these raw materials fluctuate depending on market conditions. In recent years, freight charges and raw material costs increased significantly. Substantial increases in the prices for our raw materials increase our operating costs and could reduce our profitability if we cannot recoup the increased costs through increased vehicle prices. In addition, some of these raw materials, such as corrosion−resistant steel, are only available from a limited number of suppliers. We cannot guarantee that we will be able to maintain favorable arrangements and relationships with these suppliers. An increase in the cost or a sustained interruption in the supply or shortage of some of these raw materials, which may be caused by a deterioration of our relationships with suppliers or by events such as labor strikes, could negatively affect our net revenues and profitability to a material extent.

We operate in a highly competitive industry that has excess manufacturing capacity and attempts by our competitors to sell more vehicles could have a significant negative impact on our vehicle pricing, market share, and operating results.

The global automotive industry is highly competitive, and overall manufacturing capacity in the industry exceeds demand. Many manufacturers have relatively high fixed labor costs as well as significant limitations on their ability to close facilities and reduce fixed

costs. Our competitors may respond to these relatively high fixed costs by attempting to sell more vehicles by adding vehicle enhancements, providing subsidized financing or leasing programs, offering option package discounts or other marketing incentives, or reducing vehicle prices in certain markets. In addition, manufacturers in lower cost countries such as China and India have emerged as competitors in key emerging markets and announced their intention of exporting their products to established markets as a bargain alternative to entry−level automobiles. These actions have had, and are expected to continue to have, a significant negative impact on our vehicle pricing, market share, and operating results, and present a significant risk to our ability to enhance our revenue per vehicle.

Inadequate cash flow could materially adversely affect our business operations in the future.

We will require substantial liquidity to implement long−term cost savings and restructuring plans, continue capital spending to support product programs and development of advanced technologies, and meet scheduled term debt and lease maturities and pension contributions, in each case as contemplated by our business plan. If our cash levels approach the minimum cash levels necessary to support our normal business operations, we may be forced to borrow additional funds at rates that may not be favorable, curtail capital spending, and reduce research and development and other programs that are important to the future success of our business. If this were to happen, our need for cash would be intensified.

Although we believe that the funding we received in connection with our formation and our purchase of substantially all of MLC's assets provides us with sufficient liquidity to operate our business, our ability to maintain adequate liquidity over the long−term will depend significantly on the volume, mix and quality of our vehicle sales and our ability to minimize operating expenses. Our liquidity needs are sensitive to changes in each of these and other factors.

As part of our business plan, we have reduced compensation for our most highly paid executives and have reduced the number of our management and non−management salaried employees, and these actions may materially adversely affect our ability to hire and retain salaried employees.

As part of the cost reduction initiatives in our business plan, and pursuant to the direction of the Special Master for TARP Executive Compensation (the Special Master), the form and timing of the compensation for our most highly paid executives is not competitive with that offered by other major corporations. Furthermore, while we have repaid in full our indebtedness under the UST Credit Agreement, the executive compensation and corporate governance provisions of Section 111 of the Emergency Economic Stabilization Act of 2008, as amended (the EESA), including the Interim Final Rule implementing Section 111 (the Interim Final Rule), will continue to apply to us for the period specified in the EESA and the Interim Final Rule. In addition, certain of the covenants in the UST Credit Agreement will continue to apply to us until the earlier to occur of (i) us ceasing to be a recipient of Exceptional Financial Assistance, as determined pursuant to the Interim Final Rule or any successor or final rule, or (ii) UST ceasing to own any direct or indirect equity interests in us. The effect of Section 111 of EESA, the Interim Final Rule and the covenants is to restrict the compensation that we can provide to our top executives and prohibit certain types of compensation or benefits for any employees. At the same time, we have substantially decreased the number of salaried employees so that the workload is shared among fewer employees and in general the demands on each salaried employee are increased. Companies in similar situations have experienced significant difficulties in hiring and retaining highly skilled employees, particularly in competitive specialties. Given our compensation structure and increasing job demands, there is no assurance that we will be able to hire and retain the employees whose expertise is required to execute our business plan while at the same time developing and producing vehicles that will stimulate demand for our products.

Our plan to reduce the number of our retail channels and brands and to consolidate our dealer network is likely to reduce our total sales volume, may not create the cost savings we anticipate, and is likely to result in restructuring costs that may materially adversely affect our results of operations.

As part of our business plan, we will focus our resources in the U.S. on four brands: Chevrolet, Cadillac, Buick, and GMC. We completed the sale of Saab Automobile AB (Saab) in February 2010, and have ceased production of our Pontiac, Saturn and HUMMER brands. We also intend to consolidate our dealer network by reducing the total number of our U.S. dealers from approximately 5,200 as of June 30, 2010 to approximately 4,500 by the end of 2010. We anticipate that this reduction in retail outlets, brands, and dealers will result in cost savings over time, but there is no assurance that we would realize the savings expected. Based

on our experience and the experiences of other companies that have eliminated brands, models, and/or dealers, we believe that our market share could decline because of these reductions. In addition, executing the phase−out of retail channels and brands and the reduction in the number of our dealers will require us to terminate established business relationships. There is no assurance that we will be able to terminate all of these relationships, and if we are not able to terminate substantially all of these relationships, we would not be able to achieve all of the benefits we have targeted. In addition, the cost of negotiating terminations of any remaining dealers on an individual basis may adversely affect our results of operations.

Our business plan contemplates that we restructure our operations in various European countries, but we may not succeed in doing so, and that could have a material adverse effect on our business.

Our business plan contemplates that we restructure our operations in various European countries, and we are actively working to accomplish this. We continue to work towards a restructuring of our German and certain other European operations. We cannot be certain that we will be able to successfully complete any of these restructurings. In addition, restructurings, whether or not ultimately successful, can involve significant expense and disruption to the business as well as labor disruptions, which can adversely affect the business. Moreover, in June 2010 the German federal government notified us of its decision not to provide loan guarantees to Opel/Vauxhall. As a result, we decided to fund the requirements of Opel/Vauxhall internally and withdrew all applications for government loan guarantees from European governments. Our decision to restructure our European operations will require us to invest significant additional funds and require significant management attention. We cannot assure you that any of our contemplated restructurings will be completed or achieve the desired results, and if we cannot successfully complete such restructurings, we may choose to, or the directors of the relevant entity may be compelled to, or creditors may force us to, seek relief for our various European operations under applicable local bankruptcy, reorganization, insolvency, or similar laws, where we may lose control over the outcome of the restructuring process due to the appointment of a local receiver, trustee, or administrator (or similar official) or otherwise and which could result in a liquidation and us losing all or a substantial part of our interest in the business.

Our U.S. defined benefit pension plans are currently underfunded, and our pension funding obligations may increase significantly due to weak performance of financial markets and its effect on plan assets.

Our future funding obligations for our U.S. defined benefit pension plans qualified with the IRS depends upon the future performance of assets placed in trusts for these plans, the level of interest rates used to determine funding levels, the level of benefits provided for by the plans and any changes in government laws and regulations. Our employee benefit plans currently hold a significant amount of equity and fixed income securities. Due to Old GM's contributions to the plans and to the strong performance of these assets during prior periods, the U.S. hourly and salaried pension plans were consistently overfunded from 2005 through 2007, which allowed Old GM to maintain a surplus without making additional contributions to the plans. However, due to a number of factors, including significant declines in financial markets and a deterioration in the value of our plan assets, as well as the coverage of additional retirees, including certain Delphi hourly employees, our U.S. defined benefit pension plans were underfunded on a U.S. GAAP basis by $17.1 billion at December 31, 2009. In addition, at December 31, 2009, our non−U.S. defined benefit pension plans were underfunded on a U.S. GAAP basis by approximately $10.3 billion. The defined benefit pension plans are accounted for on an actuarial basis, which requires the selection of various assumptions, including an expected rate of return on plan assets and a discount rate. In the U.S., from December 31, 2009 to June 30, 2010, interest rates on high quality corporate bonds have decreased. We believe that a discount rate calculated as of June 30, 2010 would be approximately 65 to 75 basis points lower than the rates used to measure the pension plans at December 31, 2009, the date of the last remeasurement for the U.S. pension plans. As a result, funded status would decrease if the plans were remeasured at June 30, 2010, holding all other factors (e.g., actuarial assumptions and asset returns) constant (see the Critical Accounting Estimates for an indication of the sensitivity associated with movements in discount rate). It is not possible for us to predict what the economic environment will be at our next scheduled remeasurement as of December 31, 2010. Accordingly, discount rates and plan assets may be considerably different than those at June 30, 2010. Under U.S. GAAP, we are not required to remeasure our plans as of June 30, 2010.

The next U.S. pension funding valuation date based on the requirements of the Pension Protection Act (PPA) of 2006 will be October 1, 2010. However, based on a hypothetical funding valuation at June 30, 2010, we may need to make significant contributions to our U.S. pension plans in 2014 and beyond (see Contractual Obligations and Other Long−Term Liabilities section of Management's Discussion and Analysis of Financial Condition and Results of Operations for more details).

If the total values of the assets held by our pension plans decline and/or the returns on such assets underperform the Company's return assumptions, our pension expenses would generally increase and, as a result, could materially adversely affect our financial position. Changes in interest rates that are not offset by contributions, asset returns and/or hedging activities could also increase our obligations under such plans. If local legal authorities increase the minimum funding requirements for our pension plans outside the U.S., we could be required to contribute more funds, which would negatively affect our cash flow.

If adequate financing on acceptable terms is not available through Ally Financial or other sources to our customers and dealers, distributors, and suppliers to enable them to continue their business relationships with us, our business could be materially adversely affected.

Our customers and dealers require financing to purchase a significant percentage of our global vehicle sales. Historically, Ally Financial has provided most of the financing for our dealers and a significant amount of financing for our customers. Due to recent conditions in credit markets, particularly later in 2008, retail customers and dealers experienced severe difficulty in accessing the credit markets. As a result, the number of vehicles sold or leased declined rapidly in the second half of 2008, with lease contract volume dropping significantly by the end of 2008. This had a significant adverse effect on Old GM vehicle sales overall because many of its competitors have captive financing subsidiaries that were better capitalized than Ally Financial during 2008 and 2009 and thus were able to offer consumers subsidized financing and leasing offers.

Similarly, the reduced availability of Ally Financial wholesale dealer financing (in the second half of 2008 and 2009), the increased cost of such financing, and the limited availability of other sources of dealer financing due to the general weakness of the credit market has caused and may continue to cause dealers to modify their plans to purchase vehicles from us.

Because of recent modifications to our commercial agreements with Ally Financial, Ally Financial no longer is subject to contractual wholesale funding commitments or retail underwriting targets. In addition, Ally Financial's credit rating has declined in recent years. This may negatively affect its access to funding and therefore its ability to provide adequate financing at competitive rates to our customers and dealers. Further, if any of our competitors with captive financing subsidiaries are able to continue to offer consumers and dealers financing and leasing on better terms than our customers and dealers are able to obtain, consumers may be more inclined to purchase our competitors' vehicles and our competitors' dealers may be better able to stock our competitors' products.

As part of a strategy to develop our own captive financing unit, we have entered into a definitive agreement to acquire AmeriCredit, which we expect will enable us to offer increased availability of leasing and non−prime financing for our customers. We cannot assure you that we will be able to close the acquisition of AmeriCredit, which is subject to certain closing conditions, many of which are beyond our control, including the approval of AmeriCredit shareholders. Our failure to successfully develop our own captive financing unit, including through the AmeriCredit acquisition, could materially adversely affect our business.

The UST (or its designee) owns a controlling in us, and its interests may differ from those of our other stockholders.

The UST beneficially owns a majority of our common stock on a fully diluted basis. As a result of this stock ownership interest, the UST is able to exercise significant influence over our business if it elects to do so. This includes the ability to have significant influence over matters brought for a stockholder vote. To the extent the UST elects to exercise such influence over us, its interests (as a government entity) may differ from those of our other stockholders and it may influence, through its ability to vote for the election of our directors, matters including:

- The selection, tenure and compensation of our management;
- Our business strategy and product offerings;

- Our relationship with our employees, unions and other constituencies; and
- Our financing activities, including the issuance of debt and equity securities.

In the future we may also become subject to new and additional laws and government regulations regarding various aspects of our business as a result of participation in the TARP program and the U.S. government's ownership in our business. These regulations could make it more difficult for us to compete with other companies that are not subject to similar regulations.

The VEBA Note Agreement and the UST Credit Agreement contain significant covenants that may restrict our ability and the ability of our subsidiaries to take actions management believes are important to our long−term strategy.

The VEBA Note Agreement contains affirmative covenants requiring us to take certain actions and negative covenants restricting our ability to take certain actions. The affirmative covenants impose obligations on us with respect to, among other things, financial reporting to the New VEBA, use of proceeds of asset sales, maintenance of facility collateral and other property and payment of obligations. The negative covenants in the VEBA Note Agreement generally apply to us and our U.S. subsidiaries that provided guarantees of our obligations under that agreement and restrict us with respect to, among other things, granting liens, distributions on capital stock, amendments or waivers of certain documents and entering into new indebtedness.

In addition, while we have repaid in full our indebtedness under the UST Credit Agreement, the executive compensation and corporate governance provisions of Section 111 of the EESA, including the Interim Final Rule, will continue to apply to us for the period specified in the EESA and the Interim Final Rule. In addition, certain of the covenants in the UST Credit Agreement will continue to apply to us until the earlier to occur of (i) us ceasing to be a recipient of Exceptional Financial Assistance, as determined pursuant to the Interim Final Rule or any successor or final rule, or (ii) UST ceasing to own any direct or indirect equity interests in us. The effect of Section 111 of EESA, the Interim Final Rule and the covenants is to restrict the compensation that we can provide to our top executives and prohibit certain types of compensation or benefits for any employees. Compliance with the covenants contained in the VEBA Note Agreement and the UST Credit Agreement could restrict our ability to take actions that management believes are important to our long−term strategy. If strategic transactions we wish to undertake are prohibited or inconsistent with, or detrimental to, our long−term viability, our ability to execute our long−term strategy could be materially adversely affected. In addition, monitoring and certifying our compliance with the VEBA Note Agreement and the UST Credit Agreement requires a high level of expense and management attention on a continuing basis.

Even though we have made significant modifications to our obligations to the New VEBA, we are still obligated to contribute a significant amount of cash to fund the New VEBA in the future.

Even though we have made significant modifications to our obligations to the New VEBA, we are still required to contribute a significant amount of cash to the New VEBA over a period of years. The amounts payable to the New VEBA include: (1) dividends payable on the 260 million shares of Series A Preferred Stock issued to the New VEBA in connection with the closing of the 363 Sale, which have a liquidation preference of $25.00 per share and accrue cumulative dividends at a rate equal to 9.0% per annum (payable quarterly on March 15, June 15, September 15 and December 15) if, as and when declared by our Board of Directors (the UST and Canada GEN Investment Corporation (Canada Holdings) hold an additional 100 million shares of Series A Preferred Stock); and (2) payments on the VEBA Notes in three equal installments of $1.4 billion on July 15, 2013, 2015 and 2017. On or after December 31, 2014, we may redeem, in whole or in part, the shares of Series A Preferred Stock at the time outstanding, at a redemption price per share equal to the sum of: (1) $25.00 per share; and (2) subject to limited exceptions, any accrued and unpaid dividends. There is no assurance that we will be able to obtain all of the necessary funding to fund our existing VEBA payment obligations on terms that will be acceptable to us. If we are unable to obtain funding from internal or external sources or some combination thereof on terms that are consistent with our business plan, we would have to delay, reduce, or cancel other planned expenditures.

Our planned investment in new technology in the future is significant and may not be funded at anticipated levels and, even if funded at anticipated levels, may not result in successful vehicle applications.

We intend to invest significant capital resources to support our products and to develop new technology. In addition, we plan to invest heavily in alternative fuel and advanced propulsion technologies between 2010 and 2012, largely to support our planned

expansion of hybrid and electric vehicles, consistent with our announced objective of being recognized as the industry leader in fuel efficiency. Moreover, if our future operations do not provide us with the liquidity we anticipate, we may be forced to reduce, delay, or cancel our planned investments in new technology.

In some cases, the technologies that we plan to employ, such as hydrogen fuel cells and advanced battery technology, are not yet commercially viable and depend on significant future technological advances by us and by suppliers. For example, we have announced that we intend to produce by November 2010 the Chevrolet Volt, an electric car, which requires battery technology that has not yet proven to be commercially viable. There can be no assurance that these advances will occur in a timely or feasible way, that the funds that we have budgeted for these purposes will be adequate, or that we will be able to establish our right to these technologies. However, our competitors and others are pursuing similar technologies and other competing technologies, in some cases with more money available, and there can be no assurance that they will not acquire similar or superior technologies sooner than we do or on an exclusive basis or at a significant price advantage.

New laws, regulations, or policies of governmental organizations regarding increased fuel economy requirements and reduced greenhouse gas emissions, or changes in existing ones, may have a significant effect on how we do business.

We are affected significantly by governmental regulations that can increase costs related to the production of our vehicles and affect our product portfolio. We anticipate that the number and extent of these regulations, and the related costs and changes to our product lineup, will increase significantly in the future. In the U.S. and Europe, for example, governmental regulation is primarily driven by concerns about the environment (including greenhouse gas emissions), vehicle safety, fuel economy, and energy security. These government regulatory requirements could significantly affect our plans for global product development and may result in substantial costs, including civil penalties. They may also result in limits on the types of vehicles we sell and where we sell them, which can affect revenue.

Corporate Average Fuel Economy provisions in the Energy Independence and Security Act of 2007 (the EISA) mandate fuel economy standards beginning in the 2011 model year that would increase to at least 35 mpg by 2020 on a combined car and truck fleet basis, a 40% increase over current levels. In addition, California is implementing a program to regulate vehicle greenhouse gas emissions (AB 1493 Rules) and therefore will require increased fuel economy. This California program has standards currently established for the 2009 model year through the 2016 model year. Thirteen additional states and the Province of Quebec have also adopted the California greenhouse gas standards.

On May 19, 2009, President Obama announced his intention for the federal government to implement a harmonized federal program to regulate fuel economy and greenhouse gases. He directed the Environmental Protection Agency (EPA) and the United States Department of Transportation (DOT) to work together to create standards through a joint rulemaking for control of emissions of greenhouse gases and for fuel economy. In the first phase, these standards would apply to passenger cars, light−duty trucks, and medium−duty passenger vehicles built in model years 2012 through 2016. The California Air Resources Board (CARB) has agreed that compliance with EPA's greenhouse gas standards will be deemed compliance with the California greenhouse gas standards for the 2012 through 2016 model years. EPA and the National Highway Traffic Safety Administration (NHTSA), on behalf of DOT, issued their final rule to implement this new federal program on April 1, 2010. We have committed to work with EPA, the NHTSA, the states, and other stakeholders in support of a strong national program to reduce oil consumption and address global climate change.

We are committed to meeting or exceeding these regulatory requirements, and our product plan of record projects compliance with the anticipated federal program through the 2016 model year. We expect that to comply with these standards we will be required to sell a significant volume of hybrid or electrically powered vehicles throughout the U.S., as well as implement new technologies for conventional internal combustion engines, all at increased cost levels. There is no assurance that we will be able to produce and sell vehicles that use such technologies on a profitable basis, or that our customers will purchase such vehicles in the quantities necessary for us to comply with these regulatory programs.

In addition, the European Union (EU) passed legislation, effective April 23, 2009, to begin regulating vehicle carbon dioxide emissions beginning in 2012. The legislation sets a target of a fleet average of 95 grams per kilometer for 2020, with the requirements for each manufacturer based on the weight of the vehicles it sells. Additional measures have been proposed or adopted in Europe to regulate features such as tire rolling resistance, vehicle air conditioners, tire pressure monitors, gear shift indicators, and others. At the national level, 17 EU Member States have adopted some form of fuel consumption or carbon dioxide−based vehicle taxation system, which could result in specific market requirements for us to introduce technology earlier than is required for compliance with the EU emissions standards.

Other governments around the world, such as Canada, South Korea, and China are also creating new policies to address these same issues. As in the U.S., these government policies could significantly affect our plans for product development. Due to these regulations, we could be subject to sizable civil penalties or have to restrict product offerings drastically to remain in compliance. Additionally, the regulations will result in substantial costs, which could be difficult to pass through to our customers, and could result in limits on the types of vehicles we sell and where we sell them, which could affect our operations, including facility closings, reduced employment, increased costs, and loss of revenue.

We may be unable to qualify for federal funding for our advanced technology vehicle programs under Section 136 of the EISA or may not be selected to participate in the program.

The U.S. Congress provided the DOE with $25.0 billion in funding to make direct loans to eligible applicants for the costs of re−equipping, expanding, and establishing manufacturing facilities in the U.S. to produce advanced technology vehicles and components for these vehicles. Old GM submitted three applications for Section 136 Loans aggregating $10.3 billion to support its advanced technology vehicle programs prior to July 2009. Based on the findings of the Auto Task Force under Old GM's UST Loan Agreement in March 2009, the DOE determined that Old GM did not meet the viability requirements for Section 136 Loans.

On July 10, 2009 we purchased certain assets of Old GM pursuant to Section 363 of the Bankruptcy Code, including the rights to the loan applications submitted to the Advanced Technology Vehicle Manufacturing Incentive Program (the ATVMIP). Further, we submitted a fourth application in August 2009. Subsequently, the DOE advised us to resubmit a consolidated application including all the four applications submitted earlier and also the Electric Power Steering project acquired from Delphi in October 2009. We submitted the consolidated application in October 2009, which requested an aggregate amount of $14.4 billion of Section 136 Loans. Ongoing product portfolio updates and project modifications requested from the DOE have the potential to reduce the maximum loan amount. To date, the DOE has announced that it would provide approximately $8.4 billion in Section 136 Loans to Ford Motor Company, Nissan Motor Company, Tesla Motors, Inc., Fisker Automotive, Inc., and Tenneco Inc. There can be no assurance that we will qualify for any remaining loans or receive any such loans even if we qualify.

A significant amount of our operations are conducted by joint ventures that we cannot operate solely for our benefit.

Many of our operations, particularly in emerging markets, are carried on by joint ventures such as SGM. In joint ventures, we share ownership and management of a company with one or more parties who may not have the same goals, strategies, priorities, or resources as we do. In general, joint ventures are intended to be operated for the equal benefit of all co−owners, rather than for our exclusive benefit. Operating a business as a joint venture often requires additional organizational formalities as well as time−consuming procedures for sharing information and making decisions. In joint ventures, we are required to pay more attention to our relationship with our co−owners as well as with the joint venture, and if a co−owner changes, our relationship may be materially adversely affected. In addition, the benefits from a successful joint venture are shared among the co−owners, so that we do not receive all the benefits from our successful joint ventures.

Our business in China is subject to aggressive competition and is sensitive to economic and market conditions.

Maintaining a strong position in the Chinese market is a key component of our global growth strategy. The automotive market in China is highly competitive, with competition from many of the largest global manufacturers and numerous smaller domestic manufacturers. As the size of the Chinese market continues to increase, we anticipate that additional competitors, both international and domestic, will seek to enter the Chinese market and that existing market participants will act aggressively to increase their market

share. Increased competition may result in price reductions, reduced margins and our inability to gain or hold market share. In addition, our business in China is sensitive to economic and market conditions that drive sales volume in China. If we are unable to maintain our position in the Chinese market or if vehicle sales in China decrease or do not continue to increase, our business and financial results could be materially adversely affected.

Shortages of and volatility in the price of oil have caused and may have a material adverse effect on our business due to shifts in consumer vehicle demand.

Volatile oil prices in 2008 and 2009 contributed to weaker demand for some of Old GM's and our higher margin vehicles, especially our fullsize sport utility vehicles, as consumer demand shifted to smaller, more fuel−efficient vehicles, which provide lower profit margins and in recent years represented a smaller proportion of Old GM's and our sales volume in North America. Fullsize pick−up trucks, which are generally less fuel efficient than smaller vehicles, represented a higher percentage of Old GM's and our North American sales during 2008 and 2009 compared to the total industry average percentage of fullsize pick−up truck sales in those periods. Demand for traditional sport utility vehicles and vans also declined during the same periods. Any future increases in the price of oil in the U.S. or in our other markets or any sustained shortage of oil could further weaken the demand for such vehicles, which could reduce our market share in affected markets, decrease profitability, and have a material adverse effect on our business.

Restrictions in our labor agreements could limit our ability to pursue or achieve cost savings through restructuring initiatives, and labor strikes, work stoppages, or similar difficulties could significantly disrupt our operations.

Substantially all of the hourly employees in our U.S., Canadian, and European automotive operations are represented by labor unions and are covered by collective bargaining agreements, which usually have a multi−year duration. Many of these agreements include provisions that limit our ability to realize cost savings from restructuring initiatives such as plant closings and reductions in workforce. Our current collective bargaining agreement with the UAW will expire in September 2011, and while the UAW has agreed to a commitment not to strike prior to 2015, any UAW strikes, threats of strikes, or other resistance in the future could materially adversely affect our business as well as impair our ability to implement further measures to reduce costs and improve production efficiencies in furtherance of our North American initiatives. A lengthy strike by the UAW that involves all or a significant portion of our manufacturing facilities in the United States would have a material adverse effect on our operations and financial condition, particularly our liquidity.

Despite the formation of our new company, we continue to have indebtedness and other obligations. Our obligations together with our cash needs may require us to seek additional financing, minimize capital expenditures, or seek to refinance some or all of our debt.

Despite the formation of our new company, we continue to have indebtedness and other obligations, including significant liabilities to our underfunded defined benefit pension plans. Our current and future indebtedness and other obligations could have several important consequences. For example, they could:

- Require us to dedicate a larger portion of our cash flow from operations than we currently do to the payment of principal and interest on our indebtedness and other obligations, which will reduce the funds available for other purposes such as product development;
- Make it more difficult for us to satisfy our obligations;
- Make us more vulnerable to adverse economic and industry conditions and adverse developments in our business;
- Limit our ability to withstand competitive pressures;
- Limit our ability to fund working capital, capital expenditures, and other general corporate purposes; and
- Reduce our flexibility in responding to changing business and economic conditions.

Future liquidity needs may require us to seek additional financing or minimize capital expenditures. There is no assurance that either of these alternatives would be available to us on satisfactory terms or on terms that would not require us to renegotiate the terms and conditions of our existing debt agreements.

Our failure to comply with the covenants in the agreements governing our present and future indebtedness could materially adversely affect our financial condition and liquidity.

Several of the agreements governing our indebtedness, including the VEBA Note Agreement and other loan facility agreements, contain covenants requiring us to take certain actions and negative covenants restricting our ability to take certain actions. In the past, we have failed to meet certain of these covenants, including by failing to provide financial statements in a timely manner and failing certain financial tests. In addition, the Chapter 11 Proceedings and the change in control as a result of the 363 Sale triggered technical defaults in certain loans for which we had assumed the obligations. A breach of any of the covenants in the agreements governing our indebtedness, if uncured, could lead to an event of default under any such agreements, which in some circumstances could give the lender the right to demand that we accelerate repayment of amounts due under the agreement. Therefore, in the event of any such breach, we may need to seek covenant waivers or amendments from the lenders or to seek alternative or additional sources of financing, and we cannot assure you that we would be able to obtain any such waivers or amendments or alternative or additional financing on acceptable terms, if at all. Refer to Note 13 to the condensed consolidated financial statements for additional information on technical defaults and covenant violations that have occurred recently. In addition, any covenant breach or event of default could harm our credit rating and our ability to obtain additional financing on acceptable terms. The occurrence of any of these events could have a material adverse effect on our financial condition and liquidity.

The ability of our new executive management team to quickly learn the automotive industry and lead our company will be critical to our ability to succeed.

Within the past year we have substantially changed our executive management team. We have elected a new Chief Executive Officer who will start on September 1, 2010 and a new Chief Financial Officer who started on January 1, 2010, both of whom have no outside automotive industry experience. We have also promoted from within GM many new senior officers. It is important to our success that the new members of the executive management team quickly understand the automotive industry and that our senior officers quickly adapt and excel in their new senior management roles. If they are unable to do so, and as a result are unable to provide effective guidance and leadership, our business and financial results could be materially adversely affected.

We could be materially adversely affected by changes or imbalances in foreign currency exchange and other rates.

Given the nature and global spread of our business, we have significant exposures to risks related to changes in foreign currency exchange rates, commodity prices, and interest rates, which can have material adverse effects on our business. For example, at times certain of our competitors have derived competitive advantage from relative weakness of the Japanese Yen, which has provided pricing advantages for vehicles and parts imported from Japan to markets with more robust currencies like the U.S. and Western Europe. Similarly, a significant strengthening of the Korean Won relative to the U.S. dollar or the Euro would affect the competitiveness of our Korean operations as well as that of certain Korean competitors. As yet another example, a relative weakness of the British Pound compared to the Euro has had an adverse effect on our results of operations in Europe. In addition, in preparing the condensed consolidated financial statements, we translate our revenues and expenses outside the U.S. into U.S. Dollars using the average foreign currency exchange rate for the period and the assets and liabilities using the foreign currency exchange rate at the balance sheet date. As a result, foreign currency fluctuations and the associated translations could have a material adverse effect on our results of operations.

Our businesses outside the U.S. expose us to additional risks that may materially adversely affect our business.

The majority of our vehicle sales are generated outside the U.S. We are pursuing growth opportunities for our business in a variety of business environments outside the U.S. Operating in a large number of different regions and countries exposes us to political, economic, and other risks as well as multiple foreign regulatory requirements that are subject to change, including:

- Economic downturns in foreign countries or geographic regions where we have significant operations, such as China;
- Economic tensions between governments and changes in international trade and investment policies, including imposing restrictions on the repatriation of dividends, especially between the United States and China;

- Foreign regulations restricting our ability to sell our products in those countries;
- Differing local product preferences and product requirements, including fuel economy, vehicle emissions, and safety;
- Differing labor regulations and union relationships;
- Consequences from changes in tax laws;
- Difficulties in obtaining financing in foreign countries for local operations; and
- Political and economic instability, natural calamities, war, and terrorism.

The effects of these risks may, individually or in the aggregate, materially adversely affect our business.

New laws, regulations, or policies of governmental organizations regarding safety standards, or changes in existing ones, may have a significant negative effect on how we do business.

Our products must satisfy legal safety requirements. Meeting or exceeding government−mandated safety standards is difficult and costly because crashworthiness standards tend to conflict with the need to reduce vehicle weight in order to meet emissions and fuel economy standards. While we are managing our product development and production operations on a global basis to reduce costs and lead times, unique national or regional standards or vehicle rating programs can result in additional costs for product development, testing, and manufacturing. Governments often require the implementation of new requirements during the middle of a product cycle, which can be substantially more expensive than accommodating these requirements during the design of a new product.

The costs and effect on our reputation of product recalls could materially adversely affect our business.

From time to time, we recall our products to address performance, compliance, or safety−related issues. The costs we incur in connection with these recalls typically include the cost of the part being replaced and labor to remove and replace the defective part. In addition, product recalls can harm our reputation and cause us to lose customers, particularly if those recalls cause consumers to question the safety or reliability of our products. Any costs incurred or lost sales caused by future product recalls could materially adversely affect our business. Conversely, not issuing a recall or not issuing a recall on a timely basis can harm our reputation and cause us to lose customers for the same reasons as expressed above.

We have determined that our disclosure controls and procedures and our internal controls over financial reporting are currently not effective. The lack of effective internal controls could materially adversely affect our financial condition and ability to carry out our business plan.

Our management team for financial reporting, under the supervision and with the participation of our Chief Executive Officer and our Chief Financial Officer, conducted an evaluation of the effectiveness of the design and operation of our internal controls. At December 31, 2009, because of the inability to sufficiently test the effectiveness of remediated internal controls, we concluded that our internal control over financial reporting was not effective. At June 30, 2010 we concluded that our disclosure controls and procedures were not effective at a reasonable assurance level because of the material weakness in our internal control over financial reporting that continued to exist. Until we have been able to test the operating effectiveness of remediated internal controls and ensure the effectiveness of our disclosure controls and procedures, any material weaknesses may materially adversely affect our ability to report accurately our financial condition and results of operations in the future in a timely and reliable manner. In addition, although we continually review and evaluate internal control systems to allow management to report on the sufficiency of our internal controls, we cannot assure you that we will not discover additional weaknesses in our internal control over financial reporting. Any such additional weakness or failure to remediate the existing weakness could materially adversely affect our financial condition or ability to comply with applicable financial reporting requirements and the requirements of the Company’s various financing agreements.

Item 5. Part II Other Information

On August 11, 2010 our Board of Directors elected Daniel F. Akerson, age 61, Chief Executive Officer. Mr. Akerson’s election will be effective September 1, 2010, when Edward E. Whitacre, Jr. will retire from his current position as Chief Executive Officer.

Mr. Akerson will continue to serve on our Board of Directors, which he joined in July 2009. Mr. Whitacre will continue as Chairman and after he retires from the Board, which he intends to do by the end of 2010, Mr. Akerson will become Chairman.

Mr. Akerson has been Managing Director and Head of Global Buyout of The Carlyle Group since July 2009. He served as Managing Director and Co−Head of the U.S Buyout Fund from 2003 to 2009. Prior to joining Carlyle, Mr. Akerson served as Chairman and Chief Executive Officer of XO Communications, Inc. from 1999 to January 2003. XO Communications, Inc. filed a voluntary petition under Chapter 11 of the U.S. Bankruptcy Code in June 2002 and emerged from bankruptcy proceedings in January 2003. Mr. Akerson also served as Chairman of Nextel Communications from 1996 to 2001 and Chairman and Chief Executive Officer from 1996 to 1999. He held the offices of Chairman and Chief Executive Officer of General Instrument Corporation from 1993 to 1995. He is currently a director of American Express Company.

Mr. Akerson has no other reportable relationships with us or our affiliates.

Mr. Akerson’s compensation has not been finalized; we will report that information in a Current Report on Form 8−K when it is available.

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GENERAL MOTORS COMPANY AND SUBSIDIARIES

Item 6. Exhibits

Exhibit Number	Exhibit Name	
31.1	Section 302 Certification of the Chief Executive Officer	Filed Herewith
31.2	Section 302 Certification of the Chief Financial Officer	Filed Herewith
32.1	Certification of the Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, As Adopted Pursuant to Section 906 of the Sarbanes−Oxley Act of 2002	Filed Herewith
32.2	Certification of the Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, As Adopted Pursuant to Section 906 of the Sarbanes−Oxley Act of 2002	Filed Herewith

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GENERAL MOTORS COMPANY AND SUBSIDIARIES

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

GENERAL MOTORS COMPANY
(Registrant)

By: /s/ NICK S. CYPRUS
(Nick S. Cyprus, Vice President, Controller and Chief Accounting Officer)

Date: August 16, 2010

GENERAL MOTORS COMPANY AND SUBSIDIARIES

EXHIBIT INDEX

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Exhibit 31.1

CERTIFICATION

I, Edward E. Whitacre, Jr., certify that:

1. I have reviewed this quarterly report for the period ended June 30, 2010 on Form 10−Q of General Motors Company;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a−15(e) and 15d−15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a−15(f) and 15d−15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the Audit Committee of the registrant's Board of Directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ EDWARD E. WHITACRE, JR.
Edward E. Whitacre, Jr.
Chairman and Chief Executive Officer

Date: August 16, 2010

Exhibit 31.2

CERTIFICATION

I, Christopher P. Liddell, certify that:

1. I have reviewed this quarterly report for the period ended June 30, 2010 on Form 10−Q of General Motors Company;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a−15(e) and 15d−15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a−15(f) and 15d−15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the Audit Committee of the registrant's Board of Directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ CHRISTOPHER P. LIDDELL
Christopher P. Liddell
Vice Chairman and Chief Financial Officer

Date: August 16, 2010

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES−OXLEY ACT OF 2002

In connection with the Quarterly Report of General Motors Company (the "Company") on Form 10−Q for the period ended June 30, 2010 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Edward E. Whitacre, Jr., Chairman and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes−Oxley Act of 2002, that to the best of my knowledge:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ EDWARD E. WHITACRE, Jr.
Edward E. Whitacre, Jr.
Chairman and Chief Executive Officer

Date: August 16, 2010

Exhibit 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES−OXLEY ACT OF 2002

In connection with the Quarterly Report of General Motors Company (the "Company") on Form 10−Q for the period ended June 30, 2010 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Christopher P. Liddell, Vice Chairman and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes−Oxley Act of 2002, that to the best of my knowledge:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ CHRISTOPHER P. LIDDELL
Christopher P. Liddell
Vice Chairman and Chief Financial Officer

Date: August 16, 2010

Exhibit 2

From: Novod, Gordon <gnovod@KRAMERLEVIN.com>
Sent: Tuesday, June 23, 2009 9:57 AM
To: 'Matthew.Feldman@do.treas.gov'; 'john.rapisardi@cwt.com'; 'Karotkin, Stephen' <stephen.karotkin@weil.com>; 'Smolinsky, Joseph' <Joseph.Smolinsky@weil.com>
Cc: 'Gietz, Raymond' <raymond.gietz@weil.com>; michele.meises@weil.com; 'Pais, Harsh' <harsh.pais@weil.com>; Mayer, Thomas Moers <TMayer@KRAMERLEVIN.com>; Caton, Amy <ACaton@KRAMERLEVIN.com>; 'Andrew N Rosenberg' <arosenberg@paulweiss.com>; 'Berkovich, Ronit' <Ronit.Berkovich@weil.com>; 'Gromacki, Joseph P' <JGromacki@jenner.com>; 'Wolf, Michael T.' <MWolf@jenner.com>; 'lawrence.s.buonomo@gm.com'; 'Smith, Zachary' <Zachary.Smith@cwt.com>; 'ron.hopkinson@cwt.com'; 'greg.patti@cwt.com'
Subject: RE: Call 10 a.m. ET Tuesday
Attach: KL2-#2610015-v8-Summary_of_June_19th_Meeting_by_Issue_List.DOC

All,
In anticipation of our 10 am call, please find a summary of our meeting on Friday, June 19, 2009. It also reflects subsequent discussions with the parties which occurred over the weekend and yesterday.
Gordon

From: Berkovich, Ronit [mailto:Ronit.Berkovich@weil.com]
Sent: Monday, June 22, 2009 11:38 PM
To: Gromacki, Joseph P; Wolf, Michael T.; Mayer, Thomas Moers; Caton, Amy; Novod, Gordon; Andrew N Rosenberg; lawrence.s.buonomo@gm.com; john.rapisardi@cwt.com; Smith, Zachary; Matthew.Feldman@do.treas.gov; greg.patti@cwt.com; ron.hopkinson@cwt.com
Cc: Karotkin, Stephen; Smolinsky, Joseph; Gietz, Raymond; michele.meises@weil.com; Pais, Harsh
Subject: Call 10 a.m. ET Tuesday

As discussed at Friday's meeting, we are having a call tomorrow (Tuesday) at 10 a.m. ET.
800-782-1473
4932755
Please forward to anyone else who should be on the call.

Ronit J. Berkovich
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Tel: (212) 310-8534
ronit.berkovich@weil.com

6/23/2009

Please find below the list of issues that were discussed at the June 19th meeting by and among representatives of General Motors Corp., the Creditors' Committee of General Motors and the United States Treasury.

Part I.

Issue	Initial Committee Position	Report from June 19th Meeting
1. Employee Issues.	There should be a resolution of the IUE and USW OPEB issues that does not create administrative or unsecured claims against Old GM. MPSA should be changed to clarify that New GM, not Old GM, will make changes in salaried retiree benefits.	UST: Talks are ongoing with respect to the IUE and are expected to do so as appropriate until the sale hearing. When asked whether there was a tax credit available, Matt Feldman [US Treasury] replied that the tax credit is available for retirees aged 55-65 and most IUE retirees are over 65 and thus eligible for Medicare. Feldman quantified the decrease in benefits for salaried retirees as a reduction of 67% in the total actuarial [balance sheet] value of their OPEB. Compare IUE & USW Objection: ***IUE***: 28% of IUE OPEB relates to IUE retirees under 65, total actuarial [balance sheet] value of IUE OPEB cut by 85%. ***USW***:1,000 out of 6,200 retirees are aged 60-64 and will lose all benefits. Total actuarial [balance sheet] value of USW OPEB cut by 87%.
2. Tort Claims.	New GM should assume liability with respect to future products liability and asbestos claims; need resolution of current product liability and asbestos claims.	Products Liability – pre-petition claims: US Treasury: New GM will not assume these liabilities. Products Liability – post-petition claims: US Treasury: New GM will assume liability with respect to future products liability claims arising post-sale. The sale documents will be amended to reflect this. Asbestos – pre-petition claims: US Treasury: New GM will not assume these claims. Asbestos – future claims: US Treasury: New GM will not assume these liabilities, but acknowledged that once a sale order is entered and people assert claims, then we'll see if they are able to successfully pursue such claims.
a. Pool of 2%.	Subject to agreement of bondholders, "additional 2%" of stock of New GM should be available to fund global settlement with existing tort claimants.	Kramer Levin: suggested the possibility of offering the additional 2% of equity to satisfy tort claims, if the IUE/USW issues are resolved and the bondholders didn't object. US Treasury indicated that it would think about it. Feldman for US Treasury asked what New GM would get for the 2%; we suggested that if 2% New GM Equity, valued by Houlihan at $600mm, was left behind for tort claims, the Bankruptcy Court could issue a "channeling injunction" requiring current and future tort claimants to seek recovery from the 2% before trying to collect from New GM. Feldman suggested that he was "open to creative" settlements for tort claimants, but wanted concrete proposals. Paul Weiss and Houlihan seemed receptive to solving tort issues with the incremental 2% of New GM equity.
3. Administrative Solvency/Ability to Confirm Chapter 11 Plan.	The Sale Order should contain a finding that the estate can pay its administrative and priority claims in full from the $950mm wind-down monies and other asset sales (i.e., other than from the stock and warrants being left for Old GM). Alix Partners should be prepared	Debtors: Steve Karotkin of Weil Gotshal said AlixPartners would testify the wind-down DIP Loan of $950mm would provide enough cash to cover both administrative and priority claims, leaving the New GM shares and warrants for distribution to unsecured creditors. Paul Weiss and Houlihan were concerned that the shares and warrants would be invaded to pay for administrative and

	to testify and make a record on this issue. In addition, the sale order should commit that the $950mm in cash being left behind will not be used to repay the Treasury DIP (or Wind-Down DIP) unless and until monies are clearly left over after a chapter 11 distribution plan is confirmed. Section 506(c) waiver should be conditioned on this.	priority claims. US Treasury: $950mm will be available for the "wind-down" to satisfy all administrative expense and priority claims. The $950mm would be payable out of all assets of Old GM other than New GM shares and warrants. Note: the current wind-down budget by Alix uses $92mm of estimated asset sale proceeds to pay wind-down expenses, so the wind-down budget will need to be recalculated. US Treasury reluctant to allow any of $950mm to be distributed to Old GM unsecured creditors. The wind-down budget will be refined over the next week as the UST, the Debtors and the Committee professionals get their arms around the claims. * The UST will provide a wind-down DIP term sheet this weekend. * The budget will allow for flexibility between categories. Certain taxes are going to New GM, while certain claims for income taxes and others are left behind and will be funded out of the wind-down budget. New GM will fund the costs related to its properties and to pay the carrying costs of running the plants.
4. Wind-Down Budget	Need resolution on what expenses are being paid from the $950mm.	See Part I, #3 above.
5. Avoidance Actions and Banks' Liens.	The Committee should be granted a 60 day investigation period to review the prepetition lenders' liens. The cash collateral orders should be amended to provide that the prepetition lenders are not receiving indefeasible payment, and by accepting distributions from GM, are submitting to bankruptcy court jurisdiction. In addition, avoidance actions under Sections 547, 548, 550 and 553 should be carved out from Treasury's liens.	Debtors: Indicated that if the pre-petition term and revolver lenders are not paid within 45 days (i.e., by July 15th), they will ask for default rate interest for the postpetition period. US Treasury: Will retain liens on avoidance actions other than actions against banks; agrees that Committee is reasonable when asking for 60 days (July 30) to review Banks' liens.
6. Delphi Claims.	Any deal with Delphi must not result in claims against Old GM.	US Treasury: Agrees that Delphi deal will result in no claims against Old GM's estate; all costs will be borne by New GM.
7. Supplier Issues.	New GM has reserved 30-days post-closing to determine which contracts to assume or reject. That period should be eliminated; New GM should have a definitive list as of the closing date.	Debtors: Agreed that once contracts are assumed, they are assumed. When asked about tooling and shipping on contracts that may not be assumed, Weil encouraged suppliers to call the Debtors call center, who can address these questions. The Debtors indicated that 99.9% of direct suppliers are assumed. Of the 497 cure objections filed, 307 have been resolved and the remainder are being contacted via telephone. US Treasury: Agreed to consider whether there is a group of contracts which will be listed as definitively assumed on a rolling basis prior to closing. The UST commented that they are not trying to acquire tooling free and clear of claims and encumbrances and agreed that the order will be amended accordingly.
8. Dealer Issues.	Need to scale back "preemption" language of states' dealer laws in any order.	Weil: indicated that like the suppliers, once dealers sign their dealer agreement, they are assumed. Kramer Levin: argued that the order should not contain a decretal

		paragraph regarding waiver of state law rights. Kramer Levin to provide comments on the order.
9. Corporate Governance for Old GM.	Corporate governance structure for Old GM should be proposed, with Creditors' Committee playing role in corporate governance going forward.	Weil: AlixPartners is looking for someone with industry experience to serve on Old GM's board. US Treasury: Remains interested in how Old GM is managed. Kramer Levin: Will provide a post-sale corporate governance proposal for board membership. Paul Weiss: Will provide input.
10. Listing of the Consideration Shares and Warrants. (Moved up from below)	New GM should report under the '34 Act following closing and New GM common stock and Warrants should be listed on the NYSE at the time of any 1145 distribution.	US Treasury: Old GM and New GM are negotiating with SEC over continued financial reporting. Old GM wants to stop '34 Act reports; New GM intends to voluntarily report under '34 Act but does not believe it can report in full compliance with '34 Act for any period prior to Q4 2009. Weil and US Treasury expect to have something to report on this next week. Regarding listing the common/warrants, US Treasury is considering a date as of which New GM could undertake to have its securities listed on NYSE or NASDAQ if distributed under §1145. Paul Weiss asked for 1/1/10.
11, Warrant Issues		US Treasury: Warrants to be like non-TARP, commercial warrants.
11A. Exercise Price Adjustments.	New GM warrants should include exercise price adjustments for (i) issuances of capital stock below fair market value, (ii) repurchases of capital stock, and (iii) adjustments to, repurchases of or distributions on the VEBA warrant or VEBA preferred.	These proposed exercise price adjustments are under consideration by the US Treasury.
11B. Black-Scholes Protection.	The current version of the New GM warrant only provides Black-Scholes protection for cash-out mergers below the then-current exercise price of the warrants.	US Treasury is considering a proposal that Black-Scholes protection would apply to any transaction to the extent the common stock in any change of control transaction would receive consideration that does not consist of registered/listed common stock.
11C. Black-Scholes Value.	We have proposed that the calculation of Black-Scholes value include either a floor amount (50%) or fixed value for assumed volatility.	The US Treasury resisted this proposal and proposes instead to implement a balanced process for determination of Black-Scholes value (e.g., Warrant Agent participation in banker selection process, etc).

Part II. Issues concerning the Master Sale and Purchase Agreement and associated documents. In addition, we have assembled a primary issues list for discussion concerning the Master Sale and Purchase Agreement ("MSPA"), and the form of Registration Rights Agreement, Warrants, Transition Services Agreement and the Master Lease Agreement (the "MLA") attached to the MSPA. Following these is a list of drafting points and points for confirmation.

Issue	Initial Committee Position	Report from June 19th Meeting
1. Taxes.	Old GM retains pre-closing tax liabilities; therefore Old GM should retain the right to refunds for those periods. Old GM also needs greater rights with respect to tax matters (including tax returns and audits or other proceedings) that could materially affect taxes payable by Old GM.	Weil/Jenner & Block: New GM takes the obligations existing at the time of closing for franchise, real and personal

		property taxes, but not income taxes. (Documents need to be amended to reflect Weil/Jenner & Block position.)
2. Product Liability.	We are aware that there are on-going discussions regarding the extent to which Old GM will retain asbestos liabilities and product liabilities. To the extent that Old GM retains such liabilities, Old GM should retain insurance policies providing coverage with respect to such liabilities.	
3. Survival of Representations.	No representations or warranties should survive the closing under the MSPA.	US Treasury: Reps/Warranties will not survive post closing.
Registration Rights		
1. Listing of the Consideration Shares and Warrants.	New GM should report under the '34 Act following closing and New GM common stock and Warrants should be listed on the NYSE at the time of any 1145 distribution.	See Part I, #10 above.
2. Most Favored Nations Clause.	Old GM should have the benefit of the MFN provision in the Registration Rights Agreement provided to the other parties.	US Treasury: OK. Will circle back.
3. Indemnification.	Old GM should be exempted from the indemnification obligation on the same basis as the other holders of Registrable Securities.	US Treasury: Will consider our request.
Transition Services Agreement		Kramer Levin to provide a mark-up.
1. Remedies.	Old GM should be entitled to require specific performance of the services under the TSA.	
2. Cap.	There should not be a $15mm cap on damages under the TSA. Gross negligence and intentional breach should not be subject to any cap.	
3. Term.	New GM should not be allowed to terminate service due to a non-monetary breach by Old GM.	
4. Scope of Service.	Old GM should be able to obtain additional services reasonably required for its wind-down. Services should include legal of the type previously provided in-house.	
Master Lease Agreement; Use of Properties under TSA		Kramer Levin to provide a mark-up.
1. Creditworthiness.	The tenant under the MLA is a shell entity. New GM should guaranty these obligations.	
2. Taxes and Repairs.	New GM should be responsible under the MLA (or the MLA guaranty) for taxes imposed on the real estate, fixtures and personal property and for repairs (other than major structural repairs) on a customary triple net lease basis.	
3. Abandonment of Tenancy By New GM.	New GM should be required to give Old GM notice of at least 6 months before it (or any of its affiliates) vacates any property covered by the MLA or Schedule C- 3 of the TSA.	
4. Holdover Rent.	If New GM (or any of its affiliates) holds over at a property under the MLA, then holdover rent, at a customary premium to market rent, should accrue during the holdover and such party should remain responsible for the costs of operating such property.	
5. Landlord	New GM should be responsible for all liability incurred by Old GM by reason of the failure to obtain landlord consents in connection with the use	

Consents.	and occupancy rights granted under the TSA.	
6. Environmental Liabilities.	Each New GM Party should be responsible for the cost of remediating, in accordance with applicable law, any contamination caused by it at or in connection with any property that is covered by the MLA or the TSA. This should not be limited to circumstances where the liability is subject to a non-appealable decision that it was caused by tenant's gross negligence or willful misconduct. In addition, New GM should be responsible for providing all environmental services on Schedule A-2.	

Part III. DRAFTING POINTS/POINTS TO BE CONFIRMED

Kramer Levin participated in a conference call with Jenner & Block on June 19th, during which Kramer Levin raised each of the issues found below.

Issue	Initial Committee Position	Report from June 19th Meeting
MSPA		
1. Adjustment Shares.	The Adjustment Shares should be excluded from the assets of Old GM which secure the Wind Down Facility.	US Treasury: agreed to fix.
2. UST Credit Facilities.	The definition of "UST Credit Facilities" should capture any amendments thereto.	Debtors' counsel agreed to fix.
3. Assumed Plans.	Section 2.2(a)(xvi) provides for the acquisition by New GM of all Assumed Plans to the extent described in Section 6.17(e). Section 2.3(a)(xiii), however, provides only for the assumption of Liabilities under the Assumed Plans to the extent that such Liabilities relate to an Employee covered by the UAW Collective Bargaining Agreement. The assumption of liabilities under Assumed Plans should be consistent with the acquisition of the Assumed Plans and with Section 6.17(e).	Debtors' counsel agreed to look at the language together with Employee Benefits counsel and get back to us.
4. Employee Related Obligations.	Section 2.3(a)(xiii) limits New GM's assumption of Employee Related Obligations to those relating to Employees who are covered by the UAW Collective Bargaining Agreement. We would like to understand the basis for this provision since the MSPA specifically contemplates taking on Employees who are not covered by the UAW Collective Bargaining Agreement (e.g. salaried Employees of Old GM). We would also like to understand the proposed treatment of Employee Related Obligations for other Employees who accept employment offers even though they are not required to receive such offers under the terms of the MSPA.	Debtors' counsel indicated that it is the intention that New GM will pick up more Employee Related Obligations for UAW employees, as compared to non-UAW employees. This is not intended to change.
5. Purchased Assets.	It should be clarified that the definition of "Personal Property" does not include fixtures located at the Excluded Real Property.	Debtors' counsel indicated that the Purchased Assets include fixtures to the extent set forth in the MPA schedules.
6. Intercompany Obligations.	The provisions in the MSPA relating to the assumption and retention of Intercompany Obligations (see Sections 2.3(a)(iii) and 2.3(b)(ii)) do not appear to work in parallel. In particular, the provision relating to the assumption of Intercompany Obligations by Purchaser references "Excluded Entities" while the provision relating to the retention of Intercompany Obligations references "Excluded Subsidiaries". We would like to understand the basis for this disjunction.	Debtors' counsel clarified that it was intentional that amounts owed from Retained Entities to Sellers are Purchased Assets, while amounts owed by Sellers to Retained Entities are not Assumed Liabilities. This will not change.
7. Contingent Liabilities.	We understand that FTI has asked GM to provide estimates of Old GM's liability with respect to contingent liabilities including product liability claims, retained benefit plans, taxes, litigation, employees who are not	This process is ongoing.

	hired by New GM (e.g., employees of Saturn of Harlem) and other contingent liabilities to be retained by Old GM. What is the status of these estimates?	
8. Existing VEBA Assets.	What are the assets of the Existing Internal VEBA and any existing external VEBA? Specifically, are any of the assets of the Existing Internal VEBA or any existing external VEBA or notes or other indebtedness of Old GM or the other Sellers?	Debtors' counsel confirmed to FTI that the Existing Internal VEBA does not include any obligations of Old GM (e.g., notes from Old GM) to the VEBA. We are awaiting confirmation of this. We also are awaiting information regarding the assets and liabilities relating to the Existing External VEBA.
9. Treatment of OPEB/Other Liabilities.	The relevant documents should clearly state that Old GM is being affirmatively released from OPEB liabilities with respect to (i) UAW current, former and retired employees, (ii) salaried current, former and retired employees and (iii) current, former and retired employees who are or were members of other unions. The relevant documents should also clearly state that New GM is (i) assuming accrued but unpaid liabilities outstanding at the time of closing with respect to assumed OPEB liabilities and (ii) assuming liability for all incurred but unpaid health claims for all current, former and retired GM employees and their dependants, whether incurred before or after closing.	Debtors' counsel confirmed to FTI as follows: The UAW Settlement Agreement contains a release of Old GM from these liabilities. The agreements with 4 of the 5 other unions with whom an agreement was reached also include this release. The arrangements relating to the non-union employees will not include such a release. Debtors' counsel also confirmed to FTI that accrued and unpaid liabilities as of the closing with respect to Assumed Plans will be assumed by New GM. We are requesting copies of the agreements to confirm these points.
10. Liabilities of Selling Subsidiaries.	Will there be any remaining liabilities at the subsidiaries which are Sellers under the MSPA -- Saturn LLC, Saturn Distribution Corporation, Chevrolet-Saturn of Harlem, Inc.?	Debtors' counsel indicated that the remaining liabilities in these entities are de minimis.
11. Third Party Consents.	Please confirm that the Debtors do not believe that any consents will be required for Closing.	Debtors' counsel indicated that no third party consents are anticipated to hold up a closing. We will continue to monitor this issue.
12. Employees.	Please confirm that the only employees of GM and its subsidiaries not assured of offers at New GM are those at Chevrolet-Saturn of Harlem, Inc.	Debtors' counsel indicated that substantially all the employees of Old GM will be offered employment with New GM.
13. Saab.	Please confirm whether the intellectual property relating to the Saab brand will be transferred to New GM and, if so, we would like to understand why such intellectual property is being transferred without the Saab-related subsidiaries.	Debtors' counsel indicated that much of the IP is used throughout various divisions of Old GM. This applies to Saab-related IP and such IP would be transferred to New GM. To the extent that Saab is eventually sold, the purchaser would need to enter into license agreements with New GM

		with respect to the IP.
Registration Rights		
Indemnification.	The reference to "underwriters" in Section 2.9.2 should be removed.	
Transition Services		
1. Standard of Care.	New GM should provide all services using reasonable care, skill and diligence, in a manner consistent with past practice, including with respect to nature, quality and timeliness.	
2. Third Party Service Providers.	New GM should be primarily liable for breach of TSA by third party providers. Also, if a consent from a third party provider cannot be obtained, New GM should provide a substantially equivalent service.	
3. Service Managers.	Each party should appoint a point person/liaison under the TSA.	
4. Extension of Term.	Old GM should have the right to reasonably extend the term of any service provided by New GM for up to 1 year.	
5. Personnel.	New GM should afford Old GM the benefit of the background, skill, expertise, information and institutional knowledge of employees of New GM.	

Part IV. Master Lease Agreement; Use of Properties under TSA

Issue	Initial Committee Position	Report from June 19th Meeting
1. Governing Law.	The MLA should, as to each property, be governed by the laws of the state in which such property is located.	
2. Remedies.	The TSA should provide Old GM with traditional real estate remedies such as the right to recover possession of any property following a New GM default under the TSA relating to such property.	

Part V. DIP Credit Agreement and Order

See discussion above.

Issue	Initial Committee Position	Report from June 19th Meeting
1. Consent / Review Rights.	The Committee should be granted consultation rights over the Final Budget and any wind-down Budget (as referenced in Section 2.14 of the DIP loan agreement), with at least a 5 day notice period and opportunity to object. In addition, the Committee should receive the same reports from the Company that the Company is providing to the DIP lender under Section 5.2 of the DIP loan agreement or Final DIP Order.	
2. Excluded Collateral.	Definition of "Excluded Collateral" should specifically include stock and warrants being left for Old GM and avoidance actions.	US Treasury is retaining lien on avoidance actions other than actions against prepetition lenders.
3. Wind-Down Budget and Costs.	Before any Section 506(c) waiver is granted, Final DIP order should provide that the DIP Lender is committing to fund the Wind-Down Budget and the expenses contained therein by no more than $950 million. The $950 million shall not be used to prepay the DIP loan after an Event of Default without an order of the Bankruptcy Court.	
4. Investigation	The Committee should be granted a 60 day investigation period to review	Current proposal from Weil is 45 days. Feldman for US Treasury

Period.	the prepetition lenders' liens.	thought 60 days was reasonable.

Exhibit 3

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 09-50026

- -x

In the Matter of:

GENERAL MOTORS CORPORATION, et al.,

Debtors.

- -x

United States Bankruptcy Court

One Bowling Green

New York, New York

June 25, 2009

9:03 AM

B E F O R E:

HON. ROBERT E. GERBER

U.S. BANKRUPTCY JUDGE

HEARING re Motion of Debtors for Entry of an Order Pursuant to 11 U.S.C. §§ 361, 362, 363, and 364 (i) Authorizing the Debtors to Obtain Post-petition Financing, Including on an Immediate, Interim Basis; (ii) Granting Superpriority Claims and Liens; (iii) Authorizing the Debtors to Use Cash Collateral; (iv) Granting Adequate Protection to Certain Prepetition Secured Parties; (v) Authorizing the Debtors to Prepay Certain Secured Obligations in Full Within Forty-Five Days; and (vi) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001

HEARING re Motion of Debtors for Entry of Order Pursuant to 11 U.S.C. Sections 105, 363, and 364 Authorizing Debtors to (i)Pay Pre-petition Claims of Certain Essential Suppliers, Vendors and Services Providers; (ii)Continue Troubled Supplier Assistance Program; and (iii)Continue Participation in the United States Treasury Auto Supplier Support Program

HEARING re Motion of Debtors for Entry of Order Pursuant to 11 U.S.C. §§ 105(a) and 366 (i)Approving Debtors Proposed Form of Adequate Assurance of Payment; (ii)Establishing Procedures for Resolving Objections By Utility Companies; and (iii)Prohibiting Utilities from Altering, Refusing, or Discontinuing Service

HEARING re Motion of Debtors for Entry of Orders Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, and 507 (i)Authorizing Use of Cash Collateral; (ii)Granting Adequate Protection to the Revolver Secured Parties; (iii)Granting Adequate Protection to the Term Loan Secured Parties, and (iv) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001

HEARING re Application For An Order Pursuant To Sections 327(a) And 328(a) of the Bankruptcy Code and Bankruptcy Rule 2014(a) Authorizing the Employment and Retention of Evercore Group L.L.C. as Investment Banker and Financial Advisor for the Debtors Nunc Pro Tunc to the Petition Date

HEARING re Motion of the Debtors Pursuant to 11 U.S.C. § 363 for an Order Authorizing the Debtors to Employ and Retain AP Services, LLC As Crisis Managers and to Designate Albert A. Koch as Chief Restructuring Officer, Nunc Pro Tunc to the Petition Date

HEARING re Motion to Appoint Committee Motion of Ad Hoc Committee of Consumer Victims of General Motors for Appointment of Official Committee of Tort Claimants Pursuant to 11 U.S.C. §1102(a)(2)

HEARING re Motion to Appoint Committee Motion for an Order (i)Appointing a Legal Representative for Future Asbestos Personal Injury Claimants; and (ii)Directing the United States Trustee to Appoint an Official Committee of Asbestos Personal Injury Claimants

HEARING re Application of the General Motors Retirees Association for Order to Appoint a Retiree Committee Pursuant to 11 U.S.C. Section 1114(d)

HEARING re Motion of Debtors for Entry of Order Pursuant to 11 U.S.C. Sections 105(a) and 363(b) (i)Authorizing Debtors to Pay Prepetition Obligations to Foreign Creditors; and (ii)Authorizing and Directing Financial Institutions to Honor and Process Related Checks and Transfers

HEARING re Motion of the Debtors Pursuant to 11 U.S.C. Sections 105(a) and 362 for Entry of (i)Interim and Final Orders Establishing Notification Procedures Regarding Restrictions on Certain Transfers of Interests in the Debtors; and (ii)Orders Scheduling a Final Hearing

HEARING re Motion of Debtors for Entry of Order Pursuant to 11 U.S.C. Sections 105(a), 345(b), 363(b) and 363(c) and 364(a), and Fed. R. Bankr. P. 6003 and 6004 (A)Authorizing Debtors to (i)Continue Using Existing Cash Management System; (ii)Honor Certain Pre-petition Obligations Related to Use of Cash Management System; and (iii)Maintain Existing Bank Accounts and Business Forms; (B)Extending Time to Comply with 11 U.S.C. Section 345(b); and (C)Scheduling a Final Hearing

HEARING re Debtors' Motion Pursuant to Section 363 of the Bankruptcy Code for Authority to Exercise Put Rights

HEARING re of Debtors for Entry of Order Granting Additional Time to File Reports of Financial Information or to Seek Modification of Reporting Requirements Pursuant to Bankruptcy Rule 2015.3

HEARING re Application of the Debtors Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and Fed. R. Bankr. P. 2014(a) for Authority to Employ Weil, Gotshal & Manges LLP as Attorneys for the Debtors, Nunc Pro Tunc to the Commencement Date

HEARING re Application of the Debtors Pursuant to Section 327(e) of the Bankruptcy Code and Rules 2014(a) and 2016(b) of the Federal Rules of Bankruptcy Procedure for Authorization to Employ and Retain Jenner & Block LLP as Attorneys for the Debtors, Nunc Pro Tunc to the Commencement Date

HEARING re Application Under 11 U.S.C. §§327(e) And 328(a) Authorizing Debtors to Employ and Retain Honigman Miller Schwartz And Cohn LLP as Special Counsel for the Debtors, Nunc Pro Tunc to the Petition Date

HEARING re Application Of Debtors for Entry of Order Pursuant to 28 U.S.C. § 156(c) Authorizing Retention and Employment of The Garden City Group, Inc. as Notice and Claims Agent Nunc Pro Tunc to the Commencement Date

Transcribed by: Lisa Bar-Leib

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P R O C E E D I N G S

THE COURT: Good morning.

ALL: Good morning, Your Honor.

THE COURT: GM. Mr. Miller, good morning. You want to come on up and give me your recommendation as to how you believe we should proceed both with the DIP which we have on for 9:00 and also for the 9:45 calendar matters?

MR. MILLER: Yes, Your Honor. Harvey Miller, Weil Gotshal & Manges for the debtors. Your Honor, there is one matter on the 9:00 calendar, as you pointed out, which is the motion for a final approval of the DIP financing. I believe, Your Honor, all issues with respect to that have been resolved. And Mr. Karotkin will explain that as we go on.

As to the 9:45 calendar, Your Honor, there are listed nine uncontested matters and eight contested matters. As to those contested matters, Your Honor, essentially, most of them have been resolved with the exception, Your Honor, of the motion for the appointment of an ad hoc committee of asbestos claimants and the motion for the appointment of a retiree committee. Those two matters are still open, Your Honor, and would be heard at Your Honor's convenience after the 9:45 calendar call.

The motion, Your Honor, with respect to the retention of Evercore Group LLC, we are requesting, Your Honor, that that matter be adjourned until the hearing scheduled for July 2,

2009. We're hopeful to resolve that matter, Your Honor. We have scheduled tentative meetings with the U.S. trustee's office in an effort to resolve that application.

So, Your Honor, basically, there are two matters which will be submitted today for Your Honor's determination with respect to the additional creditors' committees, the request for the appointment of a future representative for future asbestos claimants and the motion for the appointment of a retirees' committee under Section 1114(b) of the Bankruptcy Code.

THE COURT: Okay. Fair enough. Do we want to go straight then into DIP financing?

MR. MILLER: Yes.

THE COURT: You're going to hand off to your partner, Mr. Karotkin, on that?

MR. MILLER: I certainly want to, Your Honor.

THE COURT: All right. Mr. Karotkin, come on up, please? Good morning.

MR. KAROTKIN: Good morning, Your Honor. Stephen Karotkin, Weil Gotshal & Manges for the debtors. As Mr. Miller indicated, Your Honor, we're pleased to report that in connection with the motion to approve the debtor-in-possession financing on a final basis, we have reached a consensus with all of the objecting parties as well as with the creditors' committee and the secured lenders. And that is embodied in a

revised order which I have a blackline copy of which I'm please to hand up to the Court.

THE COURT: That would be very helpful. Thank you.

MR. KAROTKIN: May I approach, sir?

THE COURT: Yes, sir.

MR. KAROTKIN: Your Honor, the proposed order resolves the four objections that were raised which are, basically, categorized in four categories. One was by various governmental entities with respect to liens they have as to personal property and real property. One is with respect to NCR as to their assertion of a constructive trust. There was another objection by Deutsche Bank with respect to the payment of hedging obligations under the outstanding revolving credit facility. And the final objection related to a landlord which wanted its lease hold interests -- the debtors' lease hold interests with respect to its property carved out of the collateral grant. And all of those issues have been addressed in the order.

THE COURT: All right. Do you want to pause and give any counterparties to those objections a chance to confirm that they're satisfied with the way by which you resolved them?

MR. KAROTKIN: Sure.

THE COURT: Mr. Sabin, you coming up?

MR. KAROTKIN: Before Mr. Sabin speaks, in anticipation of what he's going to say, hopefully to truncate

the hearing, Your Honor, we have agreed -- and I actually think the DIP order is clear that in connection with the payment of the pre-petition secured obligations to the JPMorgan group, the Citigroup group and with respect to the hedging obligations, the order provides they will be paid three business days after the approval of the DIP loan on a final basis. And we will confirm on the record that when we pay the Citibank group and the JPMorgan group, we will also pay the hedging obligations at the same time.

THE COURT: Okay. Mr. Sabin, good morning.

MR. SABIN: Good morning, Your Honor. Jeff Sabin from Bingham McCutchen on behalf of Deutsche Bank AG. Paragraph 19 of the revised proposed order that's in front of you reflects the agreement, resolves in full the obligations. My thank you to Mr. Karotkin and everyone else for bearing with us as we work through the resolution. And I think that if this Court were to enter it with those words in it, it resolves in full the objections.

THE COURT: Okay. Fair enough. Anyone else? All right. Given that the objections have been resolved and given the showings that were made at the outset of the case, I'm not going to make extensive findings on the record now, Mr. Karotkin. I think they're set forth in your proposed order.

MR. KAROTKIN: They are, Your Honor. And I would like to point out one of the proposed findings which is in

paragraph (f) on page 12 which has been requested by the United States Treasury. And they are here to address that if you have any questions with that.

THE COURT: Okay. Also, I realize -- and I see Ms. Caton, you came up perhaps to speak. I gather there was a dialogue going on with the creditors' committee. And if there's anything that is desirable for the creditors' committee to put on the record, I certainly want to give it that opportunity. Ms. Caton, good morning.

MS. CATON: Thank you, Your Honor. Amy Caton from Kramer Levin Naftalis & Frankel on behalf of the creditors' committee. As you noted, there were a number of modifications that were made with the order at the request of the creditors' committee. And I just want to highlight a couple of those.

THE COURT: Of course.

MS. CATON: The first one is that one of the creditors' committee's main concern here is what happens to be the state after the sale closes. And I think the parties' intent from the beginning is then that 950 millions or an amount up to -- well, potentially greater than but, likely, 950 million dollars, will be left behind to fund the wind down of these estates and pay administrative and priority claims. However, when we started the negotiation of the DIP order, I don't believe that these provisions were really made clear. And that's one of the things that we have done in the DIP

order. And that's highlighted in paragraph 21.

I think that the new provisions in here will allow us to hopefully confirm a Chapter 11 plan of distribution and make sure that the new GM stock and warrants are distributed to unsecured creditors.

The second point that I would like to make clear is that in paragraphs 5 and 6 of the DIP order that administrative and priority claims are now senior in right of payment of repayment to the DIP and that the DIP is non-recourse to the new GM stock and warrants because this is, as we believe, intended for distribution to unsecured creditors.

We still think that we have a ways to go before we get to a final wind down to make this -- I guess, the budgets clear. We're still negotiating the wind down budget. We need to negotiate an amendment to the DIP credit facility to make it appropriate for a wind down. Right now, there are a number of covenants and events of default that are a little stricter than what we would like to see on a going forward basis. And it's our understanding that the parties intend to do this prior to closing of the sale. And paragraph 21 sets out specifically that the committee is to be included in the negotiations in this process.

Lastly, we did make a few changes to the order vis-a-vis the committee's rights with respect to the pre-petition lenders. The highlight of these are that the committee's

investigation period of certain claims against the pre-petition lenders has been extended till July 31st. And secondly, any claims by the agent on a going forward basis after it's paid next week for reimbursement of the fees is now nonrecourse to the new GM stock and warrants..

And with those changes, Your Honor, the committee supports the entry of the DIP order.

THE COURT: Okay. Fair enough. Thank you. Good morning, Mr. Schein.

MR. SCHEIN: Good morning, Your Honor. Michael Schein, Vedder Price, on behalf of Export Development Canada. Just one clarification made by committee counsel, the carve-out in paragraph five with respect to the admin claims of the case and the DIP to priority claim come into effect after a closing of the 363 sales transaction, not prior to it.

THE COURT: Okay. And you're merely helping me better understand what's in this document?

MR. SCHEIN: Correct.

THE COURT: Okay. Anybody else? All right. Forgive me. Mr. Schwartz, United States Attorney's Office.

MR. SCHWARTZ: Good morning, Your Honor. Matthew Schwartz for the United States of America. As the debtors' papers amply demonstrate, the credit that's being extended by the government and other lenders in this case was the only credit that was available to the debtors and the deal was

negotiated at arm's length between experienced professionals. Nonetheless, the source of the DIP funds in this case is somewhat unusual and so we've asked for the finding that's in paragraph F of the redline order before you that speaks to the authority of the United States to expend TARP funds to make the DIP loan. I think that the language in the paragraph speaks for itself and the basis for the finding was set forth at length in the government's opening statement that was filed on the first day in these cases --

THE COURT: Yes. I remember that.

MR. SCHWARTZ: -- as well as the documents that were attached to it and the other document that we asked that the Court take judicial notice of yesterday.

THE COURT: Okay. Fair enough. I see no reason not to include that. It'll be included.

MR. SCHWARTZ: Thank you, Your Honor.

THE COURT: Anything else? Anyone? All right. Mr. Karotkin, for the reasons set forth in the opening papers, as supplemented by the submission of the United States and revisions made to deal with other parties' needs and concerns, the final DIP financing is approved on the form of the order in which it's been presented to me and subject to the need to get other stuff done today, it will be entered sometime today.

MR. KAROTKIN: Thank you, sir.

THE COURT: Thank you. Have a good day. Now --

MR. KAROTKIN: Could I make a suggestion, Your Honor?

THE COURT: Yes.

MR. KAROTKIN: I'm sorry to interrupt. The matter number 1 on the agenda on page 4, which is -- it relates to two proposed orders for use of cash collateral and adequate protection, those are related to the DIP and those also have been resolved among the parties. The same issues were raised by the landlords, the state taxing authorities, with respect to those proposed orders. Again, they have been resolved on the same basis. The committee raised the same issues that Ms. Caton addressed as to their time to challenge the liens and claims of those parties in the same language -- virtually the same language including -- included in the final DIP order has been included in those proposed final cash collateral orders as well. And I do have marked copies from the interim orders which I can hand up to you, sir.

THE COURT: You are reading my mind, Mr. Karotkin. So long as nobody is prejudiced by their not being here yet, I'd like to go right into those matters and the one you suggested is most logically connected. So far as you're aware, anybody who was going to be here at 9:45 is either here or told you they wouldn't be here?

MR. KAROTKIN: That's my understanding, sir. We circulated copies to the taxing authority's lawyers, to the landlord last night and they were -- they were comfortable with

the language. In fact, they agreed to the language, so they are on board, sir.

THE COURT: Okay. Fair enough.

MR. KAROTKIN: May I approach?

THE COURT: In a half a second, you may. I just want to be sure that the creditors' committee doesn't want to be heard in any way on this. Ms. Caton?

MS. CATON: No, Your Honor.

THE COURT: Okay. Yes, Mr. Karotkin -- well actually, I'm going to ask for a variant of that. I'm going to ask that you or one of your folks provide all the orders to my courtroom deputy at a convenient break. You can hand up the cash collateral to me now but the mechanics of entry will be separately handled. Am I right that this -- aside from the fact that of course it's a final -- principally papers the understandings with the folks who entered those limited objections?

MR. KAROTKIN: Yes, sir.

THE COURT: Okay. All right. It's approved and we're going to deal with this the same way we dealt with the final DIP.

MR. KAROTKIN: Thank you, sir.

THE COURT: Thank you. Mr. Miller?

MR. MILLER: Your Honor, may I make a suggestion at this time?

THE COURT: Yes, please.

MR. MILLER: That we could take the uncontested matters that's on the 9:45 calendar.

THE COURT: Yes. Certainly. And if you know that your counterparties or folks who want to be heard on further matters are already here, we can move into that as well. Do you want to handle the uncontested ones or put them on one of your folks?

MR. MILLER: I'll handle them, Your Honor.

THE COURT: Okay.

MR. MILLER: They start at number 9 on the agenda for 9:45. The first motion, Your Honor, is the motion to get a final order authorizing the debtors to pay for pre-petition obligations to foreign creditors and authorizing and directing financial institutions to honor and process related checks and transfers. This was heard, Your Honor, on June 1 and Your Honor entered an interim order. There are no objections to the entry of the final order.

THE COURT: Okay. Given that and the provisions of my case management order, motion granted.

MR. MILLER: Thank you, Your Honor. Number 10, Your Honor, is the motion for final orders establishing notification procedures regarding restrictions on certain transfers of interest in the debtor. This is the NOL motion, Your Honor.

THE COURT: I remembered my dialogue with Mr.

Karotkin on this.

MR. MILLER: Yeah. He refused to take the lectern this at this point, Your Honor.

THE COURT: Understandably. Granted.

MR. MILLER: Thank you, Your Honor. Number 11 is the order to -- a final order. You entered an interim order, Your Honor, on cash management. There are no objections to the final proposed order.

THE COURT: Granted.

MR. MILLER: Number 12, Your Honor, is the motion of the debtors to -- for authority to exercise a put. This relates, Your Honor, to the claims which Your Honor approved the rejection some time ago at a hearing. One the claims we have a twenty-five percent interest in and a right to put our interest to the other party. As a result of this put, Your Honor, the estate will recover approximately 350,000 dollars.

THE COURT: Granted.

MR. MILLER: Thank you. Number 13, Your Honor, is the motion to grant additional time to file reports of financial information or to seek modification of reporting requirements pursuant to Bankruptcy Rule 2015.3. There are no objections to that Your Honor.

THE COURT: Granted.

MR. MILLER: Number 14, Your Honor, is the application of the debtors to engage Weil Gotshal & Manges

under a general retainer as attorneys for the debtor nunc pro tunc to the commencement date. This order, that will be proposed, Your Honor, was negotiated with the Office of the United States Trustee. There are no objections to this matter.

THE COURT: Granted.

MR. MILLER: Number 15, Your Honor, is the application of the debtors to engage the law firm of Jenner & Block LLP as attorneys for the debtors, pursuant to Section 327(e). Jenner & Block, Your Honor, will be serving, Your Honor, as conflicts counsel and special corporate counsel. There is a supplemental declaration of Mr. Murray in connection with the application and there are no objections to this application, Your Honor.

THE COURT: Granted.

MR. MILLER: Number 16, Your Honor, is the application to engage under Section 327(e) the law firm of Honigman, Miller, Schwartz & Cohn, LLP as special counsel. Mr. Weiss appeared before you, Your Honor, in connection with a suppliant matter two weeks ago. There are no objections to this application, Your Honor.

THE COURT: Granted.

MR. MILLER: The last uncontested matter in this part of the calendar, Your Honor, is the application authorizing the retention and employment of the Garden City Group, Inc. as notice and claims agent nunc pro tunc to the commencement date.

There are no objections to that, Your Honor.

THE COURT: Granted.

MR. MILLER: I would also note, Your Honor, that item on the contested calendar motion, item number -- let me get to it. I think it's item number 6, Your Honor, which was the motion of the consumer -- ad hoc consumer victims committee for the appointment of an additional committee of unsecured creditors to represent consumer victims was withdrawn without prejudice.

THE COURT: Okay.

MR. MILLER: We could do some other motions, Your Honor. I don't know if --

THE COURT: It's all right.

MR. MILLER: Subject to Your Honor's ruling that if somebody shows up at 9:45, we can always go back.

THE COURT: Okay. Do you know whether anybody has indicated to you that they're going to wish to show up on the motion to pay essential suppliers and all that?

MR. MILLER: Mr. Smolinsky, Your Honor.

THE COURT: If you're in doubt, I think I need to wait till 9:45 but I would prefer to deal with the easier ones most quickly.

MR. SMOLINSKY: Your Honor, everything is resolved. I did represent that I would put one thing on the record and as long as I do that, I think we're fine to go forward.

THE COURT: Sure. Go ahead, Mr. Smolinsky.

MR. SMOLINSKY: Your Honor, we're here today seeking entry of a final order with respect to the debtors' essential supplier programs. There were two objections filed. One was filed by Panasonic Electric Works Corporation. The other by Clements (ph.) Inc. Both objections have been voluntarily withdrawn but I did agree to clarify on the record -- Your Honor, you may recall that we attached to our motion a trade agreement and it was the debtors' intent to require critical vendors to sign a trade agreement and return it. These two objections were related to that agreement. They had some issues with it. I think they understand --

THE COURT: They didn't want to give you everything you were looking for, for the benefit of the estate?

MR. SMOLINSKY: That's right, Your Honor. But the answer was easy. You don't have to sign it and you're not a critical vendor.

THE COURT: You anticipated the first question I would be asking in the argument, if there had been one.

MR. SMOLINSKY: But Your Honor, I think they wanted me to clarify that because they did not sign the trade agreement, they're not bound by any of the terms contained in that trade agreement.

THE COURT: If they don't sign an agreement, they're not bound by it?

MR. SMOLINSKY: That's right, Your Honor. And with that, Your Honor, the objections are resolved. The creditors' committee did engage us in some dialogue about the form of the final order. We did add some clarifying language to make certain that we would provide the creditors' committee with the information that they need to be up to speed on how we implemented that order and I'm happy to report that I don't think there are any issues with respect to that.

THE COURT: All right. Fair enough. I do want to give the creditors' committee a chance to comment if it wants to. Mr. Mater, good morning.

MR. MATER: Good morning, Your Honor. Thomas Moers Mater for Kramer, Levin, Naftalis & Frankel representing the committee. We have no issues. We have certain supplier matters that are referenced in our limited objection to the general transaction but we're working those through and with respect to what Mr. Smolinsky put on the record, we have nothing further to add.

THE COURT: Fair enough. Then with the clarifications and anything that you arranged for, Mr. Smolinsky, the motion's granted.

MR. MILLER: Your Honor, I think we could proceed with the utilities motion which is item 2.

THE COURT: Fair enough.

MR. SMOLINSKY: Thank you, Your Honor. Your Honor

entered a final order with respect to the utility motion on June 1st. The procedures provided that objections could be filed to the form of adequate assurances by the 15th of June. We received -- of the 261 utilities that were noticed in connection with the order, we received objections from 35 utilities. We have finally resolved all of the objections except for a very few, I believe two objections, and we believe that we have agreements in principle with respect to those two. What I'd like, Your Honor, and I could share it with chambers so that the docket accurately reflects the resolution of these matters is that two of the objections, it's docket number 764 and 915, will be adjourned until the 30th of June so that we can presumably deliver final resolutions of those matters.

THE COURT: Pause, please, Mr. Smolinsky. On those adjournments, you have comfort that they're not going to turn off the lights on you between now and then?

MR. SMOLINSKY: Yes, Your Honor, we're still within the thirty days so I don't think that that would be an issue.

THE COURT: Okay.

MR. SMOLINSKY: With respect to the remaining motions, they are resolved and I believe they can be marked off calendar and we could provide Your Honor with the docket numbers.

THE COURT: Okay. Are there folks who are waiting to be heard on this? Would you come up please? And,

unfortunately, I don't know everybody. If you could identify yourself on the record.

MS. KARPE: Apologize, Your Honor. Karel Karpe, White & Williams for Nicor Gas. Your Honor, I have spoken to Mr. Smolinsky and we do have an agreement in principle. But I noticed that there was a first supplemental list filed sometime very early this morning. And it looks like there's the Nicor Gas accounts have been transferred to that notice. But it does look like there may be an additional one.

So just to preserve my client's rights, Your Honor, we filed an objection at docket number 1099 which I didn't hear referenced this morning. And all I want to do is just get some assurance on the record that the objection that we previously filed and any other accounts that Nicor and the debtor may have are all rolled over to that next one. We believe that we will have an agreement in the next day and so I don't think that this is going to prejudice either the debtor and we do not plan on turning off any utility.

THE COURT: Okay. Mr. Smolinsky?

MR. SMOLINSKY: Your Honor, just to clarify, an additional list was filed this morning, as we're entitled to do under the order. The purpose of the list was not to add any contracts or any utilities. The purpose was to actually eliminate certain utilities that had claims that their contracts were forward contracts and not utilities. And that

was the agreement by which certain of the objections were resolved. So I'll work with Nicor to make sure that they're comfortable, but we did not have any utility companies to that list.

THE COURT: Okay. You okay with that, Ms. Karpe?

MS. KARPE: Yeah, Your Honor. The only difference that I noted this morning is that there was a difference in the account numbers. I'm sure that Mr. Smolinsky and I can work our issues at and we should have a resolution, we hope, by tomorrow.

THE COURT: Very good. Thank you. Mr. Fox?

MR. FOX: Good morning, Your Honor. Shawn Fox from McGuireWoods on behalf of the Dominion Retail, Inc. With the debtors' representation that they're not seeking to treat Dominion Retail as a utility, our objection is resolved.

THE COURT: Very good. Thank you. All right. Anybody else on 366 issues, utility issues? There being no response, your mechanism is fine, Mr. Smolinsky. So we'll be locked in for all of those that have been resolved and it'll be continued for the couple that haven't been?

MR. SMOLINSKY: That's right, Your Honor.

THE COURT: Very good. Okay. Thank you.

MR. MILLER: If Your Honor please, item number 3 has been resolved. Mr. Karotkin -- that's the use of cash collateral and the explanation that Mr. Karotkin gave.

Item 4, which is the Evercore Group LLC, as stated, Your Honor, we request that be adjourned to July 2nd.

In connection with item number 5, Your Honor, which is the motion of the debtors to employ and retain AP Services LLC as crisis managers and to designate Albert A. Koch as chief restructuring officer nunc pro tunc to the commencement date, we have reached an agreement, Your Honor, with the Office of the United States Trustee and we have a statement to put on the record.

(Pause)

MR. MILLER: Your Honor, I am just informed by Mr. Karotkin that we have to meet with the Office of the U.S. Trustee during break.

THE COURT: Okay.

MR. MILLER: So we'll put that off.

THE COURT: We'll defer that one, then.

MR. MILLER: Item 6 is a report, Your Honor, has been withdrawn without prejudice. And that leaves, Your Honor, items 7 and 8, 7 being the motion of the ad hoc committee of asbestos personal injury claimants for an order appointing a legal representative, a future asbestos personal injury claimant and directing the United States trustee to appoint an official committee of asbestos personal injury claimants.

THE COURT: Okay. Mr. Esserman here?

MR. ESSERMAN: Yes, Your Honor.

THE COURT: You want to come on up, please. Somebody give Mr. Esserman a place to sit at the counsel table? Although, Mr. Esserman, after my preliminary remarks I'm going to want you to speak first. And when you do, you'll be at the main counsel lectern.

Give me a moment, please.

(Pause)

THE COURT: All right. Folks, make your presentations as you see fit but, Mr. Esserman, when it's your turn, I'm going to need you to address not just the matters that were set forth in the papers but the terrain as it now exists as a consequence of my ruling on Tuesday.

We have, as I understand it, in your motion, the regular tort litigants motion having been withdrawn, double barreled issues and of course the future claims rep is a little different then me forming another official committee. But on the matter of the official committee, in addition to the things that you've briefed, I would appreciate it if by the time that you're done you help me understand how it would be, if it is in fact the case, that your request is different than the one for the bondholders that I addressed on Tuesday.

On the future claims rep portion, the debtors told us that it's not looking for a channeling injunction and that we're going to have a liquidation here and that the debtor isn't going to be looking for a discharge. And I need your

help in understanding why those aren't some pretty important facts.

I also want you to address, before you're done, what seemingly is the case, I forgot which of the briefs I saw said that, which focus on the fact that this, unlike the other case in which you've been before me, is hardly an asbestos driven case and that asbestos claims, compared to the totality of the claims of all the other creditors in this case, are very, very small percentage.

So, Mr. Esserman, come on up, please. Good to see you again. Came in from Texas?

MR. ESSERMAN: I did, Your Honor. Nice to see you. Sandy Esserman of Stutzman Bromberg Esserman & Plifka in Dallas, movant today, and I will address all the questions that Your Honor asked. First I'd like to say that on behalf of the ad hoc committee, and we have filed a 9019 --

THE COURT: You said a 9019. Did you mean that or a 2019?

MR. ESSERMAN: A 2019; sorry.

THE COURT: I would have been delighted to hear it was a 9019 but I didn't think we were quite there yet.

MR. ESSERMAN: No. I guess I was anticipating the future, hopefully. Anyway, Your Honor has raised the significant issues, I think, that I will address, each one of those issues. I'd like to address them in this context, in

light of the paper filed by the creditors' committee yesterday, which was, I thought, a very significant paper in which the creditors' committee filed what they called a limited objection to the sale but in fact was a statement by the creditors' committee and a full objection that provided that any sale that does occur in this case cannot bond future claimants and should not bond future claimants.

In light of the position taken by that committee and in light of where we are, I no longer wish to proceed and would adjourn a portion of our motion with regard to seeking a separate committee at this time. We will continue to be active in the case; the ad hoc committee is not going away. We are not seeking official status. This case and the context it was filed, the motion was filed, coming off the Chrysler situation, gave us great pause, gave the ad hoc committee great pause. Just to give Your Honor a context of what I'm referring to, in the Chrysler case the committee was -- had a lot of creditors on it which wound up being assumed and paid in full after the sale was approved, which caused wholesale resignations from the creditors' committee. In fact, I think a majority of the creditors' committee in Chrysler had resigned after the sale was approved because they were paid in full. And that was a difficult situation for those creditors that were "left behind" in Chrysler. Hopefully that is not going to be the case in the GM case or the GM committee, which would, in great part,

alleviate the necessity for a separate committee.

I would like to distinguish or answer -- nevertheless, I'd like to answer some of your questions very briefly. For instance, how is this any different from, say, a Dana which has been referenced in many of the papers, in which asbestos claims were a relatively small percentage of the population of claims versus the situation -- similar situation in Chrysler.

In Dana, the asbestos claims -- and I moved for -- it was pointed out that I moved for a separate committee and I did and we were very active in that case. But in Dana, they passed the asbestos claims through. They passed them through as unimpaired and there was testimony in Dana that asbestos claims were not only passed through to the entity but any successor liability claims that anyone wanted to bring against New Dana could be brought. There was no concession that, in fact, they were good claims or that they should succeed. But that they could survive the reorganization.

There was also extensive testimony that there was adequate assets and insurance to pay asbestos claims in full, in full. So there was a lot of testimony there that, one, asbestos claims were a very small piece of that puzzle; and two, they were passed through. Three, there was adequate provision made for their compensation. And to the extent people look to Dana as a model case of how to deal with this

and how to dispose of not having a futures rep and a committee -- I'm not necessarily endorsing that. We still disagree with those decisions, but that example does stand. And as far as I know, post confirmation, has worked.

In this case, if, in fact, those situations -- situation is going to hold true and future claims, as the creditors' committee has pointed out in their paper filed yesterday, and I would urge Your Honor to read it at his convenience, are going to be able to be asserted against what will be called the New GM. And GM does not seek to channel or restrict in any way those claims. Perhaps a futures representative may not be needed. Perhaps a, what I'll call a future tort czar, future claims tort czar, not just for asbestos claims but in thinking about this last night you've got future damage claims, future rollover claims, future design defect claims, future gas tank explosion claims for GM cars out there in the public that have not yet occurred. And as long as those claims are not impaired in any sense and can be brought against the surviving entity, then I think we need to rethink this whole -- the direction that I was trying to push the pile, so to speak.

On the other hand, if GM's position is no, Mr. Esserman, we are absolutely taking this issue on dead square and we are going to eliminate those claims and leave them behind with no compensation or no special pot or no trust or no

whatever, I think that's a different situation. And I think we need to then think about how we can protect the public and how we can protect the future claimants and the people that are going to be damaged in the future, be it asbestos, be it consumers, be it rollover victims, be it gas tank explosions, etcetera. So perhaps this is yet to play out.

The way I read GM's papers, and hopefully I'm wrong, is they intend to constrict those claims. They intend not to pass those claims through. They intend to, through a 363 device, eliminate those claims for the "New GM" whether they gave good or bad publicity on that in the future.

So, I think, to a certain extent, we sort of need to see where GM's going to take us on this ride. And see if, in fact, they're willing to accede to the issues raised by the creditors' committee and frankly raised first by me in our papers in the objection to the sale. And in fact, if you will, pass those claims through the estate.

I would note that one comment on appointing of an FCR that the debtor made was the ad hoc committee -- ad hoc asbestos claimants request to appoint an FCR at this early stage of these cases should be denied. Well, I know that if it had been made later it would have been too late. And I think, in fact, you need to address this issue up front in a case and early. And if Your Honor decides to or GM is going to decide to severely restrict future consumer claims, future tort

claims, future asbestos claims, it needs to decide which direction to go. And if that's the case I think it'd be only prudent and a protection of the public to appoint somebody to protect those interests and make sure those interests are protected.

If not, I think the Supreme Court, as recently as last week, in the Travelers vs. Bailey decision, which I was involved in from the trial court all the way to the Supreme Court; and lost, I might add, ultimately. But I think that it's sort of in the eye of the beholder whether the case is a loss or a win because you have to look at what the Court said. And the Court, sort of, said it wasn't -- it said you can't collaterally attack orders. You can't collaterally attack, say, a 1986 order in 2004.

But on the other hand, it left open the question as to who's bound by those orders. Were my clients, in that case, Pearly Bailey -- Pearly Lee Bailey, a widow of a Mizo (ph.) victim, was she bound by that order? And the Court remanded it to the Second Circuit to decide whether or not, in fact, she was bound because she was not present before the Court, didn't have notice, etcetera. Those issues all remained open, which is why I say there's a lot of legs left in that case and a lot of legs left after that decision for me in the Second Circuit and in the bankruptcy court.

But what we can learn from that case is, and what the

Supreme Court I think was telling the public and telling the Court was, you need to protect your rights at the time. You need to have your rights protected at the time. And Congress, through 524(g) has in fact; set forth a mechanism to protect future unknown claims in an asbestos situation. And is specifically referenced that protection and it said -- the Court said we do not decide whether any particular respondent is bound by the 1986 orders. They assumed that everyone was bound and that relates very much to this case. I think it's almost dead-on this case.

If GM is trying to bind everybody and all the futures, I think Congress has set forth in the asbestos context and the Supreme Court affirmed last week, how that's done. And that's done through a 524(g) situation. Or I could analogize to that and say that a future tort czar, to protect the futures. And if not, then due process provides that those people are not bound. And I'm willing to, frankly, live with either result. I'm willing, if GM says it wants to go the Dana route, I think that's a mistake but they can go the Dana route. If GM wants to proceed a different route, I'm fine with that.

So in many respects, I punt this to GM. If GM is in fact going to try and cut everyone off at the knees for future claims, I think they need to take this podium and say that. And then I think they need to either live with the consequences of not having a future claims tort czar or future claims rep or

not. And also risk whether or not the order that they want gets entered by this Court. Thank you.

THE COURT: All right. Thank you. Mr. Miller?

(Pause)

MR. MILLER: Harvey Miller for the debtors. Your Honor, I wish Mr. Esserman had called last evening, I might have gotten another hour of sleep. As I understand his presentation, the motion for the appointment of additional committee of asbestos claimants is withdrawn without prejudice.

THE COURT: That's my understanding as well. Mr. Esserman?

MR. ESSERMAN: We would prefer to adjourn it.

MR. MILLER: We would prefer to have it withdrawn without prejudice. We don't need it on the calendar, Your Honor.

THE COURT: All right. Gentlemen, one of the things I would like to do is to get more money into the pockets of creditors. I don't want to make people file more pieces of paper then have already been filed in this case. I'm sure you got less sleep than I did, Mr. Miller, but the goal is the same.

That portion can be continued but, frankly, I'm going to set it for a date pretty far out, Mr. Esserman, without prejudice for you to advance it on the calendar. We keep them on calendar so they don't fall between the outfielders but this

is really a distinction without a difference, gentlemen. Continue, Mr. Miller.

MR. MILLER: So that leaves, Your Honor, the question of the future representative. As Your Honor pointed out in your opening remarks, 524(g) is a section of the Bankruptcy Code which relates to a debtor proposing a plan of reorganization that incorporates a channeling order where asbestos claims are going to be channeled to a particular fund for satisfaction, which is derivative out of the Johns Mandel (ph.) case.

As we have said in our papers, Your Honor, there is no intention on the part of GM to propose a channeling order. And since we are proposing to do a plan of liquidation there will be no discharge. In that context, Your Honor, there is no justification for the appointment of a future claimant representative. And I would direct Your Honor's attention to the case of Locks vs. U.S. Trustee at 157 B.R. 89, a decision of the United States District Court for the Western District of Pennsylvania which held that in a case of a liquidation, rather than a reorganization, there is no mandatory requirement for a future claimant representative.

We are not proposing, in any way Your Honor, a channeling order. And as Mr. Esserman has pointed out, there are negotiations going on with the official creditors' committee as to the scope of the order which will be requested

in connection with the 363 transaction. Where those negotiations come out at this point, Your Honor, we're not prepared to say. There is active negotiation on all of the issues that Mr. Esserman referred to. They will be before Your Honor on the hearing on June 30th.

In the context of where we are today, 524(g) is simply not applicable and there is no basis here, today, for the appointment of a future representative for future asbestos victims. Which, and also, as the Court pointed out in Locks vs. U.S. Trustee, there is an inherent conflict between the current asbestos claimants and the future claimants that may have to be considered at a future date. But in the circumstances where we find ourselves today, Your Honor, there is no basis for the appointment of a future representative. And I say that, Your Honor, without prejudice to a future application if that becomes appropriate.

THE COURT: Okay. Thank you. Mr. Esserman, any reply? Oh, forgive me. Mr. Mayer, come on up, please.

MR. MAYER: Thank you, Your Honor. Tom Mayer, again, for the official committee. And our limited objection is exactly what it states to be. But Mr. Esserman is correct that certain of the issues that he raised we decided to raise ourselves. And it was no mean fete getting a fifteen-member committee to agree to take that position. We have on that committee; I think I can do this from memory, two indentured

trustees representing approximately twenty-seven billion dollars of debt. We have the PBGC whose contingent liability dwarfs that of the bonds. We have three unions who are receiving quite disparate treatment. We have three dealers who are receiving quite disparate treatment. Two suppliers, one advertising agency, two product liability claimants and an asbestos representative. I think I got to fifteen.

And the issues that Mr. Esserman raised were debated at considerable length by what is not even so much a model United Nations and we took the position we took in our papers with respect to future claims.

We agree with Mr. Miller that there is no call for a futures representative at this time. If it becomes necessary, we can deal with it at a future time. But it is our position, as set forth in the papers as Mr. Esserman noted, that we don't believe that an order entered by this Court can bond future claimants. We don't believe 524 is applicable here. We don't think 524 is mandatory and there was no conceivable stretch under which a 524(g) plan could possibly be confirmed in this case. It will never be a case where the asbestos claimants are getting a majority of an operating company and no discharge is being sought for it.

So if at some point in the future it becomes necessary to deal with a futures claim issue, we can deal with it at this time. And at this point we see no basis for either

the appointment of a committee or the appointment of futures representatives. If you have questions, I'm happy to answer.

THE COURT: No, I really don't. Thank you.

MR. MAYER: Thank you, Your Honor.

THE COURT: Okay. Mr. Esserman, I'll take any reply.

MR. ESSERMAN: Future claims are being passed through the estate unimpaired. I see no reason for an appointment either at this time, Your Honor. Thank you.

THE COURT: All right. Everybody sit in place for a second.

(Pause)

THE COURT: Folks, the motion is denied without prejudice to renewal if either the debtor proposes a channeling injunction in the future or decides to propose a standalone plan.

Mr. Esserman, if you want to take this up on appeal, I'll give you full findings of fact and conclusions of law at the end of the day today, but I don't want so many people in the courtroom to have to await a recess for me to deliver those findings which would likely be as long as they were on Tuesday.

MR. ESSERMAN: Unnecessary, Your Honor.

THE COURT: All right. Thank you. Is our next matter the retirees committee?

MR. MILLER: Yes, Your Honor.

THE COURT: Do you folks want to go straight into it

or do you think anybody would want or need a five or ten minute break?

MR. MILLER: I would ask Your Honor for a five minute break. I would like to have that opportunity to meet with the U.S. trustee.

THE COURT: Certainly. Okay. We're in recess for -- until -- would an extra five minutes be prudent, Mr. Miller?

MR. MILLER: Absolutely, Your Honor.

THE COURT: Let's resume at 10:15. We're in recess.

(Recess from 9:56 a.m. until 10:15 a.m.)

THE COURT: Mr. Miller?

MR. MILLER: Harvey Miller for the debtors. Your Honor, may we go back to the motion to engage AP Services?

THE COURT: Certainly.

MR. MILLER: Mr. Karotkin, please?

THE COURT: Mr. Karotkin.

MR. KAROTKIN: Thank you, Your Honor. Stephen Karotkin, Weil Gotshal & Manges, for the debtors. In connection with the application of the debtors to retain AP Services, Your Honor, there was only one substantive objection filed by the Office of the United States Trustee. I believe that the unsecured creditors' committee either filed a pleading or requested certain clarification in any proposed order, which were are more than willing to address.

With respect to the objection raised by the Office of

the United States Trustee, we have reached a resolution of that dispute which we propose to embody in a revised proposed order, which we will circulate with Ms. Adams as well as with the unsecured creditors' committee. But I would like to state on the record the resolution that's been agreed to, if I might?

THE COURT: Yes. Go right ahead.

MR. KAROTKIN: Thank you, sir. I'm just going to go to the substantive points. With respect to the success fee described and contained in their retention agreement, there would be no objection to payment of fifty percent of the success fee as provided in the retention agreement, on the closing of the sale transaction, subject to AP Services filing, prior to such payment, a supplemental affidavit with the Court summarizing the services rendered by AP Services with respect to the sale transaction.

Second, both the payment of the balance of the success fee, which is proposed to be paid one year following the closing of the sale transaction, and any discretionary fee, as that term is defined in the application, both of those payments shall be subject to review under the reasonableness standards set forth in Sections 330 and 331 of the Bankruptcy Code, including the filing of an appropriate fee application by AP Services, including time records.

And finally, Your Honor, no person from AP Services involved in the engagement, can bill at a rate higher than the

rate billed by Mr. Koch, as that rate may be adjusted from time to time, on notice to the Office of the United States Trustee. And I believe that, I hope, accurately sets forth the understanding. And if I have stated something --

THE COURT: Mr. Matsumoto, forgive me. Could you pull a nearby microphone over unless you want to come to the main lectern?

MR. MATSUMOTO: That's correct, Your Honor.

THE COURT: Okay.

MR. MATSUMOTO: He's accurately said it.

THE COURT: Mr. Mater.

MR. MOERS MATER: That is correct, Your Honor. That reflects the agreement with the committee.

THE COURT: All right. Did everybody who weighed in on this or wanted to, have a chance to be heard? Okay. As modified by the understandings with the U.S. trustee and the creditors' committee, that retention is approved. And at your convenience, you or one of your colleagues can get me the revised order papering that understanding.

MR. KAROTKIN: Thank you, sir.

THE COURT: Thank you.

MR. MILLER: If Your Honor pleases, Harvey Miller again. Your Honor, one housekeeping detail.

THE COURT: Yes.

MR. MILLER: The filing of a memorandum of law in

support of the proposed Section 363 transaction is due tonight. There are objections, Your Honor, that are still coming in. They've come in every day. They're still streaming in. What we would propose, Your Honor, is to file our memorandum of law. But we would like the extension, Your Honor, to amend that memorandum before the commencement of the hearing on June 30th, to take into account the additional objections that are coming in.

THE COURT: I need a little help from you here, Mr. Miller, in a couple of ways. First, I thought the time for objections to what you're doing had come and gone. You're dealing with the practical problem that people, either because they disregarded the deadline or didn't get notice of the deadline, are still giving you stuff?

MR. MILLER: I think one day, Your Honor, ECF was down and that delayed a lot of things. Some people claim they did not get notice. And they're just continually streaming in, Your Honor.

THE COURT: I hear you. When were you thinking of -- you did file one brief already. And this, I take it, would be like a reply brief to the objections?

MR. MILLER: Yes, Your Honor.

THE COURT: And what was your thought as to when I would get something I could work with?

MR. MILLER: The hearing is on Tuesday, Your Honor.

Monday, 5:00, 6:00.

THE COURT: Umm --

MR. MILLER: I'll make a concession, Your Honor. Noon.

THE COURT: I feel like I'm playing Let's Make a Deal. I'm not going to default you if you can't make noon, but I'd like you to try very hard to do that.

MR. MILLER: Very good, Your Honor. Thank you.

THE COURT: Thank you. Mr. Schwartz?

MR. SCHWARTZ: On that point. Mr. Miller said that the deadline was this evening. We were under the impression that it was tomorrow. And we were intending to put in papers as well, if that's acceptable.

THE COURT: Sure, you can do that.

MR. SCHWARTZ: Thank you.

THE COURT: Okay. Are we now up to retirees, Mr. Miller?

MR. MILLER: Yes, sir.

THE COURT: All right. I would like counsel for the retirees to come on up, but then, only to get a place at counsel table. Make room for him, folks. Somehow, make room for him, because I have some preliminary observations. Mr. Mater, you get a place at the -- okay, that's fine.

Folks, make your presentations as you see fit, but by the time you're done, I want you to address the following

questions and concerns. It seems to me, subject to your rights to be heard, that 1114(d) has two prongs, one of which is mandatory, if it applies; the other which is discretionary. The mandatory part being "shall order, if the debtor seeks to modify or not pay the retiree benefits"; and the discretionary part being "or if the Court otherwise determines that it is appropriate." Now a "shall" proceeds the second also, but when you give me the ability to determine whether it's appropriate, it seems to me, that changes it into a discretionary determination. But it also seems to me, subject to your rights to be heard, that neither of those requirements applies unless 1114 applies at all.

Now, on that, it appears to me that there are two principal legal issues which I'll get to in half a second. But I also have a factual question for which I'd like your help, Mr. Miller, or from whoever on your team is going to be arguing it; which is, are the debtors' plans the same with respect to both its retiree pension plans and also its welfare plans, which I understand to be its health and life insurance plans? Or is there some distinction between them? That's more in the nature of a factual predicate, just so I know what we're talking about, either changing or leaving subject to the possibility of a change.

But then, when we get to the legal prongs, it seems to me that one of the issues I have to deal with is whether

1114 applies at all. And on that -- and forgive me, on behalf of the retirees, I'm not sure if I got your name?

MR. GOTEINER: I'm sorry, Your Honor. Neil Goteiner.

THE COURT: Goteiner?

MR. GOTEINER: Yes.

THE COURT: Thank you. Mr. Goteiner, it appeared to me that in arguing the issue as to whether 1114 applied, you took kind of a national perspective. And I'm wondering, and I would find your help valuable, in telling me whether I should take a national perspective on the one hand, or whether I, as a judge sitting in the Second Circuit in the Southern District of New York, can appropriately consider a national perspective, or whether I have to give greater attention to a decision of the Second Circuit and of the case law in the Southern District of New York.

Now, I think many people might believe that a bankruptcy judge in the Second Circuit is bound by a decision of the Second Circuit, and I've got the Chateaugay decision. It's also the case that I'm on record in four or five or six published decisions as saying that even though I'm not bound by the decisions of other bankruptcy judges in this district, that I believe that the interests of consistency for the financial community, for the bankruptcy community in this district, are very important, and therefore that I follow the decisions of other bankruptcy judges in the Southern District of New York,

in the absence of clear error.

Now, I was a little surprised, Mr. Goteiner, that at least in your opening brief, unless I missed it, there was no attention to Judge Drain's decision in Delphi. Now, obviously, there was greater discussion of it by the debtors and the creditors' committee when they filed their next round of briefs. And while you mentioned it in your reply, you didn't really address, unless again I missed it, the substantive holdings that Judge Drain had with respect to whether 1114 applies or whether I should follow his decision or whether his decision was incorrect in any way. Some might regard his decision, albeit originally dictated, as one of the most comprehensive and extensive discussions of this area that anybody has ever written at any level in the federal system. So I want both sides to address Judge Drain's decision extensively, either up or down, whether it's right or wrong, and address whether I should follow it or not.

Then we get to Sprague. As I read Sprague, and it's long and it's complicated, and I'm not claiming to be the only person who can read it or understand it, it appeared to me to be an 8-1-1-3 en banc decision. And it looked to me that when you looked at the plans, insofar as they affected the general retirees, as contrasted to the early retirees, it was a 10 to 3 decision, putting aside the class action issue, which isn't material to our concerns. And it also appears to me that for

either most or all of the GM community, their situation is more analogous to the general retiree situation rather than the early retiree situation, because the principal difference was the early retirees had separate deals that may have been explained to them when they were asked to take early retirement.

Now, one thing that was a matter of some difficulty for me, from both sides, is that the contentions that Sprague was wrong came up only in the reply brief filed on behalf of the retiree committee, your folks, Mr. Goteiner. And that forced the debtor to deal with a whole new issue in a surreply, which the debtor did, but then you didn't have a chance to reply to that. Now, debtor has stated in its surreply that res judicata applies, binding on the retirees here, and also even that collateral estoppel applies. I'm wondering whether the more appropriate course is to analyze this, principally, on bases of stare decisis where you have the classic blue Buick.

I don't want to foreclose you folks from other points that you want to make, but by the time you're done, please be sure to have covered at least those. Okay. Your motion, Mr. Goteiner.

MR. GOTEINER: Neil Goteiner, General Motors Retirees' Association. Your Honor, I think the questions you asked obviously go to the core of issues, and so I'll address them up front. And basically I'll constrain my general

comments to dealing with your questions.

THE COURT: You don't have to constrain them, just be sure you've covered them by the time you're done.

MR. GOTEINER: Well, I'm constraining -- I'm saying I'm constraining them, because they're core.

THE COURT: Okay.

MR. GOTEINER: And I haven't thought about every point, but I think I can deal with them. Let me begin by saying this. If you look at the statute, 1114, and you look at the way it's structured, you don't have that much legislative history on tap. We have some, but very little. But if you look at it, what is it doing? It uses the word "any benefit". And it's a very, very modest proposal. And this addresses part of what Judge Drain did as well.

What Judge Drain did and what the debtors are doing -- what some courts are doing, I respectfully submit incorrectly, is that they're treating this exercise as a summary judgment motion. Judge Drain asked about abrogation of rights and that 1114 is not supposed to abrogate rights, and he's not familiar with other sections with the Bankruptcy Code that create rights. We're not creating rights here. All that 1114 did was to create a forum, a platform for discussion so that people, like the 122,000 members of this retiree group who are not represented, has a chance to deal with and talk with management about critical -- and this is not overly florid or

dramatic -- life-threatening decisions.

And Congress understood that. So what happens is, there's a discussion, a conversation that occurs. And by the way, Your Honor, it can occur very, very quickly. This is not going to delay any decisions. There are lawyers on both sides who can handle these issues, and management can handle them. So you have the discussion. And usually these things work out fine, because this particular group, my clients, understands that there has to be cuts, that there has to be serious cuts. But the point is, to have those people whose lives are being affected making the decisions, and not having them be made by executives; not having them been made by other people who don't understand and really live these issues.

So that needs to be stated. And I didn't really see that discussion in the cases. This is not a summary judgment motion. What happens is, if there's going to be a disagreement, and in the unlikely event that the committee -- if it was selected and formed -- in the unlikely event that the committee disagreed with the debtor, then what happens? Then it comes -- then and only then does it come to Your Honor. And then you deal with some of the Sprague questions versus what we think should control, which is the Devlin case in the Second Circuit, which also addresses one of Your Honor's questions.

The debtor suggests that it's Sprague all the way. That's not true. Your Honor, I have not read all Your Honor's

decisions on this, but the Second Circuit has pointed out in the Caesar case, I believe, as well as in other cases when they were dealing the factors versus the Pro Arcs (ph.) cases, that was around 1980. I can get the cites to you on that. That when you're dealing with federal questions, Your Honor should be looking at courts in the Second Circuit. It's national, it is national, but still, when you're looking at federal questions, it's perfectly appropriate, and some courts say you should look to the Second Circuit.

Now, I know that -- and so that means the Court should also consider the Devlin -- and I'm saying we shouldn't even be getting into that now, but if you look at the Devlin burden analysis, in the Devlin burden analysis, you determined whether there's an ambiguity. Under the Sprague analysis, the burden is on the retirees there to show it was clear and unambiguous. That is not the law of the Second Circuit.

THE COURT: Pause, please, Mr. Goteiner, because if I heard you right as you were getting into that, you mentioned Pro Arts. And sadly, I'm well aware of that case because in the Adelphia case, I had issued a decision where I expressed the view that the Third Circuit couldn't understand a matter of Pennsylvania law correctly, or at least a two-judge majority in a Third Circuit decision, and that they ignored a decision of the Pennsylvania Supreme Court. And while I wasn't reversed on the issue because there were satisfactory alternative grounds,

it was pointed out to me that I, as a bankruptcy judge, don't have the ability to tell a circuit court that it was wrong when it's construing a matter of state law within its home state district. And I think that's what Pro Arts stands for among --

MR. GOTEINER: State law.

THE COURT: State law.

MR. GOTEINER: Correct.

THE COURT: Now, it appeared to me that even -- when I was reading Sprague, that even though there isn't much discussion of Michigan law, when they're talking about contract formation as contrasted to what ERISA provides, that's got to be state law.

MR. GOTEINER: They didn't -- Your Honor, they didn't discuss it. And my -- I have the same question. All right? And it seemed at that level and at the level that Your Honor is grappling with, it seems that the state issues are subsumed in federal issues. And look, there are a lot of blanks in Sprague. And there were a lot of disconnects and discontinuities between the majority decision and the dissent. The majority says most of the plans had the termination language. The dissents, in a robust and animated dissent, says that some of them did. But in any event, it was clear that it was all over the lot, and most could be fifty-one percent. So I'm aware of the point. I'm also aware of Factors, in fact, it was one of my first cases. I was representing the estate of

Elvis Presley and flew down to Graceland. I remember that case very well.

THE COURT: That is Pro Arts, isn't it?

MR. GOTEINER: Yes, Factors, Pro Arts. So I'm aware of that case, as well. So in dealing with these issues, I think 1114 trumps the analysis for today. And all I'm saying, 1114 is a very modest proposal. And where Judge Drain was wrong was he started talking about creation of rights and abrogation of rights. That's not what would happen today if Your Honor appointed an 1114 committee. And by the way, Judge Drain did appoint an 1114 committee after this long analysis.

THE COURT: Albeit for a fairly limited purpose.

MR. GOTEINER: Albeit for a fairly limited purpose, but there was -- he left wedges in his decision. And it depends on what was going to come up in that analysis. And things do come up.

But the point is, the fair and equitable calculus that Congress imposes on the debtor, on the retirees who are not represented like the UAW -- I just want to make that clear; it's an obvious statement -- what Congress imposes is a very reasonable and quick approach. And that was my major problem with Judge Drain's decision. He -- and by the way, I'll tell you -- I'll take responsibility for part of that because we were involved in that, as Your Honor may or may not know. And we were involved in the briefing, and we were co-counsel on

that point. But I got more involved in this matter, and as I started to look at the literature and I started to look at all the cases, it became clear to me that, with all due respect to these -- to very distinguished lawyers and judges, the fundamental aspect and driving purpose of 1114 has been missed in all this. And what's happening is -- and so what I'm looking for is an Occam's razor that gets down to the fundamentals and explains what 1114 is. And 1114 is as I stated, I won't repeat it, and I doubt many people would disagree with me on my right, but that's what it is.

And then Judge Drain did more than that. Then Judge Drain talked about his analysis of 1114(l). What does that mean? Although I don't think you have to characterize this as a vested right, as I was just saying, because that's not what we're doing here. We're not aggregating rights. But what Congress did do in 1114 is to create at least a vested procedure outside of bankruptcy, for the 180 days preceding bankruptcy. To me, it's a dizzying non-sequitur -- and this is also why I disagree with Judge Drain -- for to say that exists in a pre-bankruptcy context that doesn't exist during bankruptcy.

1114(l) has meaning. And it only has meaning if you apply it logically and consistently, and I think Judge Drain missed that. And frankly, everyone did. But that's what 1114(l) means. And --

THE COURT: Well, pause, please, Mr. Goteiner. Because -- and maybe the creditors' committee picked this point up in its opposition to you or in -- I don't remember where I got this from, to tell you the truth -- but there are different scenarios under which, prepetition, a debtor can adversely affect its retiree rights. It can do it by exercising the right that the debtor thinks it has to amend or terminate unilaterally because it contends that its plan documents provide it with that entitlement or that right. Or it can do it because it says we simply can't afford it. And we're changing it and maybe those guys can sue us. I think it's agreed that in the second -- or at least not very controversial -- that in the second category, adversely affected retirees can have had it and go after the debtor under 1114(l). But I think somebody said, again, I think it was the creditors' committee, that the jury may still be out -- or the legal equivalent to that -- as to whether 1114 applies when the debtor uses a right of amendment or termination that it otherwise has in its plan documents. Is that your understanding, as well?

MR. GOTEINER: Well, that's what they're saying, but the --

THE COURT: That's what the creditors' committee is saying, you're saying?

MR. GOTEINER: Right, well, I think the debtor --

THE COURT: Well, I guess what I'm interested in is your view on that.

MR. GOTEINER: Well, I'm interested in their view, as well. But my point is that the wording of 1114 is so broad, so all-encompassing with any benefit, Congress was aware that there are amendable benefits, and with that kind of language. But when you combine that with the modest procedural rights that 1114 provides, again, that's the simplest explanation of what's happening here. It's premature to decide this now. And we do know, because of announcements that they've been transparent about this to a degree, that they're going to be cutting two-thirds of benefits. You know, these are critical benefits. So it's happening now. This process is happening now. And it also happened in the six months prior to June 1, which is an 1114(l) situation.

So I just disagree with the -- there's a lot, as I say, of Talmudic analysis in all these decisions. And particularly, Judge Drain's was excellent, it's true. I mean, he covered the ground. But the fact that he had the excellent legal analysis doesn't say to me that he covered the fundamental point of what 1114(a) says. And on top -- and 1114(l), as well, where I think he's dead wrong.

But on top of that, if we even want to get into this analysis, he says that bankruptcy law does not create rights. Well, that's not true. Preference rights, 1113 rights, 363

puts limits on a debtor's use of a third party lender's cash collateral during a Chapter 11 case providing substantive protections that don't exist outside bankruptcy. Section 363 gives assets buyers the right to buy assets free and clear of liens. Section 364 gives third party post-petition lenders the right, under limited circumstances, to get priming liens, granting them a lien on collateral ahead of existing lenders which cannot be done outside bankruptcy, so he's wrong on that as well. And, again, these points were not fully briefed. But as I read the decision, I started asking these questions, and they didn't make sense.

So I could deal more with Judge Drain's decision, but I think with respect to those fundamental points, though, and I know it's the most comprehensive decision out there, today. Painfully so. But, it doesn't mean he's right. And so I respectfully suggest this is for Your Honor to wrestle with to determine whether he is correct or not correct on the fundamentals and also on this overarching point of whether we should decide this now. Is that what Congress had in mind? And I respectfully submit they didn't.

So I think I have answered Your Honor's questions. Let me just look at my notes for one second, Your Honor. Ah, let's address Sprague just for a minute longer because Your Honor raised the res judicata possibility. Your Honor also said well, that was a class action; we don't need to involve

ourselves with that. But we do. We have --

THE COURT: Your point being that they expressly denied class action status for both of the two major classes?

MR. GOTEINER: Precisely. No -- class actions have significant meaning, obviously, and they have significant meeting, and as defendants, we sometimes stipulate to class certification because of what it means for final peace, global peace. But there is no class representative there. There is nothing close to the privity type issues in these virtual representation cases.

THE COURT: Well, pause, please, Mr. Goteiner, because you're absolutely right on the significance of class action. But is it the case that if there had been certified a class action, the decision would be a no-brainer on res judicata. And the question really is, in the absence of a class action, what's left?

MR. GOTEINER: Well, you said stare decisis, but again, Your Honor, that really has to do with, you know, there are all sorts of things that occur in a class action. Okay, I do that kind of work, as well. And there are all sorts of decisions that are made. You have to take a look at whether the subclasses were defined correctly. I don't know, I can't answer your question because I also -- there are lacunae in Sprague that don't make sense to me. And it just wasn't because you had an impassioned chief -- I think it was the

chief judge saying it was wrong.

THE COURT: It was Martin, if I recall.

MR. GOTEINER: I'm sorry? Judge Martin was chief judge --

THE COURT: Yes.

MR. GOTEINER: -- at that point.

THE COURT: Yes.

MR. GOTEINER: And it's not only the lacunae that exist there, but theoretically, to me, it doesn't make sense given the ambiguities that did exist. But the Sixth Circuit said, all right, this is our view, we see no ambiguity. But the Sixth Circuit went off on the Wise decision. And that was, as I recall it, that page, that was the first primary decision they cited was Wise from the Fifth Circuit. However, in Devlin, the Second Circuit said we can see how the district court could have been led by Wise into making the decision it did, but we don't go that direction in the Second Circuit. So the core theoretical groundwork for Sprague finds itself rejected in Devlin. Now, I don't think Devlin cited -- I think Devlin maybe came down a month or two after, I'm not sure. But there was no cross-referencing of the two. And I also note that in the debtors' brief, although I read it quickly, I didn't see a reference to Devlin.

So, as I say, it's Sprague. So I don't see Sprague -- it's certainly not anything close to virtual

representation. There's not the privity, there's not the same motivation, it is not a one-on-one linkage that you found in Chase. It just isn't. It's an aborted class action. You cannot cherry-pick from Sprague and take one point, and then say it binds everyone, all the retirees. You just can't. It is limited and it is not what the Second Circuit would buy into as I read Devlin.

And I must say, with all due respect, Judge Drain was wrong there, as well. Now, I do recall that there was briefing on this choice-of-law issue in the Delphi matter, and I'm not quite sure because this came in late last night so I haven't had time to check, I'm not sure because I think the judge in the -- Judge Drain, in the decision that he announced from the bench, said the parties hadn't briefed on him on the choice-of-law issue. Then there was briefing after that pursuant to his comment. But I don't know what happened between -- and maybe counsel here does know -- I don't know what happened between that briefing and Judge Drain's decision. But clearly, he did not take into account Second Circuit law, and he should have because the Second Circuit controls Judge Drain in this issue. Or at least, that's what the Second Circuit in Caesar (ph.) said, and that's what is drawn from the analysis in Factors v. Pro Arts.

So, let me just see if I -- I think -- Your Honor, does that cover your main points? I think it does.

THE COURT: I think it does, too.

MR. GOTEINER: So why don't I stop there and reserve any additional time after I hear the opposition.

THE COURT: Sure.

MR. GOTEINER: Thank you very much.

THE COURT: Mr. Miller?

MR. MATER: Your Honor, please, Harvey Miller on behalf of the debtors again. Your Honor the law is perfectly clear that Section 1111 -- I'm sorry, 1114 of the bankruptcy code, does not apply with respect to a retiree plan that is terminable or amendable or modifiable unilaterally by the plan sponsor. And while counsel may refer to Sprague as an aborted class action case, it's certainly beside that GM had an unqualified right to modify these retirement plans, and that was heavily litigated, and that's what the Sixth Circuit decided in the decision that you referred to. So if GM has the right to modify or terminate these retirement plans, then Section 1114 does not apply and there should be no retiree committee.

Counsel claims that Sprague decision should not be binding on this Court. And he says that the -- there's no finding that the issues are exactly the same or there was an alignment. Well, what was Sprague about, Your Honor? It was a claim violation of ERISA that GM unilaterally modified and terminated rights that the retirees claim in violation of

ERISA, because if it was a plan subject to ERISA, GM could not do that unilaterally. So this welfare plan, the Sixth Circuit held, is modifiable by GM and it went through the different plans and came to the conclusion that all of the plans reserved to GM the right to modify or terminate and that right continues, Your Honor. And those are GM plans.

Now, counsel says, and the moving parties say, "Well, now we're in the Second Circuit and Sprague doesn't apply." We argue, as we have in our brief, Your Honor, that there is virtual representation. And notwithstanding that the class action certification was vacated, the claim's rights asserted -- the same rights that are being asserted in connection with this motion, Your Honor. So now we move, Your Honor, to the Delphi case. And what happened in Delphi? Exactly the same thing.

The argument was being made, by the plan beneficiaries, that Delphi did not have the right to modify or terminate these benefits unilaterally. That was the issue that was presented. And the important factor in that, Your Honor, is that Delphi plans were GM plans because Delphi was a spinoff from GM, I think, in 1999, and those plans were all GM plans. And as Your Honor pointed out, Judge Drain, in a very comprehensive bench decision, came to the conclusion that Delphi had the unilateral right to terminate and modify the plans and therefore 1114 was not applicable, but he did appoint

a committee. And he appointed a committee for a very limited purpose.

There was a contention made that certain of the beneficiaries had vested rights and if their rights were vested then Delphi could not unilaterally modify or terminate those rights. So he appointed a committee for a specifically limited purpose to explore and file a report as to whether any of the rights were vested.

THE COURT: Can you help me, if you know, as to why, especially if these were former GM people, they might have had vested rights? Like, could they have retired before the first of the plan descriptions were issued that reserved the right to modify or was it some different basis?

MR. MILLER: No, Your Honor. It wasn't because of a date or a time. Within Delphi, there were other acquisitions that form part of Delphi; American Axle Company and some other companies. It may have been that those companies had plans that were in existence when they were merged. And there may have been the employees that came from those companies that have vested benefits.

THE COURT: In other words, they became Delphi retirees but their retirement rights had been created back when they were employees for different companies?

MR. MILLER: That's correct, Your Honor, as I understand it.

THE COURT: I'm with you now, okay.

MR. MILLER: Now, subsequently to the bench opinion, Your Honor, which was issued on -- in the early part of 2009, Judge Drain again revisited the issues that were presented and in a transcript, which I was only able to get last night, Your Honor.

THE COURT: I think it's now on Westlaw also, maybe Lexis also.

MR. MILLER: It's March 11, 2009. He considered the report that came back from this committee. And if I may, Your Honor, I would hand up a copy of the transcript.

THE COURT: I read it last night.

MR. MILLER: And I would refer Your Honor to page --

THE COURT: Finding it is a different question. For that, maybe you do have to hand it up.

MR. MILLER: I have one if Your Honor would like it?

THE COURT: Yes. Why don't you do that. Give me a second, please, Mr. Miller.

(Pause)

THE COURT: Go ahead, please.

MR. MILLER: I would refer Your Honor to page 61. And if I may, I would read. This is in consideration of the report that the committee that he had appointed rendered.

THE COURT: Wait. Did you say 61?

MR. MILLER: 61, Your Honor.

THE COURT: Oh, I see. The pagination on what I read yesterday is different than what you just gave me. Go ahead, please.

MR. MILLER: Starting with the first full sentence, "With respect to the first point, as I noted, probably too much I lent during oral argument, I continue to believe that the Sixth Circuit Sprague decision is one in which the Sixth Circuit at length determined, en banc, that there was no ambiguity in the respect of GM's reservation of rights to modify, at will, it's welfare plans. Including for the period" --

THE COURT: Forgive me, Mr. Miller. I'm having trouble finding it in the one you gave me as well. You said -- this is with respect to Sprague, right?

MR. MILLER: Yes, Your Honor.

THE COURT: Go on, please. I'm not sure if I can find it here, but I'll just listen to what you've given to me.

MR. MILLER: All right. "That there was no ambiguity in respect of GM's reservation of rights to modify, at will, it's welfare plans including for the period in question and that -- or I could conclude otherwise, I would not be doing so by applying a different standard than that which is applied in the Second Circuit under Bouboulis v. Transport Workers Union of American 442 F.3d 55 (2006), namely that the plan documents contain specific written language that is reasonably

susceptible to interpretation as a promise to vest benefits. Language quoted from Devlin v. Empire Blue Cross and Blue Shield 274 F.3d 7684 (2001). Instead, what I would be doing would be, in essence, reversing the majority's conclusion in the en banc Sprague opinion that there was no ambiguity in the relevant documents. And that, in fact, it was clearly understood that GM had reserved the right to modify.

Based on the analysis of the record, which I believe is one that is clearly pointed out as such by the descent of Chief Judge Martin in that case, I don't believe there's any difference as far as how the Sprague Court and the Second Circuit would review the underlying documents.

In any event, I believe that that portion of the report that went beyond my charge or my assignment to the committee, since it, in essence, sought to reargue my earlier ruling, and in addition sought to suggest that the assumption by Delphi pursuant to the master separation agreement, which appears at Exhibit 90 in the U.S. Employee Matter's Agreement, which was referred to there and appears in here most readily at supplemental Exhibit 4, provided for the transfer to Delphi and the assumption by Delphi of GM's legal responsibilities for OPEB claims.

My conclusion was in February and is now that in assuming such legal responsibilities at the time, Delphi and GM were both fully aware of the Sprague decision, which predated

these agreements which found that GM has no legal responsibilities in respect to these claims. And in light of the clear evidence that all of Delphi's plans and all of GM's plans, at least since 1985, contained a clear unambiguous reservation of the right to terminate or plan documents contain such reservation that I cannot ignore the context of the Sprague decision as underlying the parameters of what Delphi adequately assumed and what GM transferred to it."

I will submit to Your Honor, that on reconsideration, Judge Drain went even further then the bench opinion. And I submit to Your Honor that it's incontestable that GM had the right and has the right to modify, terminate, any of these welfare plans. And in that context, Your Honor, then GM is not subject to 1114 and there is no need for a retiree's committee.

As to the -- Your Honor's question with respect to the salaried OPEB plan and the pension plans, the pension plans will be assumed by New GM and the salaried retiree plans, as modified, will be assumed by New GM. There are cuts being made, Your Honor. These are cuts, and as we pointed out in our papers, since 2002 we outlined the various changes that have been made by GM in these particular plans which increase the cost to the employees from something like twenty-four percent to forty-one percent over that decade. And these changes were made unilaterally, Your Honor, by GM and there's never been in that period in time an action by any salaried retiree

contesting that that was a violation of vested benefits in any way, shape or form.

THE COURT: Pause, please, Mr. Miller. Let me get it straight. I take it, for the retirees that we're talking about here, they have rights of essentially three times. They have pensions, which if I heard you right, are being taken over if the 363 is approved by New GM and would remain unchanged. Then they have a number two, health, and number three, insurance, which would be taken over by the New GM by the modified form in which they were modified before the filing date?

MR. MILLER: Yes, Your Honor.

THE COURT: Okay.

MR. MILLER: Now, the pension plan --

THE COURT: And pause, please; a follow-up. Are there any changes contemplated beyond those that were announced --

MR. MILLER: Not currently.

THE COURT: -- prior to the filing date?

MR. MILLER: Not currently. But I point out, Your Honor, the pension plan is a defined benefits plan. The -- which is a qualified plan. The welfare plans are not qualified. These are discretionary plans with GM.

THE COURT: Okay. Continue, please.

MR. MILLER: Also, Your Honor, in the March 11th oral decision, subsequent oral decision by Judge Drain, he likewise

deals with 1114(l). And he says very specifically in there, Your Honor, that there is no indication whatsoever that Congress intended to change the applicability of 1114 when it adopted 1114(l). In fact, there was nothing in the congressional record. There is no indication whatsoever that Congress was changing the laws that existed prior to the adoption of 1114(l), and I think it was in 2005.

So the law is, Your Honor, that if a welfare plan is subject to unilateral termination or modification, then 1114 doesn't apply.

Now, in connection, Your Honor, with discussions with the company, there's nothing holding back counsel and his group from contacting GM. You don't need a retiree committee to do that. There can be discussions and there is actually, a, as I understand it, Your Honor, a salaried retirees' committee of some type that does periodically discuss these issues with GM.

So we come back to the bottom line issue, Your Honor. Is 1114 applicable to these particular welfare plans? Judge Drain, in his very comprehensive bench opinion said, no. Subsequently, in his consideration of the report of that committee which was appointed for a specific purpose, he reiterated that. He also went further, Your Honor, and said that the Second Circuit, at least in his opinion, would not vary at all from the Sprague decision. And we would submit to Your Honor the Sprague decision should be binding. Yes, it's

binding on the 114 plaintiffs in that action, but when you look at the issues that were litigated in that case, they are precisely the issues that would come up here: did GM have the right to unilaterally terminate or modify?

The Second Circuit en banc, as Your Honor pointed out, nature as majority, on certain issues, and 1011, on other issues, found that GM had that right. And all of the plans, Your Honor, had the reservation of that right. And it's been consistent. And in that context, Your Honor, there should be no retiree committee in this case which would just simply add more cost. And as Your Honor pointed out in your decision last Tuesday, all that means is you're transferring more costs to the general creditors. And in that context, Your Honor, we submit there should be no committee.

THE COURT: All right. Thank you. Mr. Mayer, creditors' committee?

MR. MAYER: Thank you, Your Honor. Tom Mayer for the official committee of unsecured creditors. We echo the debtors' view that because the contract provides for modification at GM's will, I don't mean to minimize the hardship that a termination or modification at the debtors' option may impose on individuals but that's the agreement they have; that's the effect of the agreement. And with respect to the Sixth Circuit versus Second Circuit, if I may pick up on a comment Your Honor made, one of the unfortunate results of

going a different way here is to take a decision on these precise documents and say the Sixth Circuit got wrong looking at the documents before it. I think perhaps Your Honor was referring to a resonance to your earlier decision on the Third Circuit. Sixth Circuit, it's not just that it's interpreting ERISA, it's interpreting these documents. And to seek a different decision in this Court when the Sixth Circuit has looked at these documents, I think would be very unfortunate. But that being said, there's one other major point that is sort of the elephant in the room that is being overlooked and was critical in the Chrysler case where we were involved, who are the negotiations with, Your Honor?

A statement has been made that "GM" is cutting its benefits by two-thirds. Who's going to pay the one-third that's left? It's New GM. The elephant in the room is the government. The government is the owner of New GM and any relief that this committee is seeking is going to have to be paid by New GM. That's the only entity that's going to have any plans going forward. That's the only entity that's going to be set up to pay retiree medical benefits going forward. Any discussion has to be with New GM.

And if I may go back to an issue, Your Honor, at the very beginning of this hearing as a shout point at 1114 and there is a nay point at 1113. We are not in the shout section, no one has moved to terminate or modify retiree medical

benefits. Largely because no -- the debtor has nothing, the committee does not think that's necessary.

If you're in the nay part of 1114, and this is where we start diverging from Delphi with respect to the need for any committee in the first play, the fact of the matter is these negotiations aren't with Old GM. They're with New GM. And I think the Court should take that into account just as Judge Gonzalez did in conjunction with the Chrysler decision where we had a very similar set of arguments, and Judge Gonzalez basically said, "Look, your discussion with new co." And 1114 is not set up to facilitate a third party's discussions with an acquirer. It is the acquirer who is going to make the decisions here. That's the reality and I think that Your Honor can take account of that in determining in whether you should exercise discretion to appoint a committee here. Because I think that's the elephant in the room.

We cited to the Chrysler transcript. We did not include a copy of it in our pleading because we called chambers and was told that because that transcript had not been made an official record yet, it was not appropriate for us to provide copies to the world by attaching it to our pleadings. I have copies here if you want --

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THE COURT: This is what? For the protection of court reporters? Because it's a public document.

MR. MILLER: Well, yes, Your Honor. I think that's exactly what it is. I have copies here. I'm happy to hand them out.

THE COURT: Well, I must say, the most important thing is to get one to Mr. Goteiner because I thought I was allowed to read that transcript and I read the Gonzalez transcript.

MR. MILLER: I'm happy to provide it and I apologize for not having done so but we were given instructions.

THE COURT: Well, I think we've got to get a copy to Mr. Goteiner. I mean, you cited that transcript in your brief, if I recall, at the end as your last point. Didn't you, Mr. Miller.

MR. MILLER: Yes, Your Honor. I did so and as I said I apologize for not having attached it but we were told by chambers, because of the court reporter's rules, that we couldn't make copies available to everybody.

THE COURT: Well, I'm sorry. I didn't know that chambers told you that. Mr. Goteiner should have been given it before now and I'm going to take a recess to allow him to comment on it, if he wants to, before we're all done.

MR. MILLER: Certain.

THE COURT: I'm sorry. Sometimes my chambers tells people things that I never know about and they don't have the same sensitivities that I do. There are rules to protect

court reporters and sometimes those rules just have to be trumped. Okay.

MR. MILLER: I have nothing further.

THE COURT: All right. Does anybody want to be heard before I give Mr. Goteiner a chance to reply? No. Mr. Goteiner, your option. Would you like me to take a recess now to give you a chance to read it? The Gonzalez decision?

MR. GOTEINER: Well --

THE COURT: On the one hand it was referred to in Mr. Miller's brief or in his firm's brief, I forgot whether he was a signer, but on the other hand, the underlying transcript wasn't there.

MR. GOTEINER: Your Honor, if I may, might I respond for a few minutes to arguments --

THE COURT: Certainly.

MR. GOTEINER: -- and then take a recess?

THE COURT: Yes.

MR. GOTEINER: Okay. Well, the one overarching argument that has not been dealt with is the 1114 process and that what's gone on in some of the decisions and what debtors and creditor committee wants to do is to turn this into a summary judgment determination. It's too premature for that. And you know it's premature when they get back to Sprague. I also just read Drain's -- Judge Drain's decision or transcript and he even points out that he's clear with respect to all the

plans, at least since 1985. So what happens to the plans before 1985? So, there's a large number of retirees who come within that time period. Judge Drain starts talking about no ambiguity but it's not a factual issue only, Your Honor. And this is -- unfortunately, we have to go back and take a look at the decisions but Devlin -- it's a legal issue. The question is, what would the Devlin court decide as to whether it was ambiguous. We respectfully submit that Devlin, again, not cited to except in Judge Drain's decision but with no analysis, makes it real clear that under Second Circuit analysis, Judge Martin was right; it was ambiguous.

And the notion of making a decision at this point and totally sidestepping Congress' provision of an 1114 proceeding because debtor suggests it's going to be more money, I think absolutely flies in the face of what Congress intended particularly when you're talking about billions of dollars of benefits to people who truly -- this really is the archetypical situation where you have widows and orphans. And it's just -- it's grossly unfair. But putting aside fairness and equity, it flies in the face of 1114. That's precisely what Congress wanted to avoid; a quickly determined summary judgment determination without giving the retirees a chance to sit down and at least be the assistant captain of their fate. That is not what Congress had in mind and the notion of having an informal ad hoc committee without portfolio as opposed to an

1114 committee, I suggest is absurd. And again, flies in the face of what 1114 does.

THE COURT: Pause please, Mr. Goteiner. I didn't want to interrupt you when you made the point. You pointed out that Judge Drain's decision said, in substance, I don't remember the exact words, at least since 1985 retirees had been told that the company reserved the right to change the welfare plans. Do you know how many retirees there are who retired before 1985 and, if I'm allowed to ask a compound question, how many of them aren't sixty-five where they would get Medicare rights and therefore their medical needs would be greater than they would be if you got an entitlement to Medicare?

MR. GOTEINER: I do not know that number. I do not know that number. And as --

THE COURT: That's almost twenty-five years ago.

MR. GOTEINER: Oh, I understand. I understand. I don't know that number but there are other rights as well. There's life insurance, health bene -- you know, health benefits might -- that would be an issue, I understand that but if there's life insurance issues. So, all I'm saying is that there's ambiguity there as well. And when you look at Judge Martin's decision, I'm not trying to hold close to my bosom the descending opinion for all purposes. But the point is, for purposes of Second Circuit analysis, it bears close reading. Judge Martin pointed out how some of the materials were

deceptive. So, yes, the majority opinion decided it was unambiguous under the Wise standard. That is not, I respectfully submit, what the Second Circuit would do, not withstanding Judge Drain's view of it in this transcript.

But again, that issue is so premature to what 1114 is all about but what is does underlie is how this would be singularly inappropriate, where you have that kind of ambiguity, that kind of dissension about what these plan documents mean and decide the issue now and say no 1114 committee because it's going to cost the debtor a few bucks compared to the billions that are at issue for these people. It doesn't make sense. And I respectfully submit is not consistent with what the Second Circuit does.

And there may be vested benefits. I know the debtor's counsel's saying there's no vested benefits. That's another issue. It could well be, depending upon how the Second Circuit would rule on whether there was sufficient ambiguity, that they would find vested benefits. If the Second Circuit found or agreed with Judge Martin that there was, for instance, deception or at least unclarity, I think the Second Circuit would come out differently. And that's what, respectfully submitted, Your Honor has to grapple with. But again, that's for a different day. There's been enough of a showing today and in the papers and in everything that even Judge Drain said in hi supplement, to make it clear this is singularly

unappropriate for the kind of judgment that defendants want entered today, given what's at risk.

So it all -- this is more than just mother and apple pie. It really has to do with the practicalities of how these decisions should be made and they can be made very quickly. Your Honor could put a time period on it. And within a couple of days, the trustee can select a committee and the parties, within a few more days after that, can sit down and start to talk. The down side is so miniscule compared to what's at stake that I submit that cost benefit analysis mitigates very heavily in terms of appointing the committee.

And I think that covers all issues except this 1411(l). The 1411(l) statute is real clear. There's no doubt about it. And I see a lot of evasion --

THE COURT: Well, isn't it just as ambiguous as 1114(d) is?

MR. GOTEINER: Well, Your Honor, okay --

THE COURT: I mean, neither one -- each of them could have said not withstanding any provision of contract that gives the company greater rights and then proceed into what it says.

MR. GOTEINER: Your Honor --

THE COURT: Conversely, I suppose, it could've taken the opposite view. But one of the practical problems that guys in my position have is we're sworn to follow instructions from Congress and Congress sometimes doesn't do its job as well as

it might.

MR. GOTEINER: Your Honor, I agree with that obviously but then we have things to help judges and we have a series of cases from the early 80s from the U.S. Supreme Court. I think one of them was called Cannon in dealing -- at Touche Ross -- in dealing with how you interpret congressional statute when there is preexisting law. And the Congress is presumed to understand what the law was and yet they didn't put in that little fillip at the end of the statute, why? Because it was good enough. It said any benefit. Congress is presumed to know there is such a thing as amendable benefits. And yes, I read Judge Drain's point that there was even a proposal to deal with Doxell (ph.); I saw that. But that Congress rejects that when Congress has language like any benefit, when the costs are so minimal, I think speaks volumes. And that is -- that stubborn and irreducible fact and logic is something that the defendant -- that the debtors have not dealt with.

THE COURT: When Congress wanted to overrule Lilly Ledbetter, it did so pretty clearly, didn't it?

MR. GOTEINER: Sometimes they do. Sometimes they do. But when they don't, all you can do is go back to Sutherland, I think that's the treatise, and go back to the Supreme Court cases that talk about how you interpret statutory language when there is existing law and when there is law that may be inconsistent. And again, that discussion has not taken place

enough here. So, I think with -- that all the practicalities, all the legislative interpretations that we've been discussing, point to the appointment of an 1114 committee. And again, the cost benefit analysis says this very clearly. And I'll stop there, I'll take a --

THE COURT: I don't want you quite to stop, Mr. Goteiner --

MR. GOTEINER: Okay.

THE COURT: -- because on the wholly discretionary point, I guess if 1114 doesn't apply at all, people can debate about whether I'm even supposed to take a discretionary analysis, but assume I do. Toward the end of its brief, the creditors committee pointed out that negotiation is with the wrong entity and that the negotiation would have to be with Treasury or new GM or somebody other than the debtor in possession. And that brings up Judge Gonzalez's holding and I'm at a mind that I should give you a chance to comment on that if you want it. And since I'm going to have to take at least a recess to do this anyway, just to go through what we have, I wonder if you would like to reserve the right to say something before I finally rule during a recess to take a look at Gonzalez's decision and tell me if you thought Arthur Gonzalez got it wrong.

MR. GOTEINER: I'll do that, Your Honor, and you know, again, I will do that. I just want to make one more

point. That -- which is subsumed in my prior points, it's really not necessary for this Court to say the Sixth Circuit got it wrong. Again, not today. It's just not. But the only thing I ask Your Honor to consider in making this decision, you know debtors speak with certainty that hasn't been seen since the twelfth century about what amendable benefits are and whether they exist here and that is just not true. And no matter how many times you say it, that it's clear, even if Judge Drain says he doesn't think there's ambiguity, that doesn't make it true. It is not certain here. And that is another point that's subsumed in Congress's wisdom about 1114 and I'll take a look at the transcript.

THE COURT: Okay. Thank you.

MR. GOTEINER: Thank you.

THE COURT: Folks, I'd like you to take an early lunch and be back by 12:30. I can't guarantee you that I'll be ready by then but hopefully you can get something to eat between now and then. Give you enough time to both get a sandwich down and also read Judge Gonzalez's transcript, Mr. Goteiner. And then I'll try to give you a decision after that lunch break but not before giving Mr. Goteiner another chance to be heard if he wants to. Okay, we're in recess.

(Recess from 11:30 a.m. until 1:37 p.m.)

THE COURT: I apologize for keeping you all waiting. Before I come to a final decision, I want to give you, Mr.

Goteiner, an opportunity to comment on Judge Gonzalez's decision since it was noted by the creditors' committee and is at least arguably fairly relevant to this determination.

MR. GOTEINER: Thank you, Your Honor. Neil Goteiner, Farella Braun + Martel, for the General Motors Retirees Association. I had a chance to take a look at the transcript. I would just note a couple of distinctions and then get back to a basic point. Of course, here we do know that GM has announced that there's going to be cuts in the order of magnitude of two-thirds. And we also know that there have been prepetition cuts as well in the six-month period.

So were we to abandon at this point the 1114 process, you would be -- what would be happening is that the committee would be giving up whatever rights it has under 1114. It would lose leverage because, of course, New GM would not be a debtor.

And -- but I did go beyond that, obviously. I took a look at the practicalities that Judge Gonzalez was addressing, and of course there are practicalities, but here it's not the same sequence and it's not the same -- or different personalities, completely different personalities, as in Chrysler.

You will have committee speaking with people who are going to be involved to some degree in New GM. And lots of things can happen in these negotiations. Yes, it's possible that the representatives of GM who will be in the New GM will

simply say okay, hats have changed, we reject what we agreed to with you. But it's quite possible that that won't happen and that there will be some agreements that are reached with the 1114 committee participating that, in the negotiation process and the relationships that develop during negotiations, will be passed on to some of the same people in the New GM and they will abide by what they agreed as they negotiated as part of the 1114 process.

At least there's no reason to assume that will not happen. And, indeed, I think the way even the creditors' committee phrased it is that this committee may not be the appropriate person -- the appropriate party to negotiate now. And anything is possible, but the atmospherics and the elements are quite different here than in Chrysler. And there's a stronger argument/brief of appointing an 1114 committee.

And that's what 1114 says should happen in any event. So that's my submission.

THE COURT: Just one question before I give anyone else a chance to comment, if they wish, because I like your idea of being realistic. Earlier in your remarks just a moment ago you said you were concerned about giving up leverage. Unrealistic to know that leverage tends to be something that people think about all the time in large bankruptcy cases, maybe smaller ones too. But to what extent, in your view, should I, as a judge who's supposed to call balls and strikes

the way he sees them, be guided by giving one party or another leverage against the party with the different perspective?

MR. GOTEINER: Well, leverage is whatever is provided, and I use leverage -- I'm not backing away from the word "leverage", it's a reasonable word to use, but the whole panoply of dynamics that are embraced by 1114, because it has to be equitable and fair, that's the leverage I'm talking about.

So, and that, by the way -- leverages goes both ways, Your Honor, because my clients, at the end of the day, have far less leverage than the debtor has. So it's far worse, from my clients' point of view, than a two-way street.

THE COURT: Okay.

MR. GOTEINER: So that is why, I respectfully submit, Your Honor should have not a moment's pause that there's any untoward leverage given to the 1114 committee. This is precisely what 1114 contemplated; no more.

THE COURT: Okay. Thank you. I know we've been at this for a long time, but if either the debtors or the creditors' committee who brought up Judge Gonzalez's decision want to be heard before I take another brief recess, I'll permit that. Mr. Mayer?

MR. MAYER: Yes, Your Honor, thank you. Unless you have questions, I don't think I have anything to add.

THE COURT: Okay. Mr. Miller?

MR. MILLER: And if Your Honor please, I would just point out, in order for --

THE COURT: You're very tall, Mr. Miller. Can you either lift that microphone up or come to the main lectern?

MR. MILLER: Thank you, Your Honor. I would just point out, in order for this committee to have any effect and to provide the leverage which counsel says they need, you would have to determine that GM does not have the right to modify or terminate any of these claims. And the record is, I think, crystal clear that GM has the right to terminate or modify any of these claims.

And what we're talking about, Your Honor, is a situation which hopefully, in my view, is a few days. The sale hearing is scheduled for Tuesday. Hopefully we will finish it next week. It's important that this company emerges -- these assets emerge as part of a New GM that's going to have any chance of success.

Counsel's talking about give the U.S. Trustee three or four days to appoint a committee, the committee's got to organize, it's going to have to hire professionals, probably a financial advisor, a statistician, and so on. By the time all of that happens, Your Honor, hopefully, if we're right, and Your Honor approves it, the transaction will have been consummated.

So the leverage that is so important, and which is

the only purpose for which this motion has been brought, will be of no avail because New GM will be off as a new OEM manufacturing cars and trucks without the stigma, if I can use that word, of bankruptcy, which is the objective for this transaction.

So the negotiations, Your Honor, are going to be with the debtor which is going forward with the plan of liquidation. And in the context of the liquidation, even if 1114 applied, it's going to have to be rejected under 1114 because there's not going to be any ongoing company.

So what we're down to, Your Honor, and Your Honor put your finger on it, is leverage, that if Your Honor would grant this motion and appoint a retirees' committee, the next thing that will happen is a request to defer the 363 transaction, which affects a lot of parties-in-interest and affects all of the creditors and affects the ability of this company to survive going forward.

So there's a real downside, Your Honor, to this motion, notwithstanding what counsel says.

THE COURT: All right. Thank you. All right, folks, I've made you wait a long time. I'm going to ask you now to sit in place and wait with me here in the courtroom for a minute.

(Pause)

THE COURT: Okay, folks once more I apologize for

keeping you all waiting. In this contested matter in a case under Chapter 11 of the Code, the General Motors Retiree Association, which I'll refer to as the "Retirees Association", moves for an order pursuant to Section 1114 of the Code, appointing an official 1114 committee. Its motion is opposed by the debtors and the creditors' committee.

The motion is denied, though without prejudice to reconsideration at a later time under appropriate circumstances, largely in accordance with the ruling by my colleague Judge Drain in Delphi on March 10 of this year. The following are my findings of fact, conclusions of law and bases for the exercise of my discretion in connection with this determination.

Turning first to my findings of fact, as facts I find that GM offers retiree benefits to salaried retirees who started work before 1993 under two plans: the GM Salaried Health Care Program, which I'll refer to as the "Health Care Program", which includes medical, prescription drug, dental and vision care; and the GM Life and Disability Benefits Program, which I'll call the "Life Insurance Program", which provides life insurance benefits. I refer to the two programs together as the "Welfare Plans".

The inference is compelling, and I so find, that the benefits offered under the Welfare Plans are quite important to many retirees, particularly those who are still under sixty-

five and who are ineligible for Medicare.

The salaried retirees are separate and apart from hourly retirees whose interests have been represented by the UAW or other unions. At this point, they have no officially designated representative, though, from everything I've seen so far, the Retirees Association has been a forceful and effective advocate on their behalf. And to the extent any retirees might have unsecured claims, their interests in that regard would be well-protected by the official creditors' committee.

Retirees are required to reenroll in these plans at the beginning of each calendar year, prior to which GM provides enrollment forms accompanied by an enrollment brochure explaining changes in benefits for the upcoming year. The debtors assert that these brochures have contained an unequivocal statement of GM's right to amend, modify or terminate the plans. But that was not always so. The Retirees Association asserts that, at least between 1974 and 1987, salaried retirees were performing under unilateral contracts that guaranteed lifetime benefits upon retirement without having also received statements reserving the right to amend or terminate. And the Retirees Association points to specific language in benefit handbooks that it asserts could reasonably be interpreted as a promise to provide such benefits. However, these matters were a subject of litigation, extensive litigation, going all the way up to an en banc decision of the

Sixth Circuit Court of Appeals, which I'll describe more fully in my conclusions of law.

GM effected changes in its retiree Welfare Plans from time to time. Prior to these Chapter 11 cases, three changes were made that are at least arguably significant. On July 2008, effective January 1, 2009, GM eliminated medical, dental, vision and extended care coverage for salaried retirees, their surviving spouses and their dependents age sixty-five or older. In September 2008, GM changed the plans to comply with a cap on salaried retiree health care; it was approved by the GM board of directors in 2007. And in February of this year, GM accelerated a planned reduction in salaried retiree life insurance, which had previously been announced in 2006 and was going to be effective in 2017, in respect to whose details are not material here, effective May 1, 2009. All but the third change, the one announced in February and effective May 1, were communicated to salaried retirees more than six months prior to the filing date, a time which is arguably significant to parties' rights.

GM has not proposed any further changes in either of the plans, at least insofar as it would implement them. And under the proposed sale agreement, assuming, of course, that it is approved, and without prejudging that issue in any way, the purchaser knew GM will assume responsibility for them going forward but as modified prepetition in the manner I just

described to provide them in lesser amounts.

Turning now to my conclusions of law and bases for the exercise of my discretion, as usual I start with the words of the statute. Section 1114 of the Code provides, in relevant part, in its subsection (d), "The Court, upon motion by any party-in-interest, and after notice and a hearing, shall order the appointment of a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the Court otherwise determines that it is appropriate to serve as the authorized representative, under this section, of those persons receiving any retiree benefits not covered by a collective bargaining agreement. The United States Trustee shall appoint any such committee."

Thus, under the statute, the Court must order the appointment of the committee if the debtor seeks to modify or not pay the retiree benefits. Alternatively, it may order the appointment if the Court otherwise determines that it's appropriate to serve as a bargaining representative for retirees not covered by a collective bargaining agreement.

The Retirees Association contends that Section 1114 of the Code applies to what the debtors did prepetition and would do post-petition here and that I thus should appoint a retirees' committee under each of the two separate regimes under which a retirees' committee should be appointed. I disagree with the Retirees Association with respect to the

first, and for the most part with respect to the second, although I think I should reserve room to have the ability going forward to make a discretionary limited appointment if circumstances not present now but in the future later warrant.

Turning to the matter of mandatory appointment, the backdrop as to the mandatory appointment issue is the fact that, as discussed in my findings of fact above, at some point in time GM started to tell its employees, who were of course its prospective retirees, that their welfare plans could be amended, modified or terminated. GM and the creditors' committee contend that Section 1114 doesn't apply when a debtor simply exercises the rights to modify or terminate that it has outside of bankruptcy. But the Retirees Association, in contrast, contends that 1114 applies to any modification or termination of retiree rights under a welfare plan, whether such termination or modification is authorized under non-bankruptcy law or not. And thus, in substance, it argues that Section 1114 improves upon non-bankruptcy law rights.

Though Sections 1114(d), (e) and (l) are, in my view, ambiguous, and the cases are somewhat split in this area, I must agree with GM and the creditors' committee. The Retirees Association says at page 9 of its motion that, quote, "A few courts have held, on a divided issue of law where other courts disagree, that this Section 1114 does not protect in bankruptcy benefits the Debtor retained the unfettered right to amend

outside of bankruptcy", quote. But I can't regard that as a fully accurate description of the state of the law, especially in this circuit and district. In fact, I think it's exactly the opposite.

The Retirees Association cites the Second Circuit's decision in LTV Steel Company v. United Mine Workers, In re Chateaugay Corporation, 945 F.2d 1205 (2nd Cir. 1991), as being one of the cases that holds against the retirement committee on this issue. And, of course, Chateaugay does. Chateaugay says, in fact, "The Bankruptcy Protection Act", which was the statute by which 1114's predecessor came into being, and from which 1114 evolved, "requires that during reorganization the parties continue to provide benefits according to the plan in effect at the time of the declaration of bankruptcy. The Bankruptcy Protection Act does not alter the terms of that plan." 945 F.2d at 1209. And that's exactly why Judge Restani dissented in that case.

But while acknowledging Chateaugay, the Retirees Association doesn't give enough recognition, in my view, to the fact that Chateaugay is a controlling decision of the Second Circuit, binding on me and the other judges in this circuit. Likewise, the Retirees Association cites decisions of a former visiting judge who sat in this district, and a district who affirmed him, in the case of Ames Department Stores, insufficient attention to the fact that those decisions were,

with respect, strikingly lacking in consideration of the applicable case law. They can only be read as having been roundly criticized by this circuit in a subsequent decision in Ames (see 76 F.3d 66 at page 71), though not on direct appeal, and while the thoughts were expressed in dictum.

The district court decision, which is available electronically but isn't published, expressed its conclusions in what some might say was an ipse dixit fashion, without parsing the words of the statute or relying upon any case law, which at that point in time included about nine cases, as observed by Judge Lifland in Ionosphere Clubs, 134 B.R. 515 at page 517 (1991). Unfortunately, the decision of the bankruptcy court was equally thin.

In that later Ames decision, the circuit held, "We think that there's a substantial room for disagreement with the categorical holding in the district court's orders that the debtor was required to follow the requirements of Section 1114;" reading from page 71, 76 F.3d at 71. And while the circuit in that Ames decision merely held that it couldn't be said that the argument for the debtor's interpretation was frivolous, that being an appeal of a sanctions determination or a denial of fees for pursuing a frivolous argument, and while the circuit expressly stated that it wasn't examining the, quote, "present status of the pertinent law", quote, id at 71, it was hardly an endorsement of the lower court's views. In

fact, the circuit made a point to cite Chateaugay and Doskocil, Federated Department Stores, New Value, and Collier as examples of authorities that had gone the other way. And it went on to observe that Collier -- Collier on Bankruptcy, of course -- provides that Section 1114 does not, however, protect retiree benefits beyond the contractual obligations of the debtor.

And the circuit observed, with respect to the bankruptcy court and district court Ames decisions upon which the Retirees Association relies, not one of the foregoing authorities was discussed or even mentioned by either the bankruptcy court or the district court. More importantly, neither court cited any interpretative authority that conflicted with that above cited.

Now, make no mistake, I don't read that decision as having ruled in favor of the principle for which the debtors and the creditors' committee argue here. In fact, it expressly stated that it was not then ruling on the existing law. But what I think it very effectively does, if not conclusively so, is say that I shouldn't be relying on those lower court Ames decisions.

But perhaps most importantly, in its briefing on this motion the Retirees Association failed even to mention Judge Drain's decision in March of this year in Delphi, 2009 WL 637315 (Bankr. S.D.N.Y. Mar. 10, 2009), until the Retirees Association filed its reply. And even then the Retirees

Association failed sufficiently, in my view, in that reply to acknowledge all of the things Judge Drain said and to discuss his substantive analysis before the retirees' committee properly commented on the relatively limited relief that Judge Drain had ultimately granted in Delphi. Of course, the Retirees Association made up for that in oral argument, but I think Judge Drain's decision in Delphi is of great importance.

I've previously noted many times in writing my view as to the importance of consistency in the decisions in the bankruptcy court in this district and that I follow the decisions of the other bankruptcy judges in this district, in the absence of clear error. But when we're talking about the Delphi decision, I think that's feigned praise since, in my view, Judge Drain's analysis was plainly correct and, by far, the most comprehensive and well-reasoned of any of the decisions in the 1114 area.

I note, by the way, that when I talk of Judge Drain's decision, although I'm principally speaking of his decision of March 10, there was a supplemental argument on or about March 11, as evidenced in a separate transcript to which I'll be referring in a moment or two, and that getting one's arms around Judge Drain's Delphi rulings is best achieved by consideration of both of the two decisions.

Judge Drain also dealt with the argument that I also heard here, that Chateaugay was overruled by statute by the

inclusion of new Section 1114(l) in BAPCPA. Judge Drain disagreed, and so do I. As Judge Drain observed, Section 1114(l), however, does not specifically deal with the issue of plans modifiable as of right and could conceivably apply to pre-bankruptcy breaches by debtors in financial distress of vested rights.

More importantly, even if it does apply to modifiable plans, I do not view Section 1114(l), which applies to a specific type of prepetition action, as overruling Doskocil and the line of cases that follow it which apply to post-petition actions. Nor does there appear to me to be any legislative history or other policy statements accompanying the 2005 amendment that would clearly set forth Congress's intention generally in Section 1114(l) to override, beyond its specific terms, the fundamental principle that bankruptcy does not give new rights to individual parties-in-interest or to cut back on the tenet set forth by the Supreme Court in Butner.

Now, I have not discussed the underlying principles as thoroughly as Judge Drain did there. In this oral dictated decision, I don't know if that's necessary or appropriate. But I've carefully read Judge Drain's analysis and I concur in it in full, even putting aside the deference in respect to which I give the decisions of my colleague judges. And since Chateaugay and Delphi are in alignment, I'm ruling in accordance with each of them that Section 1114 doesn't apply to

employee benefit plans that are terminable or amendable unilaterally by the plan sponsor. Putting it another way, Section 1114 does not trump any agreement between a company and its employee that gives the company the right to amend or terminate a welfare plan.

Thus, in terms of arguably persuasive authority, we're left only with the decision in Farmland Dairies. If one were to look solely at the words of the statute, which, as I've noted, is ambiguous, the Farmland Dairies view is not necessarily an unreasonable one. But Farmland can't be reasonable with the weight of authority in this area, only part of which I've noted above, and Farmland Dairies is inconsistent with the law in this circuit and district. Of course, when I speak of the weight of the authority I'm not counting noses; I'm looking at it qualitatively and at what level it was decided. That consideration is particularly relevant to Chateaugay and Delphi. And, as I've noted, I regard Delphi as by far the most thoughtful and comprehensive decision in this area. So for any retirees as to whom the debtor reserved the right to modify before they retired, they don't have rights under 1114.

So then we get to Sprague. GM and the creditors' committee each cite the Sixth Circuit's en banc decision in Sprague v. General Motors Corp., 133 F.3d 388 (6th Cir. 1998), as having ruled that the health care programs explicitly permit

GM to unilaterally amend or terminate benefits under those programs. Sprague does hold that, although the Retirees Association is correct in noting that Sprague was a split decision and that it also isn't binding on me. And I agree with the Retirees Association, and perhaps the debtors agree with it as well -- I don't think they addressed it one way or the other -- that, on a question of federal law, Second Circuit law, and not Sixth Circuit law, controls in any area where the law of the two circuits is inconsistent.

But Judge Drain ruled, and I concur, that, and I'm quoting Judge Drain, "I continue to believe that the Sixth Circuit Sprague decision is one in which the Sixth Circuit at length determined en banc that there was no ambiguity in respect of GM's reservation of rights to modify at will its welfare plans, and that, were I to conclude otherwise, I would not be doing so by applying a different standard than that which is applied in the Second Circuit under Bouboulis v. Transport Workers Union of America, 442 F.3d 55 (2nd Cir. 2006), namely, that the plan documents contained, quote, 'specific written language that is reasonably susceptible to interpretation as a promise to vest benefits', end quote." I'm quoting from the transcript of the Delphi hearing of March 11, 2009, which probably should be read as a supplemental and second Delphi decision. See also the comments Judge Drain made in the course of argument at page 11.

And I recognize that sometimes judges say things in oral argument that they don't mean or that they're throwing up just to be devil's advocates, but from the context I believe that Judge Drain meant it here. If you read the opinions, they really are applying the same standard. They're basically saying there was nothing ambiguous.

Now, when I use the words above, quote, "specific written language that is reasonably susceptible to interpretation as a promise", quote, those words being the words that Judge Drain used, they in turn were a quotation from Bouboulis, 442 F.3d at page 61. And the Bouboulis words, in turn, were a quotation from the Second Circuit's decision in Devlin v. Blue Cross and Blue Shield, 274 F.3d at 84.

So when I rely on Judge Drain's analysis in this area and I concur with it, it's very clear to me that he gave careful consideration to both Bouboulis and Devlin and made a knowing and accurate determination that there was no material difference between Second Circuit law and Sixth Circuit law in this regard.

Thus, at the risk of a slight repetition, stating a similar thing a different way, I find insufficient basis to conclude that the standard that the Sixth Circuit applied in Sprague would be materially different than the standard that the Second Circuit would apply.

Now, is the Sprague conclusion debatable under those

standards? I think it plainly is. And if I were writing on a clean slate, I think I might well have agreed with the Boyce Martin dissent. But as to the issues upon which GM relies upon it, Sprague was an eight-to-five decision as to the early retirees, and a ten-to-three decision as to the general retirees. And the general retirees' analysis is the one that's more closely on point here.

A ten-to-three split isn't close, but once more I'd agree that this isn't a counting game. Rather, I look at it qualitatively and see things as Judge Drain commented on in argument. Judge Drain observed, "You may agree with Judge Martin, and maybe if one were writing on a clean slate one might agree with Judge Martin, but the Sixth Circuit ruled, and I find it very hard for me, when there's no difference in the standard, to say oh, the Sixth Circuit was wrong;" reading from the March 11 transcript at page 11.

Where the circuit court, with ten judges no less, having ruled as it did with respect to general retirees, addressing the same issues we have here, I think that as a matter of stare decisis I should respect its ruling and follow it.

Folks, as is implied by what I just said, I note that I'm doing so as a matter of stare decisis. I am not so ruling on the applicability of res judicata one way or the other, and I'm not relying on the doctrine of res judicata. I have some

reservations as to whether res judicata applies is not very similar to those Judge Drain had. But I don't need to reach that issue. In my view, Sprague and Delphi are so dramatically on point that they counsel the result I reach here on traditional bases of stare decisis. We have what we refer to in law school as the "blue Buick".

So now we get to the application of Section 1114(d). Turning first to its mandatory portion, GM hasn't moved for permission to change any retiree welfare plan benefits, which is hardly surprising in light of its position that it doesn't need court approval to do so and the case law that I described above, and I'm going to follow that it has the right to unilaterally amend or terminate such benefits. As at least the first portion of 1114 doesn't apply at all, if not the entirety of 1114(d), or 1114 at all for that matter, there's no occasion to apply the mandatory portion of Section 1114. So I'm going to deny appointment insofar as it's premised on the contention that appointment is mandatory.

Turning now to discretionary appointment, though appointment of a retiree committee isn't mandatory, I need also to consider discretionary appointment. As I noted, Section 1114(d) provides that the Court shall order the appointment of a committee of retired employees if the Court otherwise determines that it is appropriate. One can make an argument that if 1114 doesn't apply at all, there's no occasion to apply

the provision in 1114 providing discretionary authority either. But I think the better view might be consistent with what Judge Drain concluded in Delphi: that bankruptcy judges should have the discretion to appoint a retirees' committee, especially if its budget can be kept under control, in any instances where it would really accomplish something.

I don't reach that issue today because I here do not consider the appointment of a committee now to be necessary or appropriate for retirees for whom GM has the right to amend or terminate benefits, for, while I well understand the importance of these kinds of benefits to any retiree, believe me I do, I can't change retirees' non-bankruptcy rights. And there is no need to form a committee to argue or negotiate with respect to entitlements under Section 1114(l) as that can be done by the Retirees Association as an ad hoc committee with rights under Section 1109. See In re Anchor Glass Container Corp., 342 B.R. 878 at page 882, Middle District of Florida 2005 decision by Judge Alex Paskay.

As Judge Paskay noted in that case, "Unlike Section 1114(e), which contemplates motions brought by, and the debtor negotiating with, an authorized representative, Section 1114(l), similar to Section 1114(d), depends upon a motion brought by a party-in-interest. Section 1114(l) does not require, nor does it contemplate, the appointment of a committee."

I also made a similar point when I considered the application of the Ad Hoc Committee of Family and Dissident Bondholders a couple of days ago. In most, if not all, cases under the Code, an ad hoc committee can be heard perfectly satisfactorily under 1109 without being designated as a formal official committee.

Similarly, I share concerns articulated by the creditors' committee as to unnecessary costs in this case. And I also agree with another creditors' committee point, which, in my view, is quite significant. Even assuming that New GM were to be making further modifications in the future, assuming, of course, that I approve the 363 sale, all salaried retiree benefits would be entirely New GM's responsibilities. Thus, any modifications to such benefits would have to be negotiated with New GM and/or the U.S. Treasury.

As Judge Gonzalez noted in Chrysler, "A retiree committee should be appointed only if it's necessary to negotiate with the debtors, not with a purchaser of the debtors' assets." See the transcript of Judge Gonzalez's May 14 hearing in Chrysler at page 35.

With all of that said, I can't rule out the possibility that appointing a retirees' committee might be desirable and thus appropriate to facilitate some kind of negotiations in the future or any kind of a settlement, including with respect to any appeal of the determination I'm

making today, or in connection with some other matters where it would bring something to the table beyond appearing and being heard in a fashion for which it could already do that under 1109. That might be helpful, by way of example, to bind absent parties or dissenters.

That appears to be the rationale upon which Judge Drain allowed the formation of a committee, or one of them -- the other isn't applicable here -- though with a limited 200,000 dollar budget. And if it turned out to be necessary or desirable to do that here, I might be of a mind to do the same thing if asked. But that isn't now necessary, if it ever will be. For instance, I don't need a supplemental report of the type that Judge Drain did, and which was an element of the limited appointment authority that he granted. I'll simply note now that this ruling is without prejudice to any such eventuality.

Accordingly, the motion is denied without prejudice to reconsideration in the event of an eventuality of the type I just described.

Mr. Miller, you or your folks are to settle an order in accordance with this ruling at your earliest reasonable convenience.

MR. MILLER: Yes, sir.

THE COURT: All right, folks. Do we have any further business for today?

MR. MILLER: No, Your Honor.

THE COURT: All right, I want to thank you for waiting as long as you did on the matter that I had taken under advisement. We're adjourned for the day. Have a good day.

ALL: Thank you, Your Honor.

(Whereupon these proceedings were concluded at 2:25 p.m.)

I N D E X

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R U L I N G S

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C E R T I F I C A T I O N

I, Lisa Bar-Leib, certify that the foregoing transcript is a true and accurate record of the proceedings.

_____

LISA BAR-LEIB

AAERT Certified Electronic Transcriber (CET**D-486)

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Date: June 26, 2009

Exhibit 4

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	::	Chapter 11
	::	Case No. 09-50026 (REG)
General Motors Corporation, *et al.*,	::	
	::	(Jointly Administered)
Debtors.	::	

FINAL ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a), 361, 362, 363, 364 AND 507 AND BANKRUPTCY RULES 2002, 4001 AND 6004 (A) APPROVING A DIP CREDIT FACILITY AND AUTHORIZING THE DEBTORS TO OBTAIN POST-PETITION FINANCING PURSUANT THERETO, (B) GRANTING RELATED LIENS AND SUPER-PRIORITY STATUS, (C) AUTHORIZING THE USE OF CASH COLLATERAL AND (D) GRANTING ADEQUATE PROTECTION TO CERTAIN PRE-PETITION SECURED PARTIES

THIS MATTER having come before this Court by the motion dated June 1, 2009 (the "**Motion**") of General Motors Corporation ("**GM**") and its affiliated debtors in the above-captioned cases, as debtors and debtors-in-possession (collectively with GM, the "**Debtors**"),[1] seeking, among other things, entry of a final order (the "**Final Order**"):

(i) Authorizing the Debtors, pursuant to sections 105, 362, 363 and 364 of title 11 of the United States Code (the "**Bankruptcy Code**"), Rules 2002, 4001 and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Rule 4001 of the Local Bankruptcy Rules for the Southern District of New York (the "**Local Bankruptcy Rules**"), to enter into the Secured Superpriority Debtor-in-Possession Credit Agreement, by and among GM, as borrower, and The United States Department of the Treasury ("**U.S. Treasury**") and Export Development Canada ("**EDC**"), as lenders

[1] The Debtors in these cases include: GM, Saturn, LLC, Saturn Distribution Corporation, and Chevrolet-Saturn of Harlem, Inc.

(together, the "**DIP Lenders**"), in substantially the form annexed hereto as Exhibit 1 (as the same may be amended, supplemented, restated or otherwise modified from time to time, and together with all related agreements and documents, the "**DIP Credit Facility**"), and to obtain post-petition financing on a secured and super-priority basis pursuant to the terms and conditions thereof, up to a maximum aggregate amount of $33.3 billion (the "**Commitment**");

(ii) Authorizing the Debtors to execute and deliver the DIP Credit Facility and to perform such other acts as may be reasonably necessary or desirable in order to give effect to the provisions of the DIP Credit Facility, including the unconditional, joint and several guaranty of the obligations of GM under the DIP Credit Facility by each other Debtor (each, a "**Guarantor**", and collectively, the "**Guarantors**");

(iii) Providing, pursuant to sections 364(c)(1) and 507(b) of the Bankruptcy Code, that all obligations owing to the DIP Lenders under the DIP Credit Facility shall be accorded administrative expense status in each of these cases, and shall, subject only to the Carve-Out (as defined below), have priority over any and all other administrative expenses arising in these cases; provided, however, that subsequent to the closing of the Related Section 363 Transactions (as defined in the DIP Credit Facility), claims against the Debtors' estates that have priority under Sections 503(b) or 507(a) of the Bankruptcy Code, including costs and expenses of administration that are attendant to the formulation and confirmation of a liquidating chapter 11 plan, whether incurred prior or subsequent to the consummation of the Related Section 363 Transactions (the "**Old GM Administrative and Priority Claims**") shall have priority over such obligations (up to the aggregate amount of $950,000,000; provided, however, that any greater amount shall

be subject to approval by the DIP Lenders) owing to the DIP Lenders under the DIP Credit Facility; and

(iv) Granting the DIP Lenders security interests in and liens on (the "**DIP Liens**") all property and assets of each of the Debtors, of every kind or type whatsoever, including tangible, intangible, real, personal or mixed, whether now owned or hereafter acquired or arising, wherever located, all property of the estates of each of the Debtors within the meaning of section 541 of the Bankruptcy Code and all proceeds, rents and products of the foregoing, (including all avoidance actions arising under chapter 5 of the Bankruptcy Code and applicable state law except avoidance actions against the Prepetition Senior Facilities Secured Parties (as defined below)) with the exception of (a) any stocks, warrants, options or other equity interests issued to or held by any Debtor pursuant to the Related Section 363 Transactions (the "**New GM Equity Interests**"), (b) any leasehold interest of the Debtors in (i) the real property located at and commonly known as 301 Freedom Drive, City of Roanoke, Denton County, Texas or (ii) the real property located at and commonly known as 475 Brannan Street, City and County of San Francisco, California; and (c) certain Excluded Collateral (as defined in the DIP Credit Facility) (collectively, "**Property**") as follows:

(A) pursuant to section 364(c)(2) of the Bankruptcy Code, valid, perfected, first-priority security interests in and liens on all Property that is not subject to non-avoidable, valid and perfected liens in existence as of the Petition Date (as defined herein) (or to non-avoidable valid liens in existence as of the Petition Date that are subsequently perfected as permitted by section 546(b) of the Bankruptcy Code), in each case subject

only to (1) the Permitted Liens (as defined in the DIP Credit Facility), (2) the Carve-Out, (3) the adequate protection liens granted in connection with the Prepetition Revolving Credit Agreement pursuant to paragraph 6(b)(1)(x) of the Interim Order (the "**Prepetition Revolving Credit Agreement Order**") Under 11 U.S.C. §§ 105, 361, 362, 363 and FED. R. BANKR. P. 2002, 4001 And 9014 (I) Authorizing Debtors to Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Revolver Secured Parties and (III) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(B) (the "**Prepetition Revolving Credit Agreement Adequate Protection Liens**"), and (4) the adequate protection liens granted in connection with the Prepetition Term Loan Agreement pursuant to paragraph 5(b)(i) of the Interim Order (the "**Prepetition Term Loan Facility Order**", and together with the Prepetition Revolving Credit Agreement Order, the "**Prepetition Revolving And Term Loan Orders**") Under 11 U.S.C. §§ 105, 361, 362, 363 and FED. R. BANKR. P. 2002, 4001 and 9014 (I) Granting Adequate Protection to Term Loan Secured Parties and (II) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(B) (the "**Prepetition Term Loan Adequate Protection Liens**", and together with the Prepetition Revolving Credit Agreement Adequate Protection Liens, the "**Prepetition Revolving And Term Adequate Protection Liens**");

(B) pursuant to section 364(c)(3) of the Bankruptcy Code, valid, perfected junior security interests in and liens on all Property that is subject to non-

avoidable, valid and perfected liens in existence as of the Petition Date, or to non-avoidable valid liens in existence as of the Petition Date that are subsequently perfected as permitted by section 546(b) of the Bankruptcy Code, subject only to the Carve-Out; and

(C) nothing in this Final Order, the Interim Order or the DIP Credit Facility shall in any way be construed to authorize or permit the DIP Lenders to seek recourse against the New GM Equity Interests at any time.

(v) Authorizing the application of a portion of the proceeds of the DIP Credit Facility toward payment in full of all principal, interest, letter of credit reimbursement obligations (including obligations to cash collateralize undrawn letters of credit) and other amounts due or outstanding under (A) that certain Term Loan Agreement, dated as of November 29, 2006, among GM, Saturn Corporation and JPMorgan Chase Bank, N.A., as administrative agent, and the lenders party thereto from time to time (as may be amended, restated, supplemented or otherwise revised from time to time, and together with all related agreements and documents, the "**Prepetition Term Loan Agreement**") secured by a first-priority lien on certain Property (the "**Prepetition Term Loan Collateral**"), (B) that certain Amended and Restated Credit Agreement, dated as of July 20, 2006, among GM, General Motors of Canada, Limited ("**GMCL**"), Saturn Corporation, Citicorp USA, Inc., as administrative agent, and the lenders party thereto from time to time (as may be amended, restated, supplemented or otherwise revised from time to time, and together with all related agreements and documents, the "**Prepetition Revolving Credit Agreement**") secured by a first-priority lien on certain Property (the "**Prepetition Revolving Credit Agreement Collateral**"), and (C) that certain Loan and

Security Agreement, dated as of October 2, 2006, among GM and Gelco Corporation (d/b/a GE Fleet Services) (as may be amended, restated, supplemented or otherwise revised from time to time, and together with all related agreements and documents, the "**Prepetition Gelco Loan Agreement**", and together with the Prepetition Term Loan Agreement and the Prepetition Revolving Credit Agreement, the "**Prepetition Senior Facilities**") secured by a first-priority lien on certain Property (the "**Prepetition Gelco Loan Agreement Collateral**", and together with the Prepetition Term Loan Collateral and the Prepetition Revolving Credit Agreement Collateral, the "**Prepetition Senior Facilities Collateral**");

(vi) Authorizing the Debtors to use cash collateral of the Existing UST Secured Parties (as defined below) (the "**Cash Collateral**");

(vii) Granting to the Existing UST Secured Parties (as defined below), as adequate protection for the potential diminution in value of their respective liens on and security interests in Property, (A) a claim as contemplated by section 507(b) of the Bankruptcy Code (the "**Adequate Protection Claim**"), which Adequate Protection Claim shall have a priority immediately junior to the Super-priority Claim (as defined below) and pari passu with the super-priority claims granted under the Prepetition Revolving And Term Loan Orders, (B) liens on and security interests in the Property (the "**Adequate Protection Liens**"), only to the extent of and on account of any diminution in the value of the Existing UST Secured Parties' interests in the Debtors' interests in the Property on and after the Petition Date, which Adequate Protection Liens shall have a priority immediately junior to the DIP Liens on the Property, and (C) reimbursement by the Debtors of all reasonable expenses incurred in the course of these

chapter 11 cases by the Existing UST Secured Parties and their respective professional advisors and counsel. "**Existing UST Secured Parties**" shall mean the secured parties under (1) that certain Loan and Security Agreement, dated as of December 31, 2008, by and between GM and the U.S. Treasury (as may be amended, restated, supplemented or otherwise revised from time to time, and together with all related agreements and documents, the "**TARP Loan Agreement**") and (2) that certain Credit Agreement, dated as of April 2, 2009, by and between GM Supplier Receivables LLC and the U.S. Treasury (as may be amended, restated, supplemented or otherwise revised from time to time, and together with all related agreements and documents, the "**Supplier Receivables Facility**", and together with the TARP Loan Agreement, the "**Existing UST Loan Agreements**"). For the avoidance of doubt, the Adequate Protection Liens shall be pari passu with any adequate protection liens granted under the Prepetition Revolving And Term Loan Orders except the Prepetition Revolving And Term Adequate Protection Liens as detailed in paragraph (iv)(A) above;

(viii) Authorizing and directing the Debtors to pay, without further order of this Court, the principal, interest, reasonable fees, expenses and other amounts (including the Additional Notes (as defined in the DIP Credit Facility)) payable to the DIP Lenders and their professional advisors and counsel under the DIP Credit Facility, as the same become due, including all reasonable expenses incurred in the course of these chapter 11 cases by the DIP Lenders and their professional advisors and counsel, all as and to the extent provided in the DIP Credit Facility; provided, that copies of the invoices for reimbursement by the Debtors of such expenses and fees (if any) are to be provided to

the Committee, any other statutory committee appointed in the Debtors' chapter 11 cases, and the United States Trustee on a confidential basis; and

(ix) Vacating and modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the DIP Credit Facility and this Final Order.

This Court having considered the Motion, the DIP Credit Facility, the pleadings in support thereof and the pleadings in response thereto; and due and proper notice of the Motion having been provided in accordance with Bankruptcy Rules 2002, 4001, and 6004, and Local Bankruptcy Rule 4001 as reflected in the Affidavit of Service (Docket No. 134) filed with the Court on June 1, 2009; and a hearing pursuant to Bankruptcy Rule 4001(c)(2) having been held and concluded on June 1, 2009 (the "**Interim Hearing**") to consider the interim relief requested in the Motion; and the Court having entered an order granting the interim relief requested in the Motion (the "**Interim Order**"); and the Court having held a final hearing with respect to the Motion on June 25, 2009 (the "**Final Hearing**"); and it appearing that granting the relief requested in the Motion is appropriate, fair and reasonable and in the best interests of the Debtors, their estates, creditors and other parties in interest, and is essential for the Debtors' continued operations; and all objections to the relief requested in the Motion having been withdrawn, resolved or overruled on the merits by this Court; and upon consideration of the evidence presented, proffered or adduced at the Interim Hearing, the Final Hearing and in the Affidavit of Frederick A. Henderson, which was filed pursuant to Local Bankruptcy Rule 1007-2 on the Petition Date, the Declaration of William C. Repko in Support of Debtors' Proposed Debtor in Possession Financing Facility, the Statement of the United States of America Upon The Commencement Of General Motors Corporation's Chapter 11 Case [Docket No. 37] and

any other evidence presented at the Interim Hearing and the Final Hearing; and upon the record of the Interim Hearing and the Final Hearing; and upon the arguments of counsel; and after due deliberation and consideration and good and sufficient cause appearing therefor:

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING AND THE FINAL HEARING, THIS COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. On June 1, 2009 (the "**Petition Date**"), the Debtors each filed a voluntary petition under chapter 11 of the Bankruptcy Code in this Court, commencing these cases. The Debtors continue to manage and operate their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these cases; the United States Trustee appointed the Official Committee of Unsecured Creditors (the "**Committee**") on June 3, 2009.

B. Jurisdiction and Venue. This Court has jurisdiction over these proceedings, and over the property affected hereby, pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of the Motion constitutes a core proceeding as defined in and pursuant to 28 U.S.C. § 157(b)(2). Venue for these cases and for the proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Need for Post-petition Financing. The Debtors have demonstrated a need for immediate and continuing access to post-petition financing pursuant to sections 363 and 364 of the Bankruptcy Code and Bankruptcy Rule 4001(c)(2). In the absence of this access, the Debtors will be unable to continue operating their business, causing immediate and irreparable loss or damage the Debtors' estates, to the detriment of the Debtors, their estates, their creditors and other parties in interest in these cases. The Debtors do not have sufficient unrestricted cash

and other financing available to operate their businesses, maintain the estates' properties, and administer these cases absent the relief provided in this Final Order.

D. No Credit Available on More Favorable Terms. Given the Debtors' current financial condition, available assets and current and projected liabilities, as well as current conditions in the automotive and credit markets, the Debtors are unable to obtain financing from any other lender on terms more favorable than those provided by the DIP Lenders in the DIP Credit Facility. Other than pursuant to the DIP Credit Facility, the Debtors have been unable to obtain credit that either (i) was allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense, (ii) would have priority over all other administrative expenses specified in sections 503(b) and 507(b) of the Bankruptcy Code, (iii) would be secured solely by a lien on property of the Debtors' estates that is not otherwise subject to a lien, or (iv) would be secured only by a junior lien on property of the Debtors' estates that is subject to a lien.

E. Good Faith of DIP Lenders. The Debtors chose the DIP Lenders as post-petition lenders in good faith and after obtaining the advice of experienced counsel and other professionals. The Debtors and the DIP Lenders proposed and negotiated the terms and provisions of the DIP Credit Facility, the Interim Order and this Final Order in good faith, at arm's length, without collusion and with the intention that all obligations owed under the DIP Credit Facility would be valid claims accorded the priority and secured by the liens set forth herein. The loans and extensions of credit authorized in the Interim Order and this Final Order are supported by reasonably equivalent value and fair consideration and the terms and provisions of the DIP Credit Facility, the Interim Order and this Final Order are fair and reasonable and reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties.

Any credit extended, loans made, or funds advanced to the Debtors pursuant to this Final Order, the Interim Order or the DIP Credit Facility is deemed to be so extended, made or permitted to be used in good faith by the DIP Lenders as required by and within the meaning of section 364(e) of the Bankruptcy Code. As good faith lenders, the DIP Lenders' claims, super-priority status, security interests and liens and other protections arising from or granted pursuant to this Final Order and the DIP Credit Facility will not be affected by any subsequent reversal, modification, vacatur or amendment of this Final Order or any other order, as provided in section 364(e) of the Bankruptcy Code.

F. Authority for the DIP Credit Facility. The U.S. Treasury has extended credit to, and acquired a security interest in, the Debtors as set forth in the DIP Credit Facility and as authorized by the Interim Order and this Final Order. Before entering into the DIP Credit Facility, the Secretary of the Treasury, in consultation with the Chairman of the Board of Governors of the Federal Reserve System and as communicated to the appropriate committees of Congress, found that the extension of credit to the Debtors is "necessary to promote financial market stability," and is a valid use of funds pursuant to the statutory authority granted to the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008, 12 U.S.C. §§ 5201 et. seq. ("**EESA**"). The U.S. Treasury's extension of credit to, and resulting security interest in, the Debtors as set forth in the DIP Credit Facility and as authorized in the Interim Order and this Final Order is a valid use of funds pursuant to EESA.

G. Waiver. Upon entry of this Final Order, each of the Debtors hereby forever releases, waives and discharges the Existing UST Secured Parties and DIP Lenders, together with their respective officers, directors, employees, agents, attorneys, professionals, affiliates, subsidiaries, assigns and/or successors (collectively, the "**Released Parties**") from any

and all claims and causes of action arising out of, based upon or related to, in whole or in part, (i) the Existing UST Loan Agreements, (ii) any aspect of the prepetition relationship, or any prepetition transaction, between any Debtor, on the one hand, and any Released Party, on the other hand, or (iii) any acts or omissions by any or all of the Released Parties in connection with any prepetition relationship or transaction with any Debtor or any affiliate thereof including, without limitation, any claims or defenses as to the extent, validity, characterization, priority or perfection of the liens and security interests granted to any Existing UST Secured Parties pursuant to the Existing UST Loan Agreements, "lender liability" and similar claims and causes of action, any actions, claims or defenses arising under chapter 5 of the Bankruptcy Code or any other claims or causes of action. The waivers described in this paragraph were binding on the Debtors immediately upon entry of the Interim Order, and shall be binding upon the Committee or any other statutory committee and all other parties in interest sixty (60) days after entry of this Final Order if, prior to the expiration of such sixty (60) day period, the Committee or other party in interest has not commenced, or filed a motion with this Court for authority to commence, a proceeding asserting a claim or cause of action waived under this paragraph.

H. Notice. Due and proper notice of the Motion, the DIP Credit Facility, and the time and location of the Final Hearing has been provided in accordance with the Interim Order. Such notice was adequate and sufficient, and no other or further notice need be provided.

BASED UPON THE FOREGOING FINDINGS AND CONCLUSIONS, AND UPON THE MOTION AND THE RECORD MADE BEFORE THIS COURT AT THE INTERIM HEARING AND THE FINAL HEARING, AND GOOD AND SUFFICIENT CAUSE APPEARING THEREFOR, IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent provided in this Final Order. All objections to the Motion heretofore not withdrawn or resolved by the Final Order are overruled

on the merits in all respects. The Debtors are authorized, pursuant to section 364(c) of the Bankruptcy Code, to obtain post-petition financing on a final basis up to the maximum aggregate amount of the Commitment, on a super-priority and secured basis, pursuant and subject to the terms and conditions of the DIP Credit Facility and this Final Order including, without limitation, the Initial Budget (as defined in the DIP Credit Facility) and the DIP Credit Facility is approved in all respects.

2. The Debtors are hereby authorized to (A) enter into the DIP Credit Facility and are authorized and directed to perform all obligations under the DIP Credit Facility and this Final Order, including paying the principal, interest, fees, expenses, and other amounts (including the Additional Notes) due to the DIP Lenders and their professional advisors and counsel pursuant to the DIP Credit Facility or this Final Order as the same become due, which payments shall not otherwise be subject to the approval of this Court, and (B) unconditionally guaranty such payments on a joint and several basis as provided in the DIP Credit Facility.

3. Upon execution and delivery of the DIP Credit Facility and entry of this Final Order, the Debtors' obligations under the DIP Credit Facility (including the Additional Notes) shall constitute final, valid and binding obligations of the Debtors, enforceable against each Debtor and its estate in accordance with the terms thereof. No obligation, payment, transfer or grant of security under the DIP Credit Facility or this Final Order shall be stayed, restrained, voided or recovered under any provision of the Bankruptcy Code (including section 502(d) of the Bankruptcy Code) or other applicable law, or shall be subject to any defense, reduction, setoff, recoupment or counterclaim.

4. Except for the Carve-Out, and upon entry of this Final Order, no costs or expenses of administration of these cases or any future proceeding that may result therefrom,

including liquidation in bankruptcy or other proceedings under any chapter of the Bankruptcy Code, shall be imposed or charged against, or recovered from, the DIP Lenders or any of the Property under section 506(c) of the Bankruptcy Code or any similar principle of law, and each of the Debtors hereby waives for itself and on behalf of its estate any and all rights under section 506(c) of the Bankruptcy Code or otherwise to assert or impose, or seek to assert or impose, any such costs or expenses of administration against the DIP Lenders or the Property.

5. The DIP Lenders are hereby granted, pursuant to section 364(c)(1) of the Bankruptcy Code, an allowed super-priority administrative expense claim in each of these cases (the "**Super-priority Claim**") for all loans, reimbursement obligations and any other indebtedness or obligations, contingent or absolute, which may now or from time to time be owing by any of the Debtors to the DIP Lenders under the DIP Credit Facility or hereunder, including, without limitation, all principal, accrued interest, costs, fees, expenses and all other amounts (including the Additional Notes) due under the DIP Credit Facility, which Super-priority Claim (A) shall have priority over any and all administrative expense claims and unsecured claims (including without limitation, the Adequate Protection Claim) against each Debtor or its estate in these cases, now existing or hereafter arising, of any kind or nature whatsoever including, without limitation, administrative expenses and claims of the kind specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c) 507(a), 507(b), 546(c), 546(d), 726, 1113, and 1114, and any other provision of the Bankruptcy Code, as provided under section 364(c)(1) of the Bankruptcy Code, and (B) shall at all times be senior to the rights of each Debtor or its estate, and any successor trustee or other representative of any Debtor's estate in these cases or in any subsequent proceeding or case under the Bankruptcy Code, to the extent permitted by law; provided, however, that subsequent

to the closing of the Related Section 363 Transactions, claims against the Debtors' estates that have priority under sections 503(b) or 507(a) of the Bankruptcy Code, including costs and expenses of administration that are attendant to the formulation and confirmation of a liquidating chapter 11 plan, whether incurred prior or subsequent to the consummation of the Related Section 363 Transactions, shall have priority over the remaining obligations owing to the DIP Lenders under the DIP Credit Facility (up to the aggregate amount of $950,000,000; provided, however, that any greater amount shall be subject to approval by the DIP Lenders). The Super-priority Claim shall be subject and subordinate only to the Carve-Out and the claims set forth in the preceding proviso.

6. The DIP Lenders are hereby granted, pursuant to sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code, continuing, valid, binding, enforceable, and automatically perfected DIP Liens in and on any and all of the Property, with the priorities set forth in paragraph (iv) above, to secure all repayment and other obligations of the Debtors under the DIP Credit Facility and this Final Order, including the Additional Notes. Except as expressly provided in the DIP Credit Facility or this Final Order, the DIP Liens shall not be made subject to or pari passu with any lien on, or security interest in, the Property, and shall be valid and enforceable against any trustee appointed in these cases, in any successor case, or upon the dismissal of any of these cases. The DIP Liens shall not be subject to sections 510, 549, 550 or 551 of the Bankruptcy Code. Except as provided in the DIP Credit Facility, this Final Order, or as otherwise agreed to by the DIP Lenders, the Debtors shall not grant any liens on the Property junior to the DIP Liens. In addition, except as permitted in the DIP Credit Facility, this Final Order, or as otherwise agreed to by the DIP Lenders, the Debtors shall not incur any debt with priority equal to or greater than the DIP Credit Facility. For the avoidance of doubt,

notwithstanding anything to the contrary in this Final Order, the Interim Order or the DIP Credit Facility, the Permitted Liens shall include any valid, perfected, non-avoidable prepetition senior liens in any Property of the Debtors' estates (or non-avoidable valid liens in existence as of the Petition Date that are subsequently perfected only as permitted by section 546(b) of the Bankruptcy Code), including, but not limited to, valid, perfected, non-avoidable prepetition senior statutory and possessory liens, and recoupment and setoff rights. Further, nothing in this Final Order, the Interim Order or the DIP Credit Facility shall in any way impair the right of any claimant with respect to any alleged reclamation right or impair the ability of a claimant to seek adequate protection with respect to any alleged reclamation right; provided, however, that nothing in this Final Order, the Interim Order or the DIP Credit Facility shall prejudice any rights, defenses, objections or counterclaims that the Debtors, the DIP Lenders, any agent under the Prepetition Senior Facilities, the lender under the TARP Loan Agreement, the Committee or any other party in interest may have with respect to the validity or priority of such asserted liens or rights, or with respect to any claim for adequate protection; provided, further, that nothing in this Final Order, the Interim Order or the DIP Credit Facility shall in any way be construed to permit or authorize the DIP Lenders to seek recourse against the New GM Equity Interests at any time. Notwithstanding the foregoing, the DIP Liens shall be subject and subordinate to valid and enforceable liens of governmental units for personal property taxes, real property taxes, special taxes, special assessments, and infrastructure improvement taxes arising after the Petition Date to the extent that such liens of governmental units take priority over previously granted and perfected consensual liens or security interests in property of the Debtors under applicable non-bankruptcy law.

7. Except as expressly agreed by the DIP Lenders, the obligations of the Debtors, including, without limitation, all obligations under the Notes (as defined in the DIP Credit Facility), shall be unconditionally guaranteed on a joint and several basis by each of the entities listed on Schedule 1.1B to the DIP Credit Facility. Except as otherwise expressly agreed to by each DIP Lender, the obligations of the Debtors shall further be unconditionally guaranteed on a joint and several basis by each and every subsequently acquired or organized direct or indirect domestic subsidiary of any Debtor (other than GMCL and direct and indirect subsidiaries of GMCL), each of which shall be made a guarantor under the DIP Credit Facility immediately upon its acquisition and/or organization as provided in the DIP Credit Facility.

8. The Existing UST Secured Parties are hereby granted, pursuant to sections 361, 362, 363, 364 and 507 of the Bankruptcy Code, the Adequate Protection Claim and the Adequate Protection Liens with the priorities set forth in paragraph (vii) hereof, in each case to the extent of any diminution in the value of the relevant Existing UST Secured Party's interests in the Debtors' interests in the Property (including Cash Collateral) occurring on or after the Petition Date.

9. The Debtors are hereby authorized to use the Cash Collateral in accordance with the Initial Budget, until the DIP Lenders have exercised remedies as a result of an Event of Default under, and as defined in, the DIP Credit Facility.

10. The DIP Liens, the Super-priority Claim, the Adequate Protection Liens and the Adequate Protection Claim shall continue in any superseding case or cases for any or all of the Debtors under any chapter of the Bankruptcy Code, and such liens, security interests and claims shall maintain their priorities as provided in this Final Order. If an order dismissing any of these cases, pursuant to section 1112 of the Bankruptcy Code or otherwise, is at any time

entered, such order shall provide that (A) the DIP Liens, the Super-priority Claim, the Adequate Protection Liens and the Adequate Protection Claim shall continue in full force and effect, shall remain binding on all parties in interest in these cases, and shall maintain their priorities as provided in this Final Order, until all obligations of the Debtors under the DIP Credit Facility (with respect to the DIP Liens and the Super-priority Claim) and the Existing UST Loan Agreements (with respect to the Adequate Protection Liens and the Adequate Protection Claim) have been paid and satisfied in full. Notwithstanding the dismissal of any or all of these cases, this Court shall retain jurisdiction with respect to enforcing the DIP Liens and the Super-priority Claim and the DIP Lenders' rights with respect thereto, and the Adequate Protection Liens and the Adequate Protection Claim and the Existing UST Secured Parties' rights with respect thereto.

11. Except as provided in this Final Order or in the DIP Credit Facility, the DIP Liens, the Super-priority Claim, the Adequate Protection Liens and the Adequate Protection Claim, and all rights and remedies of the DIP Lenders, shall not be modified, impaired or discharged by the entry of an order or orders confirming a plan or plans of reorganization in any or all of these cases and, pursuant to section 1141(d)(4) of the Bankruptcy Code, each Debtor waives any discharge as to any remaining obligations under the DIP Credit Facility and this Final Order including, without limitation, the Additional Notes.

12. This Final Order shall be sufficient and conclusive evidence of the validity, perfection and priority of the DIP Liens and the Adequate Protection Liens, without the necessity of filing or recording any financing statement or other instrument or document, or the taking of any other act that otherwise may be required under state or federal law, rule, or regulation of any jurisdiction to validate or perfect the DIP Liens or the Adequate Protection Liens or to entitle the DIP Lenders and the Existing UST Secured Parties to the priorities set

forth herein. The DIP Liens and the Super-priority Claim granted to the DIP Lenders pursuant to this Final Order and the DIP Credit Facility with respect to the property of the Debtors' estates were perfected by operation of law upon entry of the Interim Order by the Court. The Debtors may execute, and the DIP Lenders or the Existing UST Secured Parties, as applicable, are hereby authorized to file or record financing statements or other instruments to evidence the DIP Liens and the Adequate Protection Liens, and the Debtors are hereby authorized and directed, promptly upon demand by any DIP Lender or Existing UST Secured Party, to execute, file and record any such statements or instruments as the DIP Lenders or such Existing UST Secured Party may request; provided, however, that no such execution, filing, or recordation shall be necessary or required in order to create or perfect the DIP Liens or any Adequate Protection Lien, and further, if the DIP Lenders or any Existing UST Secured Party, each in its sole discretion, shall choose to file such financing statements, mortgages, notices of lien or similar instruments or otherwise confirm perfection of such liens, all such documents shall be deemed to have been filed or recorded as of the Petition Date. A certified copy of this Final Order may, in the discretion of the DIP Lenders or any Existing UST Secured Party, as applicable, be filed with or recorded in any filing or recording office in addition to or in lieu of such financing statements, notices of lien or similar instruments, and all filing offices are hereby authorized to accept a certified copy of this Final Order for filing and recording, and to deem this Final Order to be in proper form for filing and recording.

13. Each and every federal, state, and local governmental agency, department or office is hereby authorized and directed to accept this Final Order and any and all documents and instruments necessary or appropriate to consummate the transactions contemplated by this Final Order or the DIP Credit Facility.

14. The automatic stay imposed by section 362(a) of the Bankruptcy Code is hereby modified to permit (A) the Debtors to grant the DIP Liens, the Super-priority Claim, the guaranties and other security provided for in the DIP Credit Facility, and to perform such acts as the DIP Lenders may request to assure the perfection and priority of the DIP Liens, (B) the Debtors to grant the Adequate Protection Liens and the Adequate Protection Claim, and to perform such acts as any Existing UST Secured Party may request to assure the perfection and priority of the Adequate Protection Liens, (C) the implementation of the terms of this Final Order and the DIP Credit Facility, (D) the repayment of the Prepetition Senior Facilities as detailed in paragraph 19 hereof, and (E) immediately upon the occurrence of an Event of Default under the DIP Credit Facility or the maturity of the credit extensions provided thereunder, the exercise by the DIP Lenders of all rights and remedies under such agreement or applicable law without further application to or order of this Court; provided, however, that prior to exercising any setoff of amounts held in any accounts maintained by any Debtor or enforcing any liens or other remedies with respect to the Property, the DIP Lenders shall provide to the Debtors (with copies to the Committee, any other statutory committee and the United States Trustee) five business days' prior written notice; provided further, however, that upon receipt of any such notice, the Debtors may only make disbursements in the ordinary course of business and with respect to the Carve-Out, but may not make any other disbursements. Upon the occurrence and during the continuance of an Event of Default under the DIP Credit Facility, the DIP Lenders and their respective representatives shall be granted access to all locations in support of the enforcement and exercise of their remedies.

15. Upon the occurrence and during the continuance of any Event of Default under the DIP Credit Facility, and subject to the five business day notice provision set forth in

paragraph 14 above, the DIP Lenders may compel any Debtor to exercise such Debtor's rights (if any) to sell any or all of the Property in its possession pursuant to section 363(b) of the Bankruptcy Code or any other applicable law, the DIP Lenders shall be entitled to exercise their right (if any) to credit bid the DIP Liens in any such sale pursuant to section 363(k) or other applicable provision of the Bankruptcy Code, or other applicable law, and the Debtors shall use best efforts (subject to applicable law) to exercise their rights (if any) to sell such Property if requested by the DIP Lenders (pursuant to section 363 of the Bankruptcy Code or otherwise).

16. As used in this Final Order, "**Carve-Out**" means, following the occurrence and during the continuance of an Event of Default under the DIP Credit Facility, an amount sufficient for payment of (A) allowed professional fees and disbursements incurred by professionals retained by the Debtors, the Committee and any other statutory committee (after application of all outstanding retainers held by those professionals) and allowed expenses of members of the Committee and any other statutory committee in an aggregate amount not to exceed $20,000,000 (plus all such professional fees and disbursements, and expenses of members of the Committee and any other statutory committee that are unpaid after application of all outstanding retainers, and that were accrued or incurred prior to the occurrence of the Event of Default, to the extent allowed by this Court at any time), (B) fees pursuant to 28 U.S.C. § 1930 and any fees payable to the clerk of this Court, (C) fees and disbursements incurred by a chapter 7 trustee (if any) not to exceed $2,000,000, and (D) fees and expenses incurred by a privacy ombudsman retained by Appointment of Ombudsman dated June 10, 2009 [Docket No. 565]; provided, however, that, so long as an Event of Default has not occurred, the Debtors shall be permitted to pay fees and expenses allowed and payable under 11 U.S.C. §§ 330 and 331, as the same may become due and payable, and the same shall not reduce the Carve-Out;

provided further, however, that the Carve-Out shall not include any fees or disbursements related to the investigation of, preparation for, or commencement or prosecution of, any claims or proceedings against the DIP Lenders, the Existing UST Secured Parties or EDC, in its capacity as lender under the Canadian Facility (as defined in the DIP Credit Facility) and on behalf of the Governments of Ontario and Canada, or other Canadian Lender Consortium Member (as defined in the DIP Credit Facility), or the claims or security interests in or liens on the property granted under the Canadian Facility, or their claims or security interests in or liens on the Property granted under the DIP Credit Facility or this Final Order.

17. The DIP Lenders have acted in good faith in connection with the DIP Credit Facility, the Interim Order and this Final Order and their reliance on the provisions of this Final Order when extending credit under the DIP Credit Facility will be in good faith. Accordingly, if any provision of this Final Order is hereafter modified, vacated, or stayed by subsequent order of this Court or any other court for any reason, the DIP Lenders are entitled to the protections provided in section 364(e) of the Bankruptcy Code. The DIP Credit Facility may not be recharacterized as an equity investment or otherwise.

18. The DIP Lenders may exercise their right (if any) to credit bid the loans and the Additional Notes under the DIP Credit Facility (pursuant to section 363(k) or other applicable provision of the Bankruptcy Code, or other applicable law), in whole or in part, in connection with any sale or other disposition of some or all of the Property in these cases.

19. (a) Upon entry of this Final Order, the Debtors shall be authorized to apply and shall apply the proceeds of the DIP Credit Facility to repay amounts outstanding under the Prepetition Senior Facilities and all second lien Hedging Obligations (as defined in the Prepetition Revolving Credit Agreement), including principal, accrued and unpaid interest, fees,

letter of credit reimbursement obligations (including obligations to cash collateralize undrawn letters of credit) and any other amounts due or owed by the Debtors thereunder within three business days of entry of this Final Order.

(b) Upon payment ("**Payment**") of all obligations under the Prepetition Senior Facilities, all commitments under each of the Prepetition Senior Facilities shall be deemed irrevocably terminated. Further, upon Payment, except as set forth in subsection (c) below, the holders of such obligations (the "**Prepetition Senior Facilities Secured Parties**") shall have no further rights with respect to the Debtors, the DIP Lenders, the Property or any claims or liens relating thereto (all of which liens and claims shall be deemed automatically satisfied and released without further action), whether such claims or liens arise under the Prepetition Term Loan Agreement, Prepetition Revolving Credit Agreement, the Prepetition Gelco Loan Agreement or related documentation, and the Debtors and their estates shall have no further obligations to the Prepetition Senior Facilities Secured Parties in connection with the Prepetition Senior Facilities. Nothing in this Order shall be deemed to alter, amend, release or waive any liens against, or obligations of, any non-Debtor affiliate under the Prepetition Revolving Credit Agreement and documents related thereto.

(c) The Prepetition Senior Facilities Secured Parties' liens, claims and interests in the Property and any adequate protection claims or adequate protection liens, shall expire upon the Payment. In the event that the Committee investigates any liens of any of the Prepetition Senior Facilities Secured Parties or any third party brings an action against a Prepetition Senior Facilities Secured Party that is entitled to indemnification by the Debtors under the applicable Prepetition Senior Facility, then, notwithstanding any other provision of this Final Order, (i) the Debtors shall pay (in accordance with Paragraph 6(d) of the Prepetition

Revolving Credit Agreement Order and Paragraph 5(d) of the Prepetition Term Loan Facility Order), the reasonable fees, costs and charges incurred by the agents for the Prepetition Senior Facilities (and, in the case of Gelco, reasonable fees, costs and charges incurred by Gelco, so long as Gelco complies with the expense reimbursement procedures applicable to the agents under the other Prepetition Senior Facilities) in responding to such investigation or in defending any challenge to such liens or to their ability to retain any Payment, and (ii) the super-priority adequate protection claims granted pursuant to the Prepetition Revolving and Term Adequate Protection Orders shall remain in effect with respect to such expense reimbursement obligations, provided that such claims shall not have recourse to the New GM Equity Interests and Gelco is hereby granted superpriority adequate protection claims equivalent to those provided to the agents under the other Prepetition Senior Facilities. Nothing in this order shall affect the rights and remedies, if any, of the Prepetition Senior Facility Secured Lenders (other than Gelco and the agents under the other Prepetition Senior Facilities, whose rights and remedies shall be as described herein) to seek reimbursement of their reasonable fees, costs, and charges incurred in responding to any such investigation or in defending any challenge to such liens or Payment. Without limiting the generality of the foregoing, upon Payment, the Prepetition Senior Facilities Secured Parties (i) authorize the Debtors to file Uniform Commercial Code termination statements, mortgage releases and all other documents necessary to evidence the release of the liens against the Debtors securing the obligations under the Prepetition Senior Facilities and (ii) will take all such action and deliver all such other instruments and documents as may be reasonably requested by the Debtors or the agents under the Prepetition Senior Facilities to effectuate or evidence the termination of all such claims of the Prepetition Senior Facilities Secured Parties, in each case, at the sole cost and expense of the Debtors.

(d) Effective upon entry of this Final Order, the Debtors (on behalf of their estates) and any successor thereto release the Prepetition Senior Facilities Secured Parties and each of their directors, officers, appointees, counsel, advisors and employees serving in any capacity or function, including as a fiduciary, agents, advisors, shareholders, subsidiaries, affiliates, heirs, executors, administrators, attorneys, advisors, successors and assigns from, against and with respect to any and all actual or potential demands, claims, actions, causes of action (including derivative causes of action), suits, assessments, liabilities, losses, costs, damages, penalties, fees, charges, expenses and all other forms of liability whatsoever, in law or equity, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising under the Bankruptcy Code, state law or otherwise now existing or hereafter arising, directly or indirectly related to the Prepetition Senior Facilities and any and all dealings between the Prepetition Senior Facilities Secured Parties in connection with the Prepetition Senior Facilities, provided, however, that such release shall not apply to the Committee with respect only to the perfection of first priority liens of the Prepetition Senior Facilities Secured Parties (it being agreed that if the Prepetition Senior Facilities Secured Parties, after Payment, assert or seek to enforce any right or interest in respect of any junior liens, the Committee shall have the right to contest such right or interest in such junior lien on any grounds, including (without limitation) validity, enforceability, priority, perfection or value) (the "**Reserved Claims**"). The Committee shall have automatic standing and authority to both investigate the Reserved Claims and bring actions based upon the Reserved Claims against the Prepetition Senior Facilities Secured Parties not later than July 31, 2009 (the "**Challenge Period**"), provided, that upon the filing of any adversary proceeding prosecuting any Reserved Claim, the Challenge Period shall be extended with respect to such adversary proceeding through and until a court of competent jurisdiction

dismisses such adversary proceeding. The grant of automatic standing shall be without any further order of this Court or any requirement that the Committee file a motion seeking standing or authority to file a motion seeking standing or authority before prosecuting any such challenge. Any Prepetition Senior Facilities Secured Party accepting Payment shall submit to the jurisdiction of the Bankruptcy Court, it being understood that the respective administrative and collateral agents for the Prepetition Senior Facilities shall have no responsibility or liability for amounts paid to any Prepetition Senior Facilities Secured Parties and such agents shall be exculpated for any and all such liabilities, excluding only such funds as are retained by each such agent solely in its respective role as a lender.

(e) Immediately upon Payment, the DIP Lenders shall be deemed to have obtained a secured, non-avoidable, perfected security interest in and lien on the Prepetition Senior Facilities Collateral.

20. Notwithstanding anything herein to the contrary, none of the proceeds of any extension of credit under the DIP Credit Facility shall be used in connection with (a) any investigation (including discovery proceedings), initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against the DIP Lenders or the Existing UST Secured Parties or EDC, in its capacity as lender under the Canadian Facility and on behalf of the Governments of Ontario and Canada, (b) the initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against the DIP Lenders or the Existing UST Secured Parties or EDC, in its capacity as lender under the Canadian Facility and on behalf of the Governments of Ontario and Canada, or any of their respective affiliates with respect to any loans, extensions of credit or other financial accommodations made to any Debtor prior to, on or after the Petition Date, or (c) any loans, advances, extensions of credit, dividends or other

investments to any person not a Borrower or Guarantor other than for certain permitted exceptions set forth in the DIP Credit Facility.

21. On or substantially contemporaneous with the closing of the Related Section 363 Transactions, the Tranche C Term Loan (as such term is defined in the DIP Credit Facility) in an amount not less than $950,000,000 shall be provided to the Borrower in accordance with section 2.14 of the DIP Credit Facility to fund the wind-down of the Debtors (the "**Wind-Down Facility**"). The funding of the Wind-Down Facility shall be subject to an appropriate amendment to the DIP Credit Facility, acceptable to the Debtors and the DIP Lenders, which amendment shall be subject to approval by this Court on three days notice after the filing of a motion seeking approval of the Wind-Down Facility. The Committee shall be copied on all drafts of the credit agreement related to the Wind-Down Facility and the Wind-Down Budget (as defined in the DIP Credit Facility) that are circulated between the Debtors and the DIP Lenders and shall be included in all substantive negotiations of the Wind-Down Facility and the Wind-Down Budget between the Debtors and the DIP Lenders.

22. In the event of any inconsistency between the terms and conditions of the DIP Credit Facility or the Interim Order and this Final Order, the terms and conditions of this Final Order shall control.

23. The parties to the DIP Credit Facility may, from time to time, enter into waivers or consents with respect thereto without further order of this Court. In addition, the parties to the DIP Credit Facility may, from time to time, enter into amendments with respect thereto without further order of this Court; provided, that, (A) the DIP Credit Facility, as amended, is not materially different from the form approved by this Final Order, (B) notice of all amendments is filed with this Court, and (C) notice of all amendments (other than those that are

ministerial or technical and do not adversely affect the Debtors) are provided in advance to counsel for the Committee and any other statutory committee, all parties requesting notice in these cases and the United States Trustee. For purposes hereof, a "material" difference from the form approved by this Final Order shall mean any difference resulting from a modification that operates to (1) shorten the maturity of the extensions of credit under the DIP Credit Facility or otherwise require more rapid principal amortization than is currently required under the DIP Credit Facility, (2) increase the aggregate amount of any of the commitments thereunder, (3) increase the rate of interest or any other fees or charges payable thereunder (other than to the extent contemplated in the DIP Credit Facility as in effect on the date of this Final Order), (4) add specific new Events of Default (as defined in the DIP Credit Facility) or shorten the notice or grace period in respect to any Default (as defined in the DIP Credit Facility) or Event of Default currently in the DIP Credit Facility, (5) enlarge the nature and extent of default remedies available to the DIP Lenders or agents under the DIP Credit Facility following the occurrence and during the continuance of an Event of Default, (6) add additional financial covenants or make any financial covenant or other negative or affirmative covenant or representation and warranty more restrictive on the Debtors, or (7) otherwise modify the DIP Credit Facility in a manner materially less favorable to the Debtors and their estates.

24. This Final Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014, and shall be deemed effective and enforceable immediately upon its entry and nunc pro tunc to the Petition Date.

25. The rights, benefits, and privileges granted pursuant to this Final Order (including, without limitation, the DIP Liens, the Super-priority Claim, the Adequate Protection

Liens and the Adequate Protection Claim granted herein) shall attach and be enforceable against the bankruptcy estate of any direct or indirect subsidiary of the Debtors that is a party to the DIP Credit Facility and which hereafter becomes a debtor in these procedurally consolidated cases automatically and without further court order on a final basis. Except as may be provided in this Final Order, such subsidiary shall be deemed a "Debtor" hereunder effective as of the date such subsidiary files a petition and becomes a debtor in these cases.

26. Except as otherwise provided in this Final Order, the provisions of the DIP Credit Facility and the provisions of this Final Order, including all findings of fact and conclusions of law set forth herein, shall, immediately upon entry of this Final Order in these cases, become valid and binding upon the Debtors, the DIP Lenders, the Existing UST Secured Parties, all other creditors of the Debtors, the Committee, any other statutory committee and all other parties in interest in these cases and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed as a legal representative of any Debtor's estate in these cases or in any subsequent chapter 7 case. In no event shall the DIP Lenders, whether in connection with the exercise of any rights or remedies under the DIP Credit Facility, hereunder or otherwise, be deemed to be in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors, so long as the actions of the DIP Lenders do not constitute, within the meaning of 42 U.S.C. § 9601(20)(F), actual participation in the management or operational affairs of a vessel or facility owned or operated by a Debtor, or otherwise cause liability to arise to the federal or state government or the status of responsible person or managing agent to exist under applicable law (as such terms, or any similar terms, are used in the Comprehensive Environmental Response,

Compensation and Liability Act, sections 9601 et seq. of title 42, United States Code, as amended, or any similar federal or state statute).

27. The Committee shall receive the same reports provided by the Debtors to the DIP Lenders under section 5.2 of the DIP Credit Facility.

28. The Debtors have provided adequate and sufficient notice of the Final Hearing and this Final Order as required under section 364 of the Bankruptcy Code, Rule 4001 of the Bankruptcy Rules and Rule 4001-2 of the Local Bankruptcy Rules.

29. The Final Hearing was held pursuant to Rule 4001 of the Bankruptcy Rules.

30. This Court shall retain exclusive jurisdiction to interpret and enforce the provisions of the DIP Credit Facility, the Interim Order and this Final Order in all respects; provided, however, that in the event this Court abstains from exercising or declines to exercise jurisdiction with respect to any matter provided for in this paragraph or is without jurisdiction, such abstention, refusal, or lack of jurisdiction shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter.

Dated: ***June 25, 2009***
New York, New York

/s/ Robert E. Gerber
HON. ROBERT E. GERBER
UNITED STATES BANKRUPTCY JUDGE

Exhibit 5

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

NOTICE OF HEARING ON DEBTORS' MOTION PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a), 361, 362, 363, 364 AND 507 AND BANKRUPTCY RULES 2002, 4001 AND 6004 TO AMEND DIP CREDIT FACILITY

PLEASE TAKE NOTICE that upon the annexed Motion, dated June 29, 2009 (the "**Motion**"), of General Motors Corporation and its affiliated debtors, as debtors and debtors in possession (the "**Debtors**"), pursuant to sections 105(a), 361, 362, 363, 364 and 507, of title 11, United States Code to amend their existing DIP Facility (as defined in the Motion), as more fully set forth in the Motion, a hearing will be held before the Honorable Robert E. Gerber, United States Bankruptcy Judge, in Room 621 of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, on **July 2, 2009 at 2:00 p.m. (Eastern Time),** or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the

Local Rules of the Bankruptcy Court, and shall be filed with the Bankruptcy Court (a) electronically in accordance with General Order M-242 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court's filing system, and (b) by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with General Order M-182 (which can be found at www.nysb.uscourts.gov), and served in accordance with General Order M-242, and on (i) Weil, Gotshal & Manges LLP, attorneys for the Debtors, 767 Fifth Avenue, New York, New York 10153 (Attn: Harvey R. Miller, Esq., Stephen Karotkin, Esq., and Joseph H. Smolinsky, Esq.); (ii) the Debtors, c/o General Motors Corporation, 300 Renaissance Center, Detroit, Michigan 48265 (Attn: Lawrence S. Buonomo, Esq.); (iii) Cadwalader, Wickersham & Taft LLP, attorneys for the United States Department of the Treasury, One World Financial Center, New York, New York 10281 (Attn: John J. Rapisardi, Esq.); (iv) the United States Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 2312, Washington, D.C. 20220 (Attn: Matthew Feldman, Esq.); (v) Vedder Price, P.C., attorneys for Export Development Canada, 1633 Broadway, 47th Floor, New York, New York 10019 (Attn: Michael J. Edelman, Esq. and Michael L. Schein, Esq.); (vi) Kramer Levin Naftalis & Frankel LLP, attorneys for the statutory committee of unsecured creditors, 1177 Avenue of the Americas, New York, New York 10036 (Attn: Kenneth H. Eckstein, Esq., Thomas Moers Mayer, Esq., Adam C. Rogoff, Esq., and Gordon Z. Novod, Esq.); (vii) the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America ("**UAW**"), 8000 East Jefferson Avenue, Detroit, Michigan 48214 (Attn: Daniel W. Sherrick, Esq.); (viii) Cleary Gottlieb Steen & Hamilton LLP, attorneys for the UAW, One Liberty Plaza, New York, New York 10006 (Attn: James L. Bromley, Esq.); (xi) Cohen,

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If no objections are timely filed and served with respect to the Motion, the Debtors may, on or after the Objection Deadline, submit to the Bankruptcy Court an order, which order may be entered with no further notice or opportunity to be heard offered to any party.

Dated: New York, New York
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

DEBTORS' MOTION PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a), 361, 362, 363, 364 AND 507 AND BANKRUPTCY RULES 2002, 4001 AND 6004 TO AMEND DIP CREDIT FACILITY

TO THE HONORABLE ROBERT E. GERBER,
UNITED STATES BANKRUPTCY JUDGE:

1. This Motion seeks approval of an amendment to the Debtors' DIP Credit Facility (as defined below) to finalize the terms of the financing for the wind-down of the Debtors' estates following the closing under the 363 Transaction (as defined below).

Background

2. On June 1, 2009, General Motors Corporation ("**GM**") and certain of its subsidiaries, as debtors and debtors in possession (collectively, the "**Debtors**"), filed a motion for authority to obtain debtor in possession financing (the "**DIP Facility**") from the United States

Department of Treasury and Export Development of Canada, and for related relief [Docket No. 81] (the "**DIP Motion**").[1]

3. On June 2, 2009, the Court entered an interim order [Docket No. 292] granting the relief set forth in the DIP Motion on an interim basis.

4. On June 25, 2009, the Court entered a final order [Docket No. 2529] granting the relief set forth in the DIP Motion on a final basis (the "**Final DIP Order**"). The Final Order approved a $33.3 billion credit facility to fund the Debtors' operations and the administration of the chapter 11 cases through the consummation of the 363 Transaction.

The 363 Transaction and the Wind-Down Facility

5. On June 1, 2009, the Debtors filed a motion to approve the sale of substantially all of the Debtors' assets pursuant to that certain Master Sale and Purchase Agreement, among the Debtors and Vehicle Acquisition Holdings LLC, a purchaser (the "**Purchaser**") sponsored by the United States Department of the Treasury (the "**363 Transaction**"). Subsequent to closing under the 363 Transaction, the Debtors intend to liquidate their remaining assets, resolve claims, and seek to confirm a chapter 11 plan of liquidation. The DIP Lenders have agreed to provide a facility up to $950 million in the form of an Amended and Restated DIP Credit Facility (the "**Amended DIP Facility**") to fund the wind-down of the Debtors and these chapter 11 cases (the "**Wind-Down**").

6. The DIP Motion and DIP Facility contemplate the Amended DIP Facility. The DIP Motion provides at page 4:

> Wind-Down Loan. The Lenders agree to provide a wind-down loan upon agreement of the wind down budget (expected to be

[1] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the DIP Motion.

> approximately $950 million), in an amount satisfactory to a majority, by aggregate exposure, of the lenders.

7. Section 2.14 of the DIP Facility similarly provides that the Tranche C Term Loan would be converted into a Wind-Down Facility.

8. In addition, the Final DIP Order provides at ¶ 21:

> On or substantially contemporaneous with the closing of the Related Section 363 Transactions, the Tranche C Term Loan (as such term is defined in the DIP Credit Facility) in an amount not less than $950,000,000 shall be provided to the Borrower in accordance with section 2.14 of the DIP Credit Facility to fund the wind-down of the Debtors (the "**Wind-Down Facility**"). The funding of the Wind-Down Facility shall be subject to an appropriate amendment to the DIP Credit Facility, acceptable to the Debtors and the DIP Lenders, which amendment shall be subject to approval by this Court on three days notice after the filing of a motion seeking approval of the Wind-Down Facility.

9. The hearing on the 363 Transaction is scheduled for June 30, 2009. The Debtors and the Purchaser desire to close the 363 Transaction as promptly as possible following the entry of an order approving the 363 Transaction, assuming that the Court decides to enter such an order. As such, the Debtors are currently finalizing the terms of the Amended DIP Facility with the DIP Lenders.

10. The Debtors are thus seeking approval of the Amended DIP Facility which reflects the Wind-Down Facility. The Debtors will file a draft of the Amended DIP Facility prior to the hearing on this Motion. The primary terms of the Amended DIP Facility as contemplated as of the date of this Motion are set forth below:

(a) Borrower. General Motors Corporation, the Debtor.[2] Wind Down Facility preamble.

(b) Lenders. The U.S. Treasury and EDC. Wind Down Facility preamble.

[2] General Motors Corporation will be changing its name at the time of the closing of the 363 Transaction.

(c) Guarantors. Certain domestic subsidiaries listed on Schedule 1.1B of the Wind Down Facility. Wind Down Facility Schedule 1.1B.

(d) Collateral. The obligations under the Wind-Down Facility are to be secured by substantially all property and assets of the Borrower and the Guarantors other than (i) any stocks, warrants, options or other equity interests issued to or held by any Debtor pursuant to the Related Section 363 Transactions (as defined in the Wind-Down Facility) and (ii) avoidance actions arising under chapter 5 of the Bankruptcy Code and applicable state law against the Prepetition Senior Facilities Secured Parties (as defined in the DIP Facility). For the avoidance of doubt, the proceeds of the Wind-Down constitute Collateral . Wind-Down Facility, § 1.1.

(e) Joint Liability. Subject to the limitation on recourse in paragraph (f), the Guarantors will guarantee the obligations under the Wind Down Facility on a joint and several basis pursuant to an Amended and Restated Guaranty and Security Agreement. Wind Down Facility Exhibit A.

(f) Limitation on Recourse. The obligations under the Wind-Down Facility will be non-recourse to the Borrower or the Guarantors, and recourse would be only to the Collateral. Wind-Down Facility, §2.1.

(g) Borrowing Limits. Outstanding amounts of Tranche C Term Loans, in an amount not less than $950 million. Wind Down Facility preamble, Schedule 1.1A.

(h) Interest Rate. The non-default rate for Eurodollar loans is the sum of (a) the greater of (i) the LIBOR rate for the period of the applicable loan, adjusted for certain reserve requirements and (ii) 2.00%, plus (b) 3.00% and for ABR loans is the sum of (a) the greater of (i) the prime rate, (ii) the fed funds rate plus 0.5%, and (iii) the three month Eurodollar rate plus 1%, plus (b) 2.00%. Wind Down Facility § 2.6(a)-(b). The default interest rate for outstanding loans is the otherwise applicable non-default rate (which, at the sole discretion of the U.S. Treasury may be the rate applicable to ABR loans) plus 5.00%. The default interest rate for all other outstanding obligations is the applicable non-default rate for ABR loans plus 5.00%. Wind Down Facility § 2.6(d). Interest accruing under the Wind-Down facility will be paid by adding such interest to the principal amount outstanding thereunder. Wind-Down Facility § 2.6(f).

(i) Purpose. The Wind Down Facility proceeds will be used to finance working capital needs and other general corporate purposes incurred in connection with the Wind-Down, including the payment of expenses associated with the administration of the Debtors' cases. Wind Down Facility § 3.20.

(j) Wind-Down Budget. The Borrower and the Lenders are discussing an agreed upon wind-down budget (the "**Wind-Down Budget**"). On a quarterly basis, the Borrower will amend the Wind-Down Budget by providing the Lenders reports of projected receipts and disbursements on a rolling 12-month basis that are certified by an officer of the Borrower. Wind Down Facility § 1.1 and Annex I.

(k) Maturity. Maturity Date will be the date on which all claims against the Debtors have been resolved such that there are no remaining disputed claims, all assets of the Debtors (other than remaining cash) have been liquidated, all distributions on account of allowed claims

have been made, and all other actions that are required under the plan of liquidation (other than the dissolution of the last remaining Debtor) have been completed. On the Maturity Date, the plan administrator or other individual or entity charged with administering the liquidation plan shall be entitled to retain a de minimis amount of funds to complete the dissolution of the last remaining Debtor. Wind Down Facility § 1.1.

(l) Voluntary Prepayments. The Wind Down Facility may be prepaid, in whole or in part, without premium or penalty, subject to minimum prepayment amounts in the case of partial prepayments. Wind Down Facility § 2.4.

(m) Mandatory Prepayment. The Borrower is required to prepay the loans in an amount equal to the net cash proceeds of certain asset sales, extraordinary receipts, casualty and condemnation events and from the incurrence of indebtedness not permitted to be incurred under the Wind Down Facility, in each case subject to certain exceptions. Wind Down Facility § 2.5.

(n) Events of Default. The Events of Default include the following (among others): (i) any failure to pay the obligations under the Wind-Down Facility on the Maturity Date; (ii) breach of non-payment obligations or covenants not covered by another Event of Default clause, and such default has not been remedied within the applicable grace period provided therein, or if no grace period, within ten (10) business days; (iii) the appointment of a trustee, dismissal of the cases, and similar bankruptcy-related provisions; (iv) an order granting relief from the automatic stay to certain secured parties; (v) a judgment for the payment of money in excess of $25 million shall be entered and not stayed for ten calendar days; (v) entry of any order modifying in any material respect the DIP Orders, or the failure of the Debtors or certain non-debtor affiliates to comply with the DIP Orders; (vi) certain ERISA-related events; and (vii) any change of control; (viii) certain insolvency triggers in respect of certain of the Debtors' affiliates. Wind Down Facility § 7.1.

(o) Remedies. The DIP Lenders are required to provide five (5) business days' written notice prior to exercising any setoff rights or enforcing any liens or certain other remedies. Lenders' recourse is solely to the Collateral and there shall be no other recourse to the Borrower or the Guarantors.[3] Wind Down Facility § 7.2.

(p) Initial Conditions. Funding of the DIP Facility is contingent upon a number of conditions precedent, including, among others, (i) Lender satisfaction with the terms of the 363 sale transaction; (ii) the Final Order not having been reversed, modified, amended, stayed or vacated without Lender consent; and (iii) delivery of the Wind-Down Budget. Wind Down Facility § 4.1.

(q) Indemnification. The Borrower indemnifies the Lenders for any loss resulting from early termination of LIBOR contracts due to payment of the applicable loan on a date other than the last day of the applicable interest period and other circumstances. Wind Down Facility § 2.10. The Borrower also provides certain tax indemnities to the Lenders. Wind Down Facility

[3] See ¶ 10(f).

§ 2.12. The Borrower also provides an indemnity in respect of certain expenses, liabilities and legal fees and breaches of environmental law. Wind Down Facility § 8.5.

The Amended DIP Facility Should be Approved

11. The relief requested herein was contemplated by the DIP Motion and the Final DIP Order. The terms of the Amended DIP Facility are fair and reasonable and provide financing with the flexibility necessary to fund the liquidation of the Debtors' estates in an orderly fashion to maximize value. Absent approval of the Amended DIP Facility, the Debtors would not have sufficient liquidity to continue to administer their cases in chapter 11 and seek to pursue a plan. Under such circumstances, the Debtors would likely have no choice but to convert the cases to cases under chapter 7 of the Bankruptcy Code.

12. Significantly, the DIP Lenders have agreed (i) not to take a security interest in the stock of the Purchaser that the Debtors are receiving as consideration for the 363 Transaction and (ii) not to seek recourse against the Debtors for any unpaid portion of the DIP Facility if the proceeds of the collateral security therefor are insufficient. The Debtors believe there are no other lenders willing to provide funding on these or better terms.

13. Simply stated, the Amended DIP Facility is the only source of immediate liquidity for the wind-down of these estates. The terms and provisions of the Amended DIP Facility are fair and reasonable, both economically and from the perspective of how the funds may be used. Under these circumstances, the Debtors believe that the Amended DIP Facility is in the best interests of the Debtors and their estates and should be approved.

Jurisdiction

14. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Notice

15. The Final DIP Order authorized that a hearing on this Motion could be held on 3 days' notice. Notice of this Motion has been provided to (i) the Office of the United States Trustee for the Southern District of New York, (ii) the attorneys for the United States Department of the Treasury, (iii) the attorneys for Export Development Canada, (iv) the attorneys for the agent under GM's prepetition secured term loan agreement, (v) the attorneys for the agent under GM's prepetition amended and restated secured revolving credit agreement, (vi) the attorneys for the statutory committee of unsecured creditors appointed in these chapter 11 cases, (vii) the attorneys for the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, (viii) the attorneys for the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers—Communications Workers of America, (ix) the United States Department of Labor, (x) the attorneys for the National Automobile Dealers Association, (xi) the attorneys for the ad hoc bondholders committee, (xii) the U.S. Attorney's Office, S.D.N.Y., and (xiii) all entities that requested notice in these chapter 11 cases under Fed. R. Bankr. P. 2002. The Debtors submit that, in view of the facts and circumstances, such notice is sufficient and no other or further notice need be provided.

16. Other than the DIP Motion, no previous request for the relief sought herein has been made by the Debtors to this or any other Court.

WHEREFORE the Debtors respectfully request entry of an order granting the relief requested herein and such other and further relief as is just.

Dated: New York, New York
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Exhibit 6

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
Case No. 09-50026
- -x
In the Matter of:

GENERAL MOTORS CORPORATION, et al.,

Debtors.

- -x

United States Bankruptcy Court
One Bowling Green
New York, New York

July 2, 2009
9:02 AM

B E F O R E:
HON. ROBERT E. GERBER
U.S. BANKRUPTCY JUDGE

HEARING re Motion of the Debtors for Entry of Order Pursuant to 11 U.S.C. § 363(b) Authorizing and Approving Settlement Agreements with Certain Unions

HEARING re Debtors' Motion Pursuant to Bankruptcy Code §§ 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 to Amend DIP Credit Facility

HEARING re Continuation of GM 363 Sale Hearing

Transcribed by: Lisa Bar-Leib

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P R O C E E D I N G S

THE COURT: Good morning, folks.

MR. MILLER: Good morning.

THE COURT: Have seats, everybody. Come on up, please.

MR. WEISS: Good morning, Your Honor. Robert Weiss of Honigman Miller Schwartz & Cohen, special counsel for General Motors Corporation.

THE COURT: Right, Mr. Weiss.

MR. WEISS: When we ended last evening, I indicated that we had arrived upon a stipulation order resolving objection to sale motion with regard to GECC and some equipment leases that are critical to the sale of the company should it proceed based upon this Court's order.

I'm pleased to advise the Court that we have come to a final resolution in the form of a stipulation and order resolving objection to sale motion. We have consulted with counsel for the creditors' committee whose input is incorporated within the final terms of the stipulation.

Your Honor, just very briefly, if I may, the subject of the leases are very substantial equipment for both manufacturing and assembly that's included in a number of different General Motors facilities. The stipulation is only effective if the Court approves the sale and the sale closes. In that period of time, the debtor has not yet elected whether

it will assume or reject these leases. This stipulation permits the use of this equipment post closing in the period before a decision is made as to whether to assume and assign or reject these leases. All rights and interests of the parties are protected and we believe that this is a stipulation that is very much in the interest of both constituents. I would ask that the Court approve it.

THE COURT: Okay, Mr. Weiss. Anybody else want to comment? Mr. Schmidt, creditors' committee?

MR. SCHMIDT: Good morning, Your Honor. Robert Schmidt, Kramer Levin, on behalf of the committee. Your Honor Mr. Weiss presented the stip to me a little while ago. He's represented that one of my colleagues has signed off on it. I have no reason to not believe that but I just want to take a quick look at it and we'll advise the Court at a break.

THE COURT: I'm going to be tied up for the next hour or two --

MR. SCHMIDT: I suspect we'll have plenty of time to read it.

THE COURT: Fair enough. Mr. Weiss, would it be helpful more than just that? Would it be necessary -- would you like an order entered on that today assuming the creditors' committee is so (indiscernible)?

MR. WEISS: Yes, we would, Your Honor. And I can represent to the Court that, as Mr. Bacon can attest to, we had

a number of different conversations with Adam Rogoff. And he has, in fact, signed off on the stipulation in the form in which we're going to present it.

MR. BACON: And by email as well.

THE COURT: Sure. The practical problem that a lot of parties are having in this case is that this is a complicated case. You can't do it with one lawyer. And people have to kind of have enough time to talk to each other when they're so busy on other things.

MR. WEISS: Sure.

THE COURT: So that's fine. Mr. Schmidt, could I simply ask you if either you or Mr. Rogoff or somebody communicate with my chambers perhaps by lunchtime just to give me comfort that you guys are okay with it?

MR. SCHMIDT: Absolutely, Your Honor.

THE COURT: Thank you. Thank you.

MR. WEISS: Your Honor, shall I --

THE COURT: Yes, Mr. Weiss?

MR. WEISS: Would you like me to present to the Court a copy of the stip and order at this time?

THE COURT: Well, actually, giving it to me is not going to be that helpful right now. So, yeah, you can give it to me but I won't really be able to look at it until next recess at the earliest or maybe after we're done today.

MR. WEISS: May I approach the bench?

THE COURT: Oh, sure. Sure. Thank you.
MR. WEISS: So just so I understand, assuming that the creditors' committee confirms that the form of the order is satisfactory to them, we need to appear before the Court again on this matter?
THE COURT: I wouldn't think you need to.
MR. WEISS: Okay. Thank you, Your Honor.
MR. SCHMIDT: Thank you, Your Honor.
THE COURT: Thank you. Do we have other housekeeping matters before -- yes?
MR. WARREN: Good morning, Your Honor. Irwin Warren, Weil Gotshal & Manges, for the debtors. Two housekeeping matters. On the record yesterday, I believe it was, there was discussion about provisions of the loan security agreement between the Treasury and the debtors, in particular with respect to the question of what collateral did or did not have liens. Going to Mr. Parker's question, we advised the Court we would provide a letter with the relevant sections. And if I may hand that up to Your Honor, we have done that. We've provided it to Mr. Parker and to all other counsel for the objectors. The particularly important provision is the exclusion of collateral which is in here and the definition of excluded collateral basically says it's any property to the extent that the grant of a lien on it would give rise to a lien under any other document. So it's sort of elegant in its

simplicity of addressing the question of whether a lien has been granted. If it would grant a lien and it would have done what Mr. Parker says, the government doesn't have it.
If I may hand up that letter?
THE COURT: Yes, Mr. Warren. Thank you.
MR. WARREN: The second housekeeping matter, Your Honor, is Mr. Bressler had indicated that rather than putting a witness on for certain of the questioning, he would designate certain testimony from the depositions and Your Honor had said we should counter designate by this morning. The IUE also chose to designate not just with respect to Mr. Henderson but with respect to Mr. Raleigh. We have put together our counter designations. Those will be filed but Your Honor had asked that marked copies of the transcripts be provided color-coded to indicate who are the objectors.
THE COURT: I say color coded. I simply meant so that I could tell whose is what.
MR. WARREN: We figured the easiest --
THE COURT: Black and white, that's equally satisfactory.
MR. WARREN: We thought color might work. We have taken the liberty of taking all of the objectors designations and put them in yellow. Ours are in pink. And if I may hand those up to Your Honor, these are the Henderson and Raleigh transcripts. Hopefully, this will be of assistance.

THE COURT: Okay. And I assume all of your opponents also have.
MR. WARREN: Yes. They all have been provided copies and they'll have the designations which are filed. Thank you, Your Honor.
THE COURT: Thank you, Mr. Warren.
MR. JONES: Sorry, Your Honor. Very quickly. David Jones.
THE COURT: Mr. Jones?
MR. JONES: Let me note that on the Wilson designations, we're in the process of doing the same thing. We don't have it in hand yet. The designations are filed and we'll provide it as soon as possible.
THE COURT: Okay.
MR. LEHANE: Good morning, Your Honor. Robert LeHane, Kelly Drye & Warren, on behalf of the debtors' landlord and its Roanoke, Texas distribution facility.
THE COURT: Good morning, Mr. LeHane.
MR. LEHANE: Your Honor, we filed a limited objection that raised three issues: cure, adequate assurance and the debtors' ability to remain in the premises prior to a designation of the lease. The parties have, we believe, arrived at a business decision, a business settlement. There's a lease amendment that has yet to be executed. But the settlement involves the debtor confirming for the record, one

of the issues raised in the adequate assurance objection. Your Honor, the debtors agreed to assume the lease and assume the lease at closing and that in connection with the assumption of the lease, the debtor agrees that it will assume all of the obligations to indemnify the landlord whether or not those relate to incidents that may have occurred pre-closing or pre-petition. The debtors also agreed to pay all tax obligations under the lease. Specifically, in Texas, the real estate taxes are billed at the end of the year and they may relate to periods pre-petition and pre-closing and the debtors agreed that it would confirm for the record that it has agreed to assume all of those obligations. If debtors' counsel would simply confirm that for the record, we can --
THE COURT: Okay. Anybody have any problems with what Mr. LeHane said. Mr. Smolinsky?
MR. SMOLINSKY: Good morning, Your Honor. Joe Smolinsky, Weil Gotshal & Manges for the debtors. Your Honor we have a number of contract resolutions, of cure disputes, that are on the calendar today. We were hoping to do it in a streamline fashion, so as not to cause a stampede, one at a time. We are in the process of working out with LBA the terms of a modified lease amendment. I think the statements that were made are accurate to the extent that there's an unknown indemnity event that occurs prior to closing that that -- to the extent it's covered any indemnity agreement under the

lease, the purchaser is assuming that liability.

I didn't want to upset the flow of this hearing today. And to the extent that we want to deal with these issues now or deal with them later, we can.

THE COURT: You know, you're reading my mind, Mr. Smolinsky. And, frankly, I didn't know what Mr. LeHane was coming up to say. That's fine, Mr. LeHane. I think you've got it done, though. But, folks, what we have here now, which is what appears to be a line of people who want to get up on relatively minor matters, important to you all, of course, but smaller in the scheme of things, it raises the risk of really spiraling out of control and undercutting, if not undoing, everything I've been trying to accomplish in the last couple of days in terms of triaging these matters and dealing with the most important issues first.

Unless there are any other things of major importance, such as modifying any of the arguments that I've already heard, I'm going to ask all of the people who are on line to speak to sit down until I can hear from Mr. Richman and Mr. Parker and reply by the movants. And then rest assured that before I leave today, we will have dealt with everybody. Okay, folks.

MR. SMOLINSKY: And, Your Honor, I think I could later present a streamlined approach to the cure objections so that we can make sure we cover everybody's concerns in the

fastest possible way.

THE COURT: Sure. Thank you, Mr. Smolinsky.

MR. SMOLINSKY: Thank you.

THE COURT: All right. Mr. Richman, I think you're up.

MR. RICHMAN: Good morning, Your Honor. Your Honor, Michael Richman, Patton Boggs, for the unofficial committee of family and dissident GM bondholders. Your Honor, our principal argument, which I'm going to focus on this morning, is that the debtors have not satisfied their burdens to demonstrate the right to use Section 363 to effectuate a sale of substantially all their assets in the first month of the case.

After the briefing and the evidence, a related and central question that seems to be unique to this case is where the government seeks to rescue a failing company through a corporate restructuring under Chapter 11 of the Bankruptcy Code may have circumvent the Code's various creditors' rights and protections by labeling its restructuring a sale and then conditioning its rescue on a quick sale to itself.

We understand the argument that but for the government's rescue effort, we and many other stakeholders would have nothing. And so, we should be grateful for receiving anything. But that is not the way that bondholders and other creditors and stakeholders look at what is being proposed. Instead they ask why is a financial rescue under

Chapter 11 not according equal and ratable treatment to different groups of claimants whose claims are legally similar. They do not understand how our legal system can permit the government to resort to Chapter 11 and yet choose to favor some constituencies over others.

The government's answer is that it is purchasing the best assets under Section 363. So it has the right to take what it wants, leave what it doesn't want and make special deals by allocating its equity in order to take care of the constituencies that it needs to operate the new company. The new company doesn't need the old company's bondholders. It doesn't need or want a lot of other things. Provisions of Chapter 11 that might require a restructuring to recognize that the value of New GM belongs to all of Old GM and its estates to be allocated in a more equal and ratable way are simply inconvenient.

The debtors argue that this Court has the power to authorize this transaction if it finds that there is an articulated business justification. The business judgment must be reasonable and the purchaser must have good faith. This derives from Lionel and its progeny.

But, Your Honor, I submit that assumes a genuine sale. That assumes independence between a purchaser and a seller. That assumes that a debtor has a real choice other than to bend to the will of its lender and its purchaser

whereas here, the record shows an utter dominance of the debtors including the fact that the principal negotiators for the debtors are also to be the principal managers of the new GM negotiating with the owner of New GM, the protestations of arm's length negotiations and good faith are simply irrelevant. The absence of real choice and the dominance of the government creates an environment unique in this case in which those factors that are required for a 363 sale cannot credibly exist.

Indeed, the testimony was that the sale price was not so much negotiated as derived on the basis of asset values, but was rather derived on the basis of the minimum amounts needed to settle the claims of the favored constituencies. That this later turned out to be supported by a fairness opinion is irrelevant to the fact that it wasn't negotiated as any real sale of assets would be. Your Honor asked yesterday why there was a fairness opinion at all if there were no other bidders. It's clear from the response that the fairness opinion and the liquidation analysis was window dressing for the board, and maybe for the Court.

In this case, no one came to the company offering to buy any assets. The government came to GM with financial rescue, not to buy assets. The government then came up with a restructuring plan with union and bondholder settlements. But it concluded that implementing it through a Chapter 11 plan would give rise to potential rights and uncertainties and the

possibility of longer time than if it could be implemented as a sale. So they made a conscious strategic decision to label their restructuring a sale and a conscious strategic decision to bypass and circumvent the Chapter 11 plan process.

The evidence shows that Treasury's lawyers presented to Treasury alternative means of restructuring the company including through a Chapter 11 plan and that 363 was chosen for strategic purposes.

THE COURT: Pause, please, Mr. Richman. You've been around the block a few times. To what extent either in this court or Delaware or anywhere else in the country have you ever seen a Chapter 11 case? Put aside a large one like this, even medium size one, even cases in the fifty million dollar, hundred million dollar range -- that has ever gone from filing to confirmation within a period of ninety days.

MR. RICHMAN: Well, Your Honor, what we mention in the briefs is pre-packs and pre-negotiated plans certainly have been confirmed very rapidly. And this restructuring plan was fundamentally a pre-negotiated plan. There were agreements in place with the union, important agreements in place with some of the senior bondholders. This could have been filed as a pre-negotiated plan and put on an accelerated time frame.

Not only that, Your Honor, if the business objective here, both on the --

THE COURT: Pause. Forgive me. Can you give me any

more specificity than that? Ninety days is a very short time. A pre-negotiated plan, by definition, is, aside from the fact that you haven't solicited your votes from the disclosure yet, I get so-called pre-negotiated plans all the time where there have been pre-negotiated secured debt or with major elements of the unsecured creditor community. But when they've been filed that way, I can't count the number of times, even in my pre-packs, where one issue or another comes up and -- I'm trying to think of any specific example to any you know which have been able to meet that time frame. We have testimony, as I understand it, from Mr. Wilson that he had gone to -- and I'll have to look at the record for the number -- any number of people experienced in Chapter 11. And the view was unanimous, subject to me checking the record, that it would be suicidal to expect it to be completed in that period of time.

MR. RICHMAN: There were two alternatives. Well, first, let me respond to that, Your Honor. I have complete confidence that, with the resources available here, that (a)a pre-negotiated plan with the agreements that are in place and sought to be approved with the sale could have been filed on June 1st; and that Your Honor, upon cause shown, would have accelerated the timetable and all of the objections and issues and creditors' rights issues and many of the things that we're hearing today in a truncated way could still be determined by Your Honor, could still be determined on a fast track. Just

consider the extraordinary manner in which these hearings have been held in the last couple of days, discovery over the weekend, shortened times for everything. The same thing could be done in an accelerated plan if the same arguments were being made but creditors' rights would be accorded to that.

I can't tell you standing here right now of a specific case where I know that that was done. Honestly, I haven't had time to look for that. We did cite cases where the record showed confirmation within so many days of filing all of which were within thirty, sixty, ninety days, some of which were a couple of days. Most of those were pre-packs; some were pre-nego -- I believe some were pre-negotiated plans. I'd have to check and we could submit something afterwards, if Your Honor wishes.

But the other thing that I think is a useful response to Your Honor, if the goal here that everybody says they want is to create spinoff New GM, and it has to be done quickly because that'll get it out of the bankruptcy environment and allow public to understand that there's a new GM in place, that could have been done without allocating the equity. The company could have spun off the assets into a New GM. It could do so today. It could do so under 363. But it could retain the equity so that all the equity -- all the interest holders in this case would still have a stake in it and that equity allocation could then be done later pursuant to a plan so that

full creditors' rights are protected. And that would achieve all of the objectives that the government and the debtors claim that they have to achieve. It would be outside the bankruptcy environment but instead of the government holding the equity and determining how it gets allocated, the debtors would hold the equity until a plan could determine how it should be allocated.

Your Honor, the evidence shows that Treasury's lawyers presented various alternative means of effectuating the restructuring including through a plan and that 363 was a deliberate strategic choice. It was only at that time, after they decided to effectuate the restructuring through 363, that the format of a sale was devised with a shell company and the sale format was plugged in to fit the strategy. Once Treasury mandated a restructuring using a 363 sale strategy, the script was written in order to make that work. The company and its advisors analyzed only two options: the sale or a liquidation. They conspicuously failed to analyze or to present to the board the possibility of spinning off GM's best assets to a new GM, as I just indicated, or in an accelerated plan process.

The evidence shows that the government decided to use 363 not for any goal that a real purchaser would have but as a restructuring tool. The government doesn't want to buy, own or operate a car company. That's been said many, many times on the public record. But if the Court allows this restructuring

under 363 then the government can take control more easily, quickly and without providing value or distributions of a type or amount that conceivably otherwise would be required in a Chapter 11 plan.

It's a good strategy. We understand why they did it. They have nothing to lose. They told the public, as did the White House, that they hope to emerge from Chapter 11 in sixty to ninety days. So if this Court decides that in the unusual circumstances of this case including very distinguishing factor from Chrysler, the absence of any independent third party purchaser whose commercial needs are driving the deadlines, if this Court decides that there is insufficient support under Lionel and Chrysler to restructure under 363, the government and the debtors can easily spin this as a temporary setback but still well within their initial time frames. This case tests the very meaning of Lionel and its limits.

These were the very concerns that the Second Circuit had in articulating the Lionel guidelines, a balancing of tensions between the need to preserve a business and the need to protect creditors' rights. Lionel gave us six nonexclusive factors for evaluating the propriety of 363 sales to dispose of substantially all of the debtors' assets. But just before reciting those factors, the Second Circuit cited to the Supreme Court opinion in Committee for Independent Stockholders of TMT Trailer against Anderson for the proposition that, and I quote,

"The need for expedition is not a justification for abandoning proper standards." The president of the United States made a similar statement in his inaugural address which we quoted in our brief. In essence, we should not compromise our principles for the sake of expediency.

Then the Second Circuit had to say, in words that apply fully to the situation we face today, and I quote, "A bankruptcy judge must not blindly follow the hue and cry of the most vocal special interest groups; rather, he should consider all salient factors pertaining to the proceeding and, accordingly, act to further the diverse interests of the debtor, creditors and equity holders alike."

As the case law has subsequently developed and as reflected in these hearings and the arguments, the criteria considered most important are a sound business judgment and the question whether the assets in question are declining in value. The need to preserve value, particularly where there is evidence of deterioration, is often argued and cited to support unusual speed, particularly when the sale is sought so early in the case as it is here.

The only evidence before the Court demonstrates that since filing Chapter 11, GM's assets are not wasting. They are not deteriorating; they are not melting. Chapter 11 has apparently, so far, stabilized the company and sales have increased over the pre-bankruptcy period. Therefore, the

asserted need to effectuate a new GM very quickly or at least by July 10, is not supported by evidence of declining value. Indeed, it's clear from the testimony of both Mr. Henderson and Mr. Wilson that the debtors' and the government's first day fears about the negative effects that Chapter 11 would have on GM were greatly exaggerated and unsupported at least over the first thirty days. And we presume over the first sixty to ninety days that they predicted that the case would last and inform the public that the case would last. What we see in the evidence is that because the parties attempted at all cost to justify the need for a fast track sale, there were a number of conclusory statements and predictions of dire consequences that turned out not to be true.

Mr. Henderson's first day affidavit in evidence as Debtors' Exhibit 15 states at paragraph 82 that "The value of and consumer confidence in the GM brand and its products and support systems are fragile and will be subject to significant value erosion unless they are expeditiously transferred to New GM and its operations start fee from the stigma of bankruptcy. Any delay will result in irretrievable revenue perishability and loss of market share to the detriment of all economic interest. It will exacerbate and entrench consumer resistance to General Motors products." Mr. Wilson said that his concerns about timing were informed by articles from commentators who predicted GM could not survive Chapter 11.

But as we have seen from the evidence, these first day predictions turned out not to be true. It is evidence and not prophecy on which this Court should rely.

Though GM's overall financial performance was in decline over a long period of time and clearly it is today on a year-over-year basis below what it was a year ago, it enjoyed improved performance in the first month of bankruptcy over the month of May. Some of this may be attributable, as Mr. Henderson testified, to the government backstopping of warranties which occurred earlier and independently of any bankruptcy filing. Some of it may also be attributable to business strategies that Mr. Henderson and his team pursued more recently. So the assets are not wasting or spoiling or deteriorating.

Now, echoing his first day fears when he testified, Mr. Henderson said that he thought one reason why the business was doing better than expected in June was customer expectation that the bankruptcy process would go quickly but he later conceded that that was pure conjecture. Indeed, it became clear from Mr. Henderson's testimony, as well as Mr. Wilson's, that the fears of business decline that they said motivated their desire for a fast track 363 as distinct from any alternative were based on worries over a prolonged case -- "prolonged" was a word in the testimony -- one where the company "languished" in Chapter 11. Mr. Wilson said Treasury

was concerned about a "traditional" Chapter 11 process.

Mr. Miller spent argument time warning of dire consequences as well, not in the record of evidence but in Mr. Miller's opinion, and concluded with the point that a Delphi-like case would be bad for the business. That's not really debatable but it's not the point.

The debtors argue that this transaction is the only alternative to a liquidation but is it fair to say that there is no viable alternative to a sale where you deliberately limit your alternatives? I understand an aversion to a traditional plan process. But here, where there was already the equivalent of a pre-negotiated plan, an accelerated plan process could have been and could yet be attempted. But no advisors were asked to consider that or value it or present it as an option to the board. Mr. Repko agreed that the value of a new GM under a plan could be comparable to the value under the 363 transaction.

Now, Mr. Miller said that our suggestion of a Chapter 11 process that could be concluded within ninety days was magical. Yet, as I indicated before, and I'd be prepared to supplement the record with some further research, we know that many cases with pre-packs and pre-negotiated plans have been completed in that time frame without magic. And there is no doubt that the debtors and the government have the resources to do that here, to at least try that here. Perhaps the magic

that he was referring was making creditor objections disappear. And if that's what he meant, then I agree that you couldn't do that in a plan process. But this Court could have easily dealt with as easily such issues in an accelerated plan time frame as the Court demonstrated it could do with these hearings especially in an extraordinary case like this. If there was any magic here, it was the debtors and the government taking a magic wand to a restructuring and saying poof, now you're a sale. And with that, creditors' rights and plan protections disappeared.

Since the evidence does not establish that the business is deteriorating, the debtors' business judgment, if it actually has any judgment of that sort in a case like this, is narrowed to its asserted belief that the business opportunity, if what the government is offering could even be characterized as a business opportunity, is limited and perishable. The government's offer of financing will expire on July 10. If the debtors do not comply with the government's dictates, liquidation will inevitably follow. The important question is whether this Court has any power to disbelieve that. From the debtors' perspective, we completely understand the argument that they have to try this. They have to advocate it and believe it. It's not business judgment, though, because there's no real choice involved. It's inconceivable that any company would choose to liquidate in the face of such a

government offer. Simply inconceivable. And we're not criticizing the fact that the debtors have chosen this course. And we're not criticizing the fact that they sensibly decided not to liquidate. We're objecting to the form of the transaction.

Even though the debtor had no choice, this Court does. This Court can look through the form to the substance, through the evidence to the truth and through the magic in order to stand for the Chapter 11 process.

Now yesterday, Your Honor commented about our familiar experiences with overbearing lenders. I believe the comment was that lenders frequently overreach. In many such situations the debtor, in dire need of financing, is in no position to negotiate effectively. As here, the debtor is given no real choice. Where the debtors' will is overborne, the Court can and does step in. We see that all the time with DIP financing and purchase -- 363 purchase provisions. Desperate debtors agree to things demanded of them because they have to. But the Courts will not hesitate to push back and tell the lenders, sorry, I'm not approving those provisions.

THE COURT: I've done this a few times, Mr. Richman. When you say we don't hesitate, I think that understates it a little. Every time a judge rules on a DIP, he's rolling the dice that he's going to crater the whole case if he messes around with economic terms. If you give them extra time to do

investigations so they can bring their avoidance actions, we make individualized adjustments as to whether 506(c) labors are appropriate or handing over the proceeds of avoidance actions are appropriate. But I cannot think of a single time in the nine years I've been on the bench or the nearly four years I've been doing this where I've ever told -- seen a judge tell a lender that he has to agree to different deal terms.

MR. RICHMAN: I wasn't suggesting that, Your -- I actually agree with Your Honor up to that point in the sense I wasn't suggesting that you tell what the deal should be. But Courts do and Your Honor has pushed back on provisions that Your Honor was being told we're absolutely required by the purchaser with the DIP lender. And Your Honor has said and other judges have said, I want to prove those even though there was the threat, difficult threat to deal with that the party would walk away because the Court stands for the law and the parties understand that they have to follow those dictates if they want to do a transaction under Chapter 11. My only point, which I think Your Honor was agreeing with, is that it's not uncommon. When the debtor doesn't have the ability or leverage or the independence of will to be able to fight back over onerous provisions or even a mandated sale, the Court still has the power and authority to do so.

Bankruptcy courts call the bluffs of billing lenders and purchasers all the time. And that brings me to footnote 15

of Judge Gonzales' opinion in Chrysler In Chrysler, as here, the main argument was that the debtor had no viable options but a sale or a liquidation. Now, in that footnote, the Court commented on a third option raised by dissenting creditors. And I quote: "Based upon the U.S. government's substantial interest in preserving the automobile industry, jobs and retiree benefits, the intimation is that the government was bluffing when it indicated that it would walk away from exploring other options if the Fiat did not close quickly." The proposed third option is that the debtors could have refused to accede to the government's terms in the hope that the government would capitulate and agree to consider other alternatives. The Court concludes that gambling on the possibility that the government was bluffing and listing the potential for a lesser recovery in a resulting liquidation would have been a breach of the debtor's fiduciary duty.

Judge Gonzales did not, however, say that he or any other judge would be without power to call such a bluff. We are not challenging the debtors' choice which was a non-choice to proceed with the strategy. But we do say that in the circumstances of this case, the Court has the power and authority to push back. Many people say that Chrysler is the blueprint for GM and that the cases are the same. They are not. And they are completely distinguishable in the most fundamental of ways. The deadline pressures in Chrysler were

in the main driven by the commercial needs of an independent purchaser. The business opportunity was legitimate, commercial and limited. By contrast, there is no real purchaser in this case. The government is not setting any deadlines with reference to commercial exigencies of the automotive marketplace; it has no experience running a car company. The deadlines were set to support the strategy of a 363 restructuring.

If you go to a Broadway musical, you expect an orchestra. For a 363 fast track sale, you need a drop dead date. It's part of the scenery; part of the show.

As distinct from the dissenters in Chrysler, we are not suggesting that the debtor should have refused to attempt the 363 transaction. We don't see how they could have. They had no choice. As the evidence has showed, and as other parties have argued, the principal decision makers and senior management were not acting with any independence. They were across the table from their new employer. They were arguing with their new owner.

But this Court can push back. This Court can call the bluff in the overriding interest of upholding the Chapter 11 process. Consider: the government has repeatedly said it will not allow GM to fail. It has said it is committed to creating New GM. It has already invested 19.4 billion dollars pre-petition and perhaps as much as thirty three billion

dollars including DIP lending. It told the public it was on a sixty to ninety day track. Like any powerful lender or purchaser, it says, my way or the highway.

Mr. Wilson said that if the sale order was not approved, Treasury would cut its losses. Now, I submit that Mr. Wilson's credibility was open to question on some points. His demeanor was markedly different from the other witnesses. He's smart enough to know what findings the Court needs to make to approve the transaction and I believe and I submit that he answered some questions in ways designed to serve the end. For example, he said that his understanding of the term "languishing" meant anything more than thirty to forty days. Most of his testimony was carefully couched in terms of present intentions and beliefs.

But while the drop dead threat is out there, there is nothing that binds the government to abandoning GM and the government can and will react to a decision here, a decision of law by this court, in a manner that is both politically and economically sensible. Their agreement on funding administrative expenses was limited to 950 million dollars. But we heard Mr. Koch testify that he had a feeling or a belief that they would step up and do something more. It wasn't in writing but there may be a number of unwritten understandings here as part of the strategy of how the parties are going forward. And the clear impression from the sixty to ninety day

pronouncements from both GM and the White House is that while Treasury may not be obligated to fund beyond July 10, they will step up and do so if they have to. They have to threaten to cut off financing.

THE COURT: Pause, please. Can you repeat that? And say a little slower. And if you had a particular reference to something, I ask you to repeat that as well.

MR. RICHMAN: Yes, Your Honor. I said the clear impression from the sixty to ninety day pronouncements, which we quoted in our brief from the outset of the case, is that while Treasury may not be obligated to fund beyond July 10, they will step up if they have to. And to expand on that, it's inconceivable to me that the White House press secretary or GM's CEO would be telling the public sixty to ninety days if they didn't have some assurance of financing beyond July 10th.

THE COURT: Okay. You preceded the words about clear impression. It's an inference you want me to draw --

MR. RICHMAN: Yes.

THE COURT: -- or, in fact, is it something somebody said?

MR. RICHMAN: That's correct, Your Honor.

THE COURT: Okay. Continue.

MR. RICHMAN: The government has to threaten to cut off the financing in order to limit the debtors' options and perhaps those of this Court as well. But I don't think and I

don't believe this Court should believe that the government is now going to abandon GM if this Court merely says that the use of 363 is not legally supportable in this case. Do it another way. It's not credible to think that the White House will say tomorrow, we've now decided to let GM fail because we don't want to follow the law. We didn't get our way in court on an attempted fast track sale so we're going to give up -- sacrifice three-quarters of our investment and flush GM away and the thousands of jobs with it and the dealer network and the dependent suppliers and so on and so on. All the same considerations that the debtors have argued are important reasons to approve the transaction are at least equally important reasons why the government will obey the law if Your Honor determines that the law is that 363 can't be used on a fast track under these circumstances.

Now, there was a related power or leverage threat that seemed to come through in the hearings, something like an additional drop dead threat that might be added, pressure for approval of the transaction. And that was the suggestion that the UAW agreements to modify their collective bargaining agreement were in some way conditioned upon and could be rescinded or undone by a failure to approve the sale order by July 10. And I thought that's what Mr. Curson said in his testimony.

Your Honor, we checked the documents that were

submitted in evidence in the records and we could not find anything in writing in the evidentiary record which conditions the collective bargaining agreements in any way. And both Mr. Henderson and Wilson testified that those amendments were already in effect and that the amended bargaining agreement is now governing.

In particular, we looked at the amendments that the UAW filed. We just didn't see anything which provided that if the sale order wasn't approved by July 10 that those amendments would be rescinded.

Now, the agreement to fund the VEBA, which we ask questions --

THE COURT: Pause, please. Can you slice and dice that piece of information? If I heard you right just a second ago, you said by July 10. Would you mean to include or exclude by that whether you had a view as to whether the union would continue to perform this day to day stuff if it didn't get its VEBA funding, new VEBA funding, one way or another or if you're back to square one?

MR. RICHMAN: I do have a view of that, Your Honor. My view on that is that the collective bargaining agreement is a binding contract. And it's in effect and it's operative now regardless of what happens to the VEBA at least as I read the record and the evidence. The VEBA deal, I think, is a separate deal. And I understand if it is, at least again as I

understand the record, it makes sense to me because one could argue that the overall settlement in terms of the amendments to the collective bargaining agreement are an asset of the estate and that the VEBA deal is part of a consideration that should actually go to the estate. But if you keep them legally separate such that the VEBA is not inextricably intertwined then maybe you create a better argument that the VEBA is like the equivalent of giving stock to somebody by the purchaser and isn't really consideration for the modification and then the assumption and assignment of the collective bargaining agreement.

THE COURT: Help me on that a little more, because I thought the duty to the UAW's VEBA was in the ballpark of twenty billion bucks and it was a liability rather than an asset.

MR. RICHMAN: Your Honor, all I can say is we didn't find any linkage that would cause that to fail in any way. And in any event --

THE COURT: Your basic point is that, if you read the documents, you're questioning whether Mr. Curson's right in his view that he's got a package deal here.

MR. RICHMAN: Exactly. It goes to the question of whether there's some further dire consequence that Your Honor should consider would result if Your Honor did not approve this transaction by July 10. And I submit that it's not a dire

consequence because of the lack of linkage. And if there's a separate agreement on the VEBA, that separate agreement, I don't know that it's conditioned on a July 10 approval, but presumably that would still be in play for a plan process.

THE COURT: Go on, please.

MR. RICHMAN: As we've seen from the hearings, there are many other questions and issues that a plan process could better address: Why is the government getting full credit for prepetition loans that could be challenged as equity? Doesn't that call for more cash to be put into any deal, whether under 363 or a plan? Other counsel have raised serious questions about the bypassing of rights under Section 1114 of the Code and of attempts to shed successor liability. And we've also raised other arguments in our brief, to which we continue to adhere, including that the transaction should also be rejected as a sub rosa plan.

THE COURT: Okay. Pause, please. On the recharacterization point, are you contending that not only the pre-petition secured debt ballpark or nineteen billion bucks -- I'd have to check, or maybe it's thirteen billion, I'd have to check the exact figure on that -- should be recharacterized? Are you also contending that the thirty-three billion bucks of U.S. and Canadian DIP financing also has to be recharacterized?

MR. RICHMAN: Only the pre-petition debt, Your Honor I think that in a case that wasn't moving at quite this

lightning speed where parties had a real opportunity to negotiate allocations and distributions, that there would be greater focus on the priority of that pre-petition loan as compared to other creditors. I partic --

THE COURT: But stick with me for a second. Suppose the U.S. government had only bid thirty-three -- credit bid thirty-three billion instead of fifty-nine billion. I'm not aware of there being any bids in the wings that could have trumped a credit bid if it was low as thirty-three billion -- as low as.

MR. RICHMAN: And we know, we know, as a fact that --

THE COURT: -- as thirty-three billion as well.

MR. RICHMAN: We know as a fact that there weren't. I think that the way I would answer that is if the debtors have produced a fairness opinion that indicates that the fair value for the company is 90 billion dollars or 70 billion dollars, and then you back out 19.4 billion dollars, it suggests that the consideration is short by 19.4 billion dollars and that there either has to be a reallocation of the equity or the infusion of additional funds in order to meet the fair price.

But I agree with Your Honor that had this gone differently as a real transaction might have gone -- remember, this wasn't negotiated as a sale of assets. This was a determination of how much money it would take to reach settlement agreements with the favored constituencies, and

of the professional advisors on that issue.

And we appreciate that GM would already be liquidated if the government had not come in late last year to provide financing that no one else could provide. We wouldn't be here discussing this today if the government wasn't committed to saving GM. But that does not earn the government an exemption from the law. Our gratitude to the government rescue does not include sacrificing our legal principles. Perhaps the government could nationalize GM, and we would all be left with nothing, but they chose Chapter 11. And once you choose Chapter 11, you should comply with all of Chapter 11. The government should not be permitted to cherry-pick which provisions of Chapter 11 it will use and which it will not use.

Right now, the value of New GM rightfully belongs to the estates and all of its creditors. New companies are spun off through Chapter 11 reorganizations all the time. In that normal process, all of the major constituencies participate in negotiations concerning overall value and allocations of that value. The final results are accompanied by full disclosure. Parties-in-interest have protection against oppressive results through Section 1129. These negotiations would determine how much equity in New GM the Old GM should award to the government or the union or to other parties. That's the essence of the Congressionally-mandated corporate reorganization process of Chapter 11.

everything else was backed into that. And then, so, a price was derived on the back end.

We also argued, Your Honor, that the transaction should be rejected as a sub rosa plan. I'm not going to spend a lot of time on that. The debtors' answer to that is that it doesn't predetermine a plan because, the way this transaction is designed, the 10 percent of stock and the warrants to acquire another 15 percent and, I guess, the 950 million dollars for administrative expenses is being left behind to be distributed in the normal course.

But, Your Honor, if you engage in a transaction which removes from the plan matrix an important class of creditors and give them favored treatment outside of the plan process, that's as much predetermining the plan as leaving them in the plan process. You are still predetermining and creating the construct of a plan but you're doing it through extra plan provisions. So I don't think -- just because this doesn't dictate distributions to every class doesn't mean that somehow it's not a sub rosa plan.

I want to be clear about an important point, and it's another distinction from the Chrysler case, particularly in respect of parties who stand in the position of bondholders, as our clients do. We've never argued, and we don't contend, that GM should liquidate. We support the creation of a New GM. We think it's a fine idea and we defer to the collective judgment

By taking what would otherwise be a deliberative reorganization involving all major parties on an accelerated basis and calling it a sale that must be completed by June 10 to avoid dire consequences, the debtors and the other favored parties in the allocation of values are engaged in a fiction, in a pretext, in a subterfuge to avoid a plan process in which the allocations of value might be determined differently.

We get their arguments. If you accept that this transaction is a legitimate sale, then of course the purchaser can choose to divide up the ownership any way it likes. And therefore, of course, its arrangement with the UAW and the Canadian and Ontario governments, parties who are providing unique present and future value to the new business, is its prerogative. But if it's not a legitimate sale, or if the other tests of 363 are not met, then these important allocation decisions would not be the purchaser's to make.

If this Court does not have the freedom to push back, if any distressed company can be diverted into Section 363 in order to avoid plan confirmation requirements by overbearing lenders or purchasers setting arbitrary deadlines or, more importantly for the facts of this case, by an overbearing government, then the Court does not truly have discretion.

We have seen before in our history how in times of stress and extraordinary circumstances government asserts itself on more grand and powerful scales than before. In

substance, this appears to be an historic first attempt at a Chapter 11 nationalization. GM has no ability to resist that power. In our system of government, it is the judicial system which is the primary check on that power. This Court can and should draw the line and hold that this transaction goes too far. Doing so is consistent with Lionel and with Chrysler. Such a holding which recognizes the important distinctions between this and every case that has gone before sends a powerful message that even in the bankruptcy courts of the nation's commercial capitol there are limits and that due process and creditors' rights are important values not to be sacrificed in the interest of expediency. Thank you, Your Honor.

THE COURT: Thank you. Thank you, Mr. Richman.

All right, Mr. Parker, I'll hear from you. Mr. Parker, on anything that Mr. Richman addressed, I'll ask you to limit yourself to anything where you think Mr. Richman failed to do an adequate job.

MR. PARKER: Okay, Your Honor. If I may, may I begin by asking the Court to -- for time reasons, and because I think certain things have been adequately argued already, I'm not going to argue some points that I've raised in my objections, but I'd like to preserve those points.

THE COURT: Of course. Anything anybody said in a brief or in a pleading is deemed to have been asserted. I

mean, the purpose of oral argument, in my court, is not to repeat or to have to say again what you said in your papers. It's to give me orally anything which helps me better understand the papers or answer things where you're plugging the holes.

MR. PARKER: Okay. So I'm not waiving anything, any points --

THE COURT: Right.

MR. PARKER: -- by not mentioning it.

THE COURT: That's what I said.

MR. PARKER: I know, I'm just clarifying for myself. I'd also like to also incorporate by reference the arguments of Mr. Kennedy and of --

THE COURT: To the extent you need to, it's done.

MR. PARKER: Okay, and also my immediate predecessor up here.

THE COURT: Same.

UNIDENTIFIED SPEAKER: Mr. Richman.

MR. PARKER: Mr. Richman, right.

Thank you, Your Honor. Your Honor, basically I want to address four points, if I may, four points that I don't think have been addressed. One I wish to address very, very briefly, and I'll begin it with apologizing to the Court for my less-than-stellar performance on Tuesday. But I think that less-than-stellar performance is at least partly the result

of -- I object to the process, and I've objected in my objections, to the process chosen by the debtor. This is not a criticism of the Court or of yourself; this is a criticism of the process they chose.

I don't believe that there has been adequate time to prepare a response to their motion. For example, and after making the example I'll move onto another point, for example, they criticize, or in their oral argument to the Court they have emphasized, that they're the only ones who've provided any valuation scenarios for General Motors. Well, of course, they had several months to prepare those valuation scenarios. We've had less than thirty days. The time frame -- I mean, I filed my objection on June 19th, so I've basically had eleven days. In eleven days you can't find an expert, have an expert get access to the records and create a valuation report. I don't think it can be done. So I'm objecting on those grounds.

But I'll move on. One of the things I'm objecting to, and I believe I'm the only one who's objecting on this, is the limitation-on-liens argument. The -- I rest upon two documents -- well, three documents: first, the 1995 indenture, which I believe is Debtors' Exhibit 10 in evidence, if my notes are correct. Section 1408 provides that it's governed by New York and is to be interpreted by New York law. Section 406 contains a limitation-on-liens provision, which I think the Court can read; I don't think the Court needs me to repeat it.

In addition, there's Parker's Exhibit 1 in evidence, which I believe is my only exhibit, which is a prospectus supplement dated June 26, 2003 for six and a quarter Series C convertible debentures due in 2033, with an attached prospectus dated June 19th, 2003. If you look at page 23 of the June 19th prospectus, the one that's attached to the supplement, you'll find that the identical limitation-on-liens provision is found in that prospectus and that it applies to my bonds. The prospectus also states that my bonds are issued under the 1995 indenture.

Now, the third document that I'm relying upon is -- I believe it's Debtors' Exhibit 6. Again, back there it's difficult to keep track of which exhibit is which, but it's the loan and security agreement dated December 31st, 2008. And if you'll give me one second to get the agreement. Here we go. If you go to page 35 of Exhibit 6, which -- and I'm using the numbers on the top right-hand corner --

THE COURT: Go on.

MR. PARKER: Do yours have the same pagination? Otherwise, I'll use the pagination from the original document.

THE COURT: Why don't you speak to it, because it'll take me a little bit of time to find it. But --

MR. PARKER: Sure, if I may.

THE COURT: -- I'll assume, unless somebody disagrees, that you're accurately reading to me. And I'm

familiar with the issue. What I want you to focus on is excluded assets within the meaning of the December 31st, 2008 agreement.

MR. PARKER: Yes, sir, I know, I'm getting there. Paragraph -- or I should say section 4.01(a) creates a lien on all real and personal property wherever located, except where excluded. Okay, section -- subsection - sub-subsection (a)(6) provides a lien on all personalty; it gives a nonexclusive definition of personalty, including equipment and instruments.

Section 4.02 provides that General Motors is to provide UCC filings in order to perfect the government's liens on all equipment. And there's a schedule of all the properties where equipment is located that UCC liens are to be filed for; that's section .402 (sic) on page 36. And, again, I'm using the pagination 36 of 111 in the top right-hand corner.

Section 6.09 has excluded collateral, and it refers one to schedule 6.29. It states that section 6.29 is a complete and accurate list -- by the way, that's 6.29, I'm sorry, not 6.09. Section 6.29, which is on page 51 of 111, states that, on excluded collateral, "See, set forth on Schedule 6.29, is a complete and accurate list of all excluded collateral of each property." When you go to schedule 6.29, you get a blank page. It says "Schedule 6.29, Blank". So apparently there is no excluded property.

It then goes on --

THE COURT: Mr. Parker, are you going to eventually get to subsection v --

MR. PARKER: Yes, yes.

THE COURT: -- romanette v, one of the definitions of excluded collateral?

MR. PARKER: Yes, sir, but -- okay. I am eventually. My point about what I -- to summarize, I was going through the documents to show you -- I realize that there is a subsection v on -- bear with me a second -- section 4.01, subsection v, defines excluded -- has a definition of excluded property but says "any property, including any debt or equity interest, any manufacturing plant or facility which is located within the continental United States, to the extent that the grant of a security interest therein to secure the obligations will result in a lien or an obligation to grant a lien in such property to secure other obligation". I understand that that's there. What I'm trying to show the Court is that even though that's there they still went and filed liens on property. And I don't think you can file liens on property and get an excuse for it by saying oh, well, I filed someplace else a statement that if I did it I didn't mean it.

The documents show that -- I might add, if you go to section 6.30, Mortgaged Real Estate, that's actually the only section that I've been able to find where they have language that says we do not have a lien on mortgaged real estate if the

lien would give rise to a lien in favor of a person as set forth in schedule 30 hereto. By the way, schedule 30 hereto is also blank.

It seems to me that they have, whether they were allowed to or not, and whether they've excused themselves from doing it or not, filed liens on two classes of property that I would like to bring to the Court's attention. The first class of property is listed in schedule 6.25, which is the UCC filings. They have filed the UCC filing -- lien on the following -- on the manufacturing and equipment of the following localities: the Doraville Assembly Center, the Janesville Assembly Center, the Moraine Assembly Center, the Massena Castings, Pittsburg Metal Stamping, Grand Rapids Metal Stamping, Spring Hill Manufacturing Campus, Wilson Run (ph.) PDC, Latsina (ph.) PDC, Pontiac North Pitt 17, Pontiac North PC, Yps -- I can't even pronounce it -- Ypsilanti Vehicle Center, Beavertown PDC, Grand Blanc Metal Center, Former Cherry Town Assembly, Former Validation Center, Former Lansing Plants 1, 2, 3, and 6.

Finally, Your Honor, under schedules 1.1 and 1.2, they've made it clear that among the assets that have been liened are Saturn. Saturn is -- at least according to the testimony of Mr. Fritz Henderson, Saturn is the only manufacturing -- American manufacturing subsidiary of General Motors. They've liened that. And indeed, because they liened

that, I believe that Saturn is a -- has an accompanying bankruptcy proceeding that's consolidated with this one.

Now, I realize they say they gave themselves an escape clause and if we lien something and we shouldn't have it as liened. But in point of fact, they did lien it. And the escape clause shows that they knew that they had obligations not to lien it. And when they liened it, when they liened these facilities and when they liened Saturn, under the terms of the bond indenture, the 1995 bond indenture, the bondholders acquired liens equal and ratable to that of the government.

THE COURT: Mr. Parker, do you think that if Mr. Schwartz had come in to me and said I got a lien on that stuff and any other party-in-interest in the case showed me romanette v he wouldn't have been left out of court?

MR. PARKER: I don't know, Your Honor. I do know that they attempted to perfect a lien on these assets even though they were prohibited from doing so. And, Your Honor, if nothing else, I believe that that goes toward the issue of bad faith. I believe -- which, by the way, gets us to the next issue that I wish to discuss.

THE COURT: Good time to do it.

MR. PARKER: Pardon?

THE COURT: Go ahead, please.

MR. PARKER: Give me a second to get there.

In order to approve a 363 sale, the government must

allege and prove good faith. In looking at good faith, the Court, I believe, needs to take a look at the totality of the circumstances concerning not only the sale but of the events leading up to the sale under the arrangement between the lender and the debtor. Even if they did not succeed in acquiring liens on the properties -- on that long list of manufacturing equipment that I listed -- and on Saturn, the only -- to the best of my knowledge, and according to Mr. Henderson's testimony, the only manufacturing subsidiary of GM, they attempted to acquire liens. They made UCC filing statements. Schedule 6.25 shows the places where they scheduled and what they -- the places where they liened the equipment and what they liened. Doing so, attempting to do so, Your Honor, is an attempt to violate the covenants of our indentures.

In addition, the further evidence of bad faith is found in the fact that their 363 sale procedure is tantamount to a distribution plan which discriminates in favor of certain favored creditors against others, as has been previously argued by others. Also, their 363 plan, as argued by Mr. Kennedy, is designed to avoid a Section 114 hearing and the effects of the 114 hearing.

THE COURT: 114?

MR. PARKER: 1114, I'm sorry. 1114. Further, Your Honor, as ably argued by --

UNIDENTIFIED SPEAKER: Mr. Richman.

MR. PARKER: Mr. Richman, sorry. You can obviously tell there's not been much coordination between us. As ably argued by Mr. Richman, there is no real purchaser. There is no real -- there's been -- there's no real purchaser, there's been no real negotiation. This is basically the government selling GM to itself.

Furthermore, Your Honor, and I guess this gets me to my next point, I've argued in my objection that the government is not authorized to purchase General Motors under EESA, that is, the Emergency Economic Stabilization Act, or under TARP, the Trouble Assets Recovery Program. The -- as Mr. Wilson testified, the loans that were given to General Motors were given from TARP funds. I have argued -- and I'm not going to repeat the arguments here, I'm going to rest upon the argument in the objection -- I have argued that the government is not authorized, was not authorized to make those loans under TARP. Making loans that it is not authorized to make is also evidence of bad faith.

I realize that there is some question of whether I have standing to raise this issue, and I'd like to address that very briefly. I do not believe that I have standing to challenge the use of TARP money for the DIP lending, for the DIP loans. I believe you entered an order authorizing DIP financing back on June 25th. I had no standing to object because I was not harmed by that action. Because I did not

have standing to object, I didn't object. However, I am harmed by the government's proposed sale procedure, and because I am harmed -- if they are going to use a credit bid of roughly forty-nine billion dollars of TARP money to purchase GM. So they are using TARP money to make a purchase.

If my argument, as set out in the objection, is correct, they are not authorized to use TARP money. They may use TARP money to buy a bank; they may use it to buy all sorts of financial institutions. But whatever else General Motors may be, it is not a financial institution. The use of money to do something that they are not authorized to do is evidence of bad faith.

Finally, Your Honor -- further, Your Honor, on bad faith, I have argued in my brief that there are Constitutional probl -- that there are Fifth Amendment taking problems with the proposed proceeding. I'm not going to repeat those arguments here. But, again, those concerns are evidence of bad faith.

Which gets me to my final point. I'm trying to go as quickly as possible; I'm trying not to use too much time. My final point, Your Honor, if I can find it -- oh, yes. I need to refer to one more exhibit, if I may. Here we go. My final complaint, Your Honor -- and by the way, I -- my final complaint refers to the scheme of distribution, the distribution of the sale proceeds of this 363 proceeding. Now,

I want to make clear, I'm not objecting to the sale price. As I understand it -- and I'm referring now to the declaration of Stephen Worth, Debtors' Exhibit 3, Exhibit F, page 15. I don't know what exhibit number Stephen Worth -- I don't know what exhibit number it is, but his declaration is in evidence -- he testified -- Exhibit F, page 15. It is an analysis of the proposed transaction. It shows that the United States Treasury is paying 104.5 billion dollars. By the way, I'm using the lower numbers in these calculations. There's a difference; he gives a range of -- it's usually only two to three billion dollars different; I'm using the lower number. You can redo the calculations with the larger number if you prefer.

He gives a bid of 104.5 billion dollars. That's what, according to him, the Treasury is paying for General Motors. I think that's a fair price for General Motors; I'm not quibbling over that. According to him, the way that the government is paying it is they're making a credit bid of 48.7 billion dollars of secured lending. Now, I don't think he quite explained to you how that number comes about, so I'd like to explain it to the Court, if I may. The total secured indebtedness, excluding my argument about bonds, the total secured indebtedness is approximately fifty-six billion dollars. The way you get that number is you take the 19.4, you take the 33.3 and you add on the 6 billions that are owed to previously secured lenders. You add all those numbers up; you

come into approximately fifty-six billion dollars.

The government is taking back a loan, a secured loan, from General Motors, the New General Motors, of approximately seven billion dollars. They're also taking back two billion dollars in preferred stock. If you take those two numbers out, you come up with the 48.7 billion dollars that is listed here on page 15 of Exhibit F of Stephen Worth's declaration.

Now, I fully recognize that secured lenders should be paid first. So out of the 104 billion dollars they should get their 48 billion. The problem is that when you look at the sheet you realize that he -- that the other way, the other consideration given, is that -- and if you look at the second column -- the government is assuming and paying in full, or agreeing to pay in full, 48.4 million (sic) dollars of unsecured debt, which, by the way, according to the testimony of everybody who's been up here, does not include the debt of the UAW VEBA.

Now, personally, I find that testimony to be -- I question the testimony. It seems to me that if the UAW VEBA is getting 20.5 million dollars and is releasing its claim of 20. -- did I say million? I meant billion -- 20.5 billion dollars and releasing its claim of 20.5 billion dollars in the estate, that seems to me to be a payment.

For the purpose of this argument at the moment though, I'm not going there. I've argued that in my objection;

I will -- obviously have argued that here. I agree with that argument. But I'm arguing something slightly different. If you take -- since the 20.5 billion is gone, according to this sheet the total indebtedness for General Motors, that is, I guess, real indebtedness, not just pro forma indebtedness, is roughly 104.5 billion dollars, excluding the -- no, that's not right, it's 48 and 48 makes 96; 97 plus 35 makes -- roughly 132 billion; I may be off by a billion or two because I did a fast calculation in my head. The real debt in General Motors is 132 billion, excluding the 20.5 billion that's owed to the VEBA. The government's getting 48.7 billion to pay off secured lenders. That leaves 83.4 billion dollars in unsecured debt that needs to be taken care of. 48.4 billion is being paid 100 percent on the dollar; 35 billion, including the 28 billion in bonds -- and by the way, they keep saying it's 27, but when you do the math with interest to June 1st or May 31st, take your pick, 2009, it actually comes to 28 billion. The 28 billion dollar debt is getting 7.4 billion dollars; roughly 20 cents on the dollar.

So under the sale procedure, some unsecured creditors, favored unsecured creditors, and we're not talking about the VEBA now, are getting a hundred cents on the dollar while others are getting twenty cents on the dollar. My objection is let's take the purchase price but let's treat all the unsecured creditors equally and ratably. And if you do

that, they would all get sixty-six cents on the dollar.

Furthermore, Your Honor -- so, Your Honor, that, I believe, is my final point. The government is not only showing favoritism with regard to the VEBA; they're showing favoritism with regard to other unsecured claims. In a Chapter 1129 proceeding, those unsecured claims would be treated like all other unsecured claims. And this, by the way, gets back to good faith. In order for the government to be showing good faith, they must be treating all unsecured creditors fairly.

Now, allegedly they have a good business reason for treating the VEBA differently. I don't buy it; you may. I'm not arguing that for this second. I don't agree with it. I've argued otherwise in my objection. But putting that to one side, they still have an obligation to treat all the remaining creditors fairly, and they're not doing so. They're picking winners and losers. And they've given no business justification for these other winners that they've picked.

And for these reasons, Your Honor, I would urge you to reject the sale. And I will make clear, I want General Motors to reorganize. It is not in my interest or any bondholder's interest to see General Motors liquidated, although we have not had time to make a liquidation analysis. All we want is an opportunity to negotiate in good faith with the government to come up with a plan that is fair, fair to all unsecured creditors.

With that, thank you very much, Your Honor, and I want to thank you for your indulgence over the past three days.

THE COURT: Very well. Thank you.

All right, Mr. Bernstein?

MR. BERNSTEIN: I'll try to be brief, Your Honor.

THE COURT: Yes, I understand the issues. The main thing I want to hear from you on is whether there's recall authority supporting the idea that the consent decree obligation is something other than a monetary obligation.

MR. BERNSTEIN: Yes, Your Honor. First thing that supports it is that -- may I approach the bench, Your Honor?

THE COURT: Yes, sir.

MR. BERNSTEIN: Nolan entered a joint stipulation, modified the consent decree and then entered the pack of them as a final judgment of the United States District Court for the Southern District of Indiana.

PENINA 1:24:32

THE COURT: Is this new evidence, or is this --

MR. BERNSTEIN: I believe you can take judicial notice of this. We found this last night in response to Your Honor's question, and you'll see the second as the final judgment, Your Honor. It was entered by Judge Nolan under 54(b).

THE COURT: All right. Pause, please, Mr. Bernstein. Mr. Miller, do you object to me considering this?

MR. MILLER: No, Your Honor.
THE COURT: Okay.
UNIDENTIFIED ATTORNEY: I'm sorry, Your Honor, we don't have a copy of the judgment --
MR. BERNSTEIN: I can give you -- I have extra copies for you, I'd be glad to provide them. Here's the stipulation and order, and let's see if I have copies -- and here's an extra copy of the final judgment.
The second point, Your Honor, the legal context is set by the Supreme Court of the United States. One of the leading cases is Rufo v. Inmates of Suffolk County Jail. The citation is 502 U.S. 367. And the relevant citation is at page 378: "There's no suggestion in these cases that a consent decree is not subject to Rule 60(b)." I have Rule 60(b) as a rule for modifying judgments.
THE COURT: Right. And --
MR. BERNSTEIN: Right. "A consent decree, no doubt embodies an agreement of the parties, and thus in some respects is contractual in nature. But it is an agreement the parties desire and expect will be reflected in and be enforceable as a judicial decree that is subject to the rules generally applicable to other judgments and decrees."
The case counsel cited was one of these cases involving an interpretation of the language of a consent order or a consent decree, and yes, to that narrow context, the

courts look to contractual reasons, because the judgment reflects an agreement of the parties. But in terms of enforcement, a leading case in the Second Circuit is Badgley v. Santa Croce -- I'll spell out the name, because I'm making a hash of pronouncing it, I think. It's B-A-D-G-L-E-Y v. S-A-N-T-A C-R-O-C-E. And in that case, the Second Circuit reversed a decision of the district court denying the enforcement of contempt proceedings in a civil consent decree context.
"The respect due to the federal judgment is not lessened because the judgment was entered by consent. The plaintiff's suit alleged denial of their Constitutional rights. When the defendants chose to consent to a judgment rather than have a district court adjudicate the merits of the plaintiff's claims, the result was a fully enforceable, federal judgment, that overrides any conflicting state laws or state order. The --"
THE COURT: I hear you, Mr. Bernstein. But where I need help from both sides --
MR. BERNSTEIN: Yes, sir.
THE COURT: -- is whether when a federal court proceeding gives rise to a judgment, consent or otherwise, that creates a monetary obligation --
MR. BERNSTEIN: Yes, sir.
THE COURT: -- where the monetary obligation is a

discharge of a debt?
MR. BERNSTEIN: I misunderstood the question that you raised yesterday. I thought you were raising the question whether this was a mere contract or whether it was --
THE COURT: That was, for better or for worse, another way of saying the same thing. And if I didn't say it as well as I should have, I owe everybody in the room an apology. But as I understand the issue, a consent decree issued by a federal court required the debtor to pay money.
MR. BERNSTEIN: That is correct, Your Honor.
THE COURT: And the question that I need help in is, is this like a lot of the other -- the debtors' other contractual debts which, at least, seemingly fall within the unsecured creditor community, or whether there's something special about a monetary obligation that's been created by a federal court decree that makes me analyze it in a different way?
MR. BERNSTEIN: I would answer it this way, Your Honor. This is a judgment, and the deliberate refusal by General Motors to honor that judgment was inequitable conduct indeed conduct potentially punishable by civil contempt. And therefore the Court has good grounds to modify on an equitable basis, the sale agreement to provide for the small adjustment we requested. And of course, Mr. Wilson yesterday testified it was unlikely that the transaction -- the financing would be

affected by that.
THE COURT: Okay.
MR. BERNSTEIN: Thank you.
THE COURT: Thank you very much. All right. Yes?
MS. WICKOUSKI: Your Honor, I'm Stephanie Wickouski --
THE COURT: Well, I need you to come to a microphone, please. I take it you're coming up because you wanted to argue on any of the issues we have before us.
MS. WICKOUSKI: Um --
THE COURT: And that your predecessors haven't done it adequately.
MS. WICKOUSKI: -- yes, Your Honor. And my name is Stephanie Wickouski. I'm here on behalf of two of the indenture trustees on certain leverage lease transactions, manufactures and Traders' Trust Company and Wells Fargo Bank Northwest. We filed objections to the sale, but through, I think, innocent inadvertence on the part of debtors' counsel, they were not addressed in the omnibus objection by oversight.
This came to our attention on the eve of the hearing, and we've had subsequent discussions that I think have partially resolved and expect to resolve over the next week, our objections. So I wanted to indicate what has been discussed. I'm also here with counsel --
THE COURT: Tell me, Ms. Wickouski, I'm wondering how

much this is consistent with what I said before. If you have a deal, and you're telling me that you're working it out, this isn't the time that I wanted to deal with matters of that character. And I don't want to be a jerk or a martinet, but I am trying very hard in a case with 850 objections, to deal with them in a way so that I can triage the matters before m.

MS. WICKOUSKI: I understand, Your Honor. And I apologize. It was my misunderstanding that the indenture trustees were not being heard at this time.

THE COURT: Well, if you're saying you've got a lien and that your lien has to be addressed, and you've either got to get satisfaction of the lien or a carry-through on the lien, or something like that, that doesn't strike me as rising to the level of controversy as a lot of the other matters that I have.

Now, if I'm understating your legal concerns, and you want to argue a legal point, I'm not going to but a sock in your mouth. But if you're telling me that you and the debtor are having a dialogue that lenders and debtors have all the time to address issues of this character, I applaud that, and I simply say, if you want to confirm your understanding at the end, when I deal with other similar confirmations, I'd be happy to hear that.

MS. WICKOUSKI: Yes, Your Honor. And my apologies I misunderstood in terms of the course for proceedings, and I --

THE COURT: I understand that I don't always speak with perfect clarity. And no offense intended. But certainly I want to deal with it, Ms. Wickouski.

MS. WICKOUSKI: Understood, Your Honor. Thank you.

THE COURT: Thank you. Okay. Do I have any other substantive objections that are actually being argued that I haven't heard yet? Mr. Schulman? Mr. Mayer?

MR. MAYER: Yes, Your Honor. If I may. Well, this --

THE COURT: Oh, another asbestos objection.

MR. REINSEL: Your Honor, Ron Reinsel on behalf of Mark Buttita. I will try not to rehash anything Mr. Esserman said or anything the very eloquent Mr. Jakubowski said. I want to make just a couple of points and a clarification.

We have objected on a number of grounds, including sub rosa plan, and the extent to which the requested sale extends pat the bounds of 363, specifically to claims, and most importantly to future claims; that they are not interests in property, and a certainly that future claim that has not come into existence, has not arisen, goes so far beyond the pale of an "interest in property" even if that is permitted. But I want to concentrate on just a couple of points that distinguish this case both from Chrysler and TWA, and also the White Motor case that the debtors have relied on.

Contrary to Chrysler, Judge, and contrary to TWA,

this isn't a sale of assets that will meld assets into an existing business. It is, instead, a standalone, complete continuation of the exact same business enterprise. It is the same products; it is the same employees; it's the same management; it's the same marketing; it's the same logos. And to accomplish what the debtor and Treasury has indicated they want is "a seamless transition in the eyes of consumers." In other words, New GM is just the same Old GM.

Yet, they want to escape the strictures of potential continuation of liability as a successor of existing GM. They look -- in the order that they're going to present to you, while we haven't seen any final order yet, but we've seen what they're looking for. And that is complete, but not just an approval of a sale, but protection from specific factual findings that may lead subsequent state courts to find that there is continuation of liability under relevant state law; despite the fact that many of those findings fly specifically in the face of the evidence that we heard here, that could well lead a state court to find such continuing liability.

Secondly, Judge, as you noted yesterday also in that order, they're looking for an injunction. And you asked if that injunction didn't kind of sound like a duck -- like the injunction under 524(g). Well, Your Honor, it not only sounds like a duck, it quacks like a duck, it walks like a duck, it flies like a duck, and leaves feathers behind it like a duck.

It is completely the injunction as to future asbestos liability that was provided for in Section 524(g).

Now, aside from the discriminatory treatment that's provided here, they're trying to get protections under the code without complying with the code's requirements. Now, Mr. Miller pointed out that this is not an asbestos case. This is not an asbestos-driven case, and that they're not seeking relief under -- they're not including Section 524 treatment here. All of that is absolutely true. The point is, however, they're trying to get equivalent relief without complying with the statutory requirements. And that goes both to the ability to even give the relief, as well as the effective notice and due process requirements that are required in order to get that relief.

Let's distinguish some of those cases -- the other cases. White Motors, it acknowledges, found that 363 did not provide a basis to sell assets free and clear of claims. And it went on to find that in order to do that, however -- this is certainly beyond the express statutory language -- the statue says "free and clear of interest in that property."

Now, whether or not claims become interest in property, cited in other cases. But it found that 363 didn't provide that basis. We had to look to Section 105 of the code, the Court's general equitable powers to make things happen --

THE COURT: Yes, I know. We went through that with

Mr. Jakubowski.

MR. REINSEL: All right. But here's where I wanted to get with that, Judge. White Motors was decided in 1987. In 1994 Congress enacted Section 524(g). Section 524(g) provides a comprehensive design by Congress for dealing with asbestos claims specifically, both present, and more importantly, future claims; looking at the unique situation that that kind of injury entails, particularly that it's an insidious product, it went into commerce, and it has a very long latency period, such that from exposure to actually manifesting a disease, finding out that you have a claim, is a matter of decades. Ten, twenty, thirty, forty years. Such that those folks who will develop disease, who will become claimants, are not presently claimants. In fact, the nature of their potential future illness is specifically excluded from the definition of a claim under the Bankruptcy Code. And in fact, under 524(g) it's referred to a demand.

The problem of recognizing of how to give adequate due process to those future potential claimants, those demand holders, and how to give adequate notice, because you can't give them notice -- in fact, we asked Mr. Henderson -- one of the few questions I asked here, was, you gave broad notice of these proceedings in order to give everyone notice of their rights were at issue and could be affected. But he recognized that GM has 650 million dollars-worth of projected asbestos

liability going out over a period of at least ten years, and that many of those claimants, many of those potential claimants, don't presently have a disease, don't know they have a claim, and that whatever publication notice was given to them, wouldn't have reached them and would have done them no good whatsoever.

In Chrysler, they kind of gave that notice issue fairly short shrift. There's one -- they deal with it in about two sentences on page 111 of that decision, simply holding that "With respect to potential future tort claimants, their objections are overruled, as those issues have been discussed. Notice of the proposed sale was published in newspapers in very wide circulation, and the Supreme Court has held that publication of notice in such newspapers provide sufficient notice to claimants 'whose interests or whereabouts could not be with due diligence, ascertained'", citing to the Supreme Court's decision in Mullane v. Central Hanover Bank.

Mullane was a trust fund case. You either held funds in a trust or you didn't. This --- we're not presented here with a question of we can't ascertain the location of folks; we can't, with reasonable due diligence send them a specific notice, such that the publication even becomes sufficient. We're dealing with individual whose claim doesn't yet exist, who don't know that they have rights that may be affected, and won't know that for years. That's why Congress, in Section

524(g), provided mechanisms to provide due process to those folks, by the creation of a specific representative in the court.

Last week you were asked to appoint someone -- a futures representative to look out after the interests of those future folks. You declined. You said we may look at that later. But the point is, there is no one here looking out for their interests today. They didn't get notice of this proceeding. You can't give effective notice of this proceeding. And no one is representing them here. I want to be clear, I am representing a single current asbestos claimant. Mr. Esserman was representing single current asbestos claimants. We're not advocating -- other than saying they're not here, Judge, we're not here in a position where we can reasonably represent their interests in this case.

But let me be clear about the impact of 524(g) here. As we said, this is not an asbestos-driven case. There is no requirement that the debtor use 524(g) here. However, the point is, if they don't -- if they don't employ the processes that Congress designed in that section of the code to provide adequate notice, adequate due process to claimants, then you don't get the protections that that section provides. You don't get the injunction that they're looking for, at least as to asbestos claimants. You don't get the removal of future successor liability as to those asbestos claimants. It's a

question -- it's up to the debtor, and in this case, and the buyer, to decide if they want to include those sorts of relevant protections. If they don't -- protections for the claimants and future claimants. However, if they don't the point is, they take their chances, and you, Judge, can't give them the same protections as that specific statute would under the Court's general 105 equitable powers. That's all, Your Honor. Thank you very much.

THE COURT: Thank you. Mr. Mayer?

MR. MAYER: Thank you, Your Honor.

(Pause)

MR. MAYER: Excuse me, Your Honor. I need thirty seconds to decide -- to figure how much of what we talked about last night can be put on the public record at this moment. Is it possible to take a five --

THE COURT: How much time to you need?

MR. MAYER: -- take a short recess, perhaps?

THE COURT: Actually, since we've been going so long, let's take a ten-minute recess.

MR. MAYER: Okay. Thank you, Your Honor.

THE COURT: See you back in ten minutes, folks.

(Recess from 10:47 a.m. until 11:10 a.m.)

MR. MAYER: Thank you, Your Honor. And good morning. Again, Thomas Moers Mayer for Kramer Levin Naftalis & Frankel, counsel to the official committee of unsecured creditors.

First, a housekeeping item. I'm pleased to report that we can't confirm that we are fine on the GE matter; I think that may be a typo. My partner at Waldorf was actually with his wife at a medical facility and was able to get to us and tell us he had this --

THE COURT: That's fine.

MR. MAYER: The committee is prepared to withdraw its limited objection to the sale motion subject to the following:

First, individual committee members have forcefully advocated certain of the arguments advanced in the committee's limited objection, and the committee's withdrawal of its limited objection is without prejudice to any position taken by those individual committee members on their own behalf.

Second, the committee's withdrawal of its limited objection is subject to the completion of the wind-down budget and the sale order to the committee's satisfaction. And in that connection, Your Honor, I'm pleased to report that in literally the last sixteen hours, in a meeting that went until I think 2 in the morning and resumed at 7, and it was handled primarily for the committee by FTI's Conner and Anna Phillips and two partners from my firm who are not here today, Amy Caton and Bob Schmidt. Actually, Bob is here, I apologize.

We were able to close the substantive gap on the wind-down budget. My understanding, which I would ask the government to confirm is that the total amount of the facility

being provided to cover wind-down expenses has been upsized such that the government is going to make available financing in the amount of 1.175 billion dollars, Your Honor.

In addition, there is an agreement that asset proceeds which have previously been dedicated to the repayment of the government's facility will be available to fund additional expenses if needed.

The government has agreed that asset sale proceeds that were previously dedicated to the repayment of the government's wind-down facility will now be available for the payment of wind down expenses if needed.

MR. JONES: Also correct, Your Honor. And I should make clear that the funding facility is on a non-recourse basis, as has been the case throughout these discussions.

MR. MAYER: The details are still being fine tuned, but those are the highlights. We also had useful discussions with AlixPartners on its administration of the wind-down, again, details will be forthcoming. But we believe we have an agreement in principal on certain elements on that that are important to us and will be disclosed at a later time when Alix is prepared to come forward with its application.

With respect to corporate governance, there are two time periods. There's a period between now and confirmation and -- strike that. Consummation. And there's a period between consummation and final distribution. And to be precise

we talked in this proceeding, Your Honor, about a sale consummation, that's not what I mean here. I mean, there's a period between the sale and the consummation of a Chapter 11 plan. And then there's a period after consummation of a Chapter 11 plan. And we have agreements in principle for the most part on both periods. One is ready for publication.

During the period from the sale until consummation of a plan of reorganization, it is our understanding that the board of directors of this debtor will be composed of one designee from Alix, one designee from the creditors' committee. And there's a third individual who the parties have agreed on, but I'm not entirely sure he has agreed on it, so perhaps I should keep his name confidential for the moment. But we have an agreement on a person that would be acceptable to both of us. And actually is quite a good pick.

And, again, the permanent board -- the board for the post-consummation, GM -- Old GM will be in a plan of reorganization and disclosure statement, itself, but we have the outlines of an agreement on that as well.

Based on those agreements and one or two other things, there was an issue that came up yesterday, about workers' compensation claims in connection with the State of Michigan. Our understanding is that the order or relevant documents will be changed so as to have New GM bear responsibility for Michigan Workers' Comp claims. Old GM will

not bear responsibility for Michigan workers' comp claims. Does that need to be amplified.

MR. JONES: No amplification needed, Your Honor. That description is correct so far.

THE COURT: Am I right in assuming Michigan has the most workers and potentially the most workers' comp?

MR. MAYER: Mr. Henderson is nodding yes.

Finally, the committee reserves its rights with respect to the master sale and purchase agreement and related documents. As indicated by the narrative as to how late we went last night, these things are still being machine, as is not uncommon. And we intend to continue to work with Treasury and the debtors. They fully involved us last night, we appreciate that. We look forward to working with them to reach a consensual resolution on these documents and we expect that we will reach some if for some unforeseen reason there's an issue of such moment that compels us to come back to the Court we will let Your Honor know. But this is in the nature of negotiating documents that we expect to reach an agreement on and one that does not affect what I have said previously.

And if the Court has any questions, I'm happy to answer them.

THE COURT: Just a couple. If I heard you right the creditors' committee is withdrawing it's limited objection and it is no longer taking the position one way or the other on the

tort and asbestos issues that at one time the creditors' committee as a whole were taking. As of now you're just leaving that to the individual advocates on both sides.

MR. MAYER: That's correct, Your Honor.

THE COURT: I sense that you folks are working very hard to further narrow issues. But this is an ongoing process. Is it possible for you, in consultation with other parties, to figure out a mechanism to keep me informed over the next several days, even though it's a holiday weekend, so that I can keep my arms around where you are in that. Obviously, I don't want to be ex parte. You have to figure out a mechanic to notify me. Not on what's going on but when issues are buttoned up, just like you reported to me now.

MR. MAYER: Yes, Your Honor. I think together with the debtors and Treasury we can definitely do that.

THE COURT: Okay. Anything else at this point, Mr. Mayer?

MR. MAYER: Well, we are withdrawing our objection so we are no longer opposed to this transaction going forward.

THE COURT: Okay.

MR. MAYER: Thank you.

THE COURT: Thank you very much.

MR. MAYER: I don't want to leave any confusions. The committee's papers were originally not in opposition to the transaction going forward. The committee remains in support of

the transaction going forward. The particular objections that we had to features of the order, those are withdrawn, and so you can view the papers that we have filed the withdrawal of those objections as being in support of the transaction.

THE COURT: Okay.

MR. MAYER: Have I neglected to -- about members in the audience, people we negotiated with, if I misstated or omitted anything. Thank you, Your Honor.

THE COURT: Thank you. Forgive me, which indentured trustee do you represent, Mr. Feldman.

MR. FELDMAN: I represent Wilmington Trust Company, the indentured trustee under the 1995 indenture and 1990 indentures, with bondholdings in the aggregate of more than twenty-three billion. So we are the principal indentured trustee in the case, with it's clear to say the largest unsecured creditor constituency that will remain with Old GM in this case.

Wilmington Trust Company also serves as the chairman of the creditors committee. I will note there's been much said about the equities of this case and the various parties involved in the case, and about the importance of employees, the importance of customers, the importance of dealers, the importance of tort victims.

GM is an interesting case. Typically, when I stand up here on behalf of bondholders, I'm standing up on behalf of

major financial institutions. GM bondholding are widely distributed among thousands of mainstream Americans as well as those financial institutions. So it was with -- in consideration of our entire constituency. Some subset of our constituency is represented by separate counsel. Paul Weiss represents as stated in their 2019, approximate twenty percent of the bondholding class. Mr. Richman according to his 2019 represents three bondholders -- I think three bondholders aggregating, about two million of the twenty-eight billion bondholders. And Mr. Parker has indicated that he is in his individual capacity a bondholder.

We stand up here and we filed our papers on behalf of those without a voice in the case. Wilmington Trust as an indentured trustee believes it's his job to preserve and protect the claims of the bondholder community that it represents. And it is with that fiduciary duty in mind that we carefully considered the transaction that was presented. Wilmington Trust was not part of the team negotiating the transaction. We came to this party and we got a chair at the table, frankly, after the deal had been cut. And we were presented with a binary choice, which is to support the sale or to seek to object to the sale. And effectively as has been dictated earlier, to potentially role the dice and hope upon an objection to the sale that a debtor recovery for bondholders was forthcoming. We took that obligation and that concern very

seriously. We had extensive discussions with the debtors' advisors, with the committee's advisors, with the committee members themselves, and with the ad hoc bondholder advisors. And when I say the ad hoc bondholders I'm talking about Paul Weiss and Houlihan. We reviewed the papers of substantially all the parties in this case, with particular attention to the papers filed on behalf of bondholders which are within our constituency. And based on all of that information available to us, we were of the view, and as our joinder indicates, that based on all the facts available we felt that under the current facts and circumstances that the sale appeared to be in the best interest of the bondholders.

We did, however, have some particular concerns with the transaction, not seeking to, frankly, to derail the sale from going forward. But to ensure as Mr. Miller indicated in his comments, that the sale creates a pie and it creates a universe of people who are going to fight over that pie. We understood that was the game when this case filed. What's going to happen post-closing was there was going to be a numerator and that is stock and warrants that the bondholders and the other unsecured creditors are going to have discussion and potential litigations over, how big the denominator was. What we were fundamentally concerned with at the outset, was that the size of the pie was set. We have heard today that the wind-down budget issue, we had heard on the eve of this

hearing, that the wind-down budget was insufficient. And we were concerned if the wind-down budget was insufficient that it would eat into the stock and the warrants that had been set aside as testified by various witnesses, was designed to be set aside for unsecured creditors. We were concerned that that wind-down budget would gain access to that stock and warrants. And we've been told based on the representations today in Court that that wind-down budget has been increased by 225 million dollars. Plus the proceeds of any asset sales. And we are comforted by that fact.

We reserve our rights to review the definitive documentation in connection with that issue, and we will work alongside the committee, as we have throughout this process to streamline the process.

But with that in mind, Your Honor, and in closing -- and I think that Mr. Richman on behalf of his three individual creditors and Mr. Parker on behalf of himself, they have the ability to make informed decisions by themselves as to whether or not they would like to roll the dice and potentially seek alternative outcome. Unfortunately, we as -- fortunately unfortunately, as a fiduciary for all these bondholders, our job is to preserve and protect the value that is available to bondholders under the deal. What we don't see and notwithstanding Mr. Richman's very eloquent presentation, what I haven't seen yet is a clear articulation of what happens if

this sale doesn't go forward, and, in fact, we got to planned process. I think on behalf of Wilmington Trust I would say it's not at all clear to me that on behalf of all the bondholders that we represent that a plan process and the delay attended to that plan process, would be designed to enhance the recovery. Or would, in fact, enhance the recovery to bondholders under this case. Frankly, it made the delay. And the other issues that may be attended to a plan process could very well diminish the recovery to bondholders. It's a risk on behalf of our twenty-three plus billion dollars worth of constituents we're not willing to take. And with that, Your Honor, we withdraw our joinder subject to the reservations I've indicated.

THE COURT: Thank you. Ms. Christian, you're the other indentured trustee?

MS. CHRISTIAN: Yes, Your Honor.

THE COURT: Come on up, please. Is Law Debenture Trust your client?

MS. CHRISTIAN: That's correct, Your Honor. Jennifer Christian of Kelley Drye & Warren for Law Debenture Trust Company of New York as proposed successor indentured trustee for the holders of eight series of GM's bonds.

Your Honor, Law Debenture fully confers with the committee and with Wilmington Trust, and is prepared to withdraw its joinder to the committee's limited objection

subject to the conditions that have been outlined and with eh full reservation of our rights. Thank you.

THE COURT: Okay. We up to --

MR. FRANKEL: Good morning, Your Honor. It's Roger Frankel from Orrick Hamilton. I represent the GM National Dealer Counsel and the committee that is formed. We also represent Paddock Chevrolet that's a member of the official committee.

I wanted just to state for the record we had filed a limited objection, reservation of rights. We had been working with the debtors and have been satisfied since we filed that and even before we filed that that certain concerns that we had have now been resolved.

This committee is comprised of dealers that were elected by the entire dealer body as well as three members of the National Automobile Dealers Association. The National Automobile Dealers Association is also an ex officio member of the committee. And we think it's important for the dealer voice to be heard here and we are supportive that his transaction move forward and move forward as quickly as possible.

The one thing that I would add, Your Honor, I just heard yesterday for the first time, the recommendation of the privacy ombudsman, briefly looked at the report this morning, and I would hope that GM would incorporate and Treasury would

incorporate the recommendations of the privacy ombudsman in the sale order. Thank you, Your Honor.

THE COURT: Okay, thank you.

MS. TAYLOR: Good morning, Judge. I'm Susan Taylor, I'm an assistant attorney general for the State of New York and I represent the interest of the Department of Environmental Conservation here today.

We filed an objection separate and apart from that as to which Ms. Cordry has been speaking. And I am here to tell the Court that we are not in the same category as many of the objectors. Mr. Miller very nicely articulated the difference between the State of New York and many of the objectors here. We are not here about money. We are here because we are concerned that there appears to be an attempt in the proposed order to impair the police and regulatory powers of the State of New York. And we are here to ask you not to let that happen.

The department has an interest in being able to enforce the state's environmental laws in order to protect the public health and safety. That interest is not an interest in property within the meaning of Section 363. And it cannot be extinguished or impaired through the means of a 363 sale. The whole statutory scheme and many cases make clear that regulatory and police powers do not give way to the important interest protected by bankruptcy law. To the extent that there

are provisions in the order that are still overly broad, and one of those is still, in for instance, paragraph T, although I confess that I have not this morning seen what may be an order that has changed. But to the extent that there is still language in there that appears to extinguish or impair the right of the state, to enforce its regulatory and police order, we ask the Court not to let that happen.

In the State of New York two sites are not being transferred, are not going with New GM. One of them is Messina GM, which is a national priorities list superfund cite in the northern part of the state. It is adjacent to tribal land. It has serious contamination and has in place consent and administrative orders of the Department of Environmental Conservation. It came to our attention only on Friday that there appears to be another site that has contamination that may also be excluded. It's a little unclear from the schedule, we've been unable to get clarification as to whether that site is, in fact, not being transferred. And we are very concerned about the department's abilities to continue to protect the health and safety of the people of New York through consent orders, administrative orders, and the ability to impose injunctive relief, with respect to those and other sites.

If you would like to argue that the state's interests are not interest in them I would be happy to do that. I think that is clear. But to the extent that the Court?

THE COURT: You have a brief on file, don't you?

MS. TAYLOR: We do have a brief on file and I would refer to the cases cited in the brief on that. If you disagree, however, we would ask you to condition a sale pursuant to 363(e) in order to protect the state's ability to enforce its police and regulatory powers. And we have language that we have circulated to GM and its counsel over the past few days that we would like to see added to the order. I would be happy to submit that to the Court anytime today if you would like that.

Essentially, it would provide "that nothing in the order would release, nullify, enjoin, or otherwise affect the police and regulatory authority of any governmental unit or its ability to enforce." And, of course, being lawyers it goes on, but that is its essence.

THE COURT: If it's consensual by all means. If I have differing proposal on that, I need to get yours in writing and the debtors' perspective and argument. The debtors' perspective as to the language they think makes the most sense in writing if it's different than what I have now. And if you're not in consensus obviously you need to get argument on both.

MS. TAYLOR: Happy to do that, Judge. At this point I cannot represent that it is consensual. If you don't have any questions, I will rest on our papers.

THE COURT: Thank you.

MS. TAYLOR: Thank you.

THE COURT: Okay. Mr. Roy, you're coming up.

MR. ROY: I'm coming up in thirty seconds, Your Honor.

THE COURT: Okay.

(Pause)

MR. ROY: Your Honor, for the record, Casey Roy from the Texas Attorney General's Office on behalf of the State of Texas.

We filed a limited standalone objection. We've reached an agreement with the debtors, subject to entry of that agreement on the record, we will be prepared to withdraw.

THE COURT: Okay.

MR. ROY: Thank you, Your Honor.

THE COURT: Thank you.

MR. MOTIF: I'm not an attorney. I'm coming to you --

THE COURT: Just a minute. Is there -- I announced earlier in the hearing that I wasn't going to hear oral argument on all the objections. Come up, tell me your status so I can make a judgment as to whether you should be resting on your papers.

MR. MOTIF: My name is Normaji, last name is Motif. We bought GM's bonds, 400,000 paying the same amount

And I --

THE COURT: Sir, you're a bondholder?

MR. MOTIF: Yes, sir. Unsecured.

THE COURT: Unsecured bondholder. Do you have any points that weren't made by either Mr. Richman, Mr. Parker or the two indentured trustee?

MR. MOTIF: That's correct.

THE COURT: And you filed a written objection.

MR. MOTIF: I did, but I want to make this.

In the master purchase and sales agreement they never really splintered the phrase going concern. As a grave concern this needs to be sorted fast enough so that the value doesn't go down. I'm not sure whether they're talking about the legal term of grave concern or the accounting term of grave concern. No matter whether we go on the legal term or the accounting term, that phrase cannot be used. GM operations like the (indiscernible) cooperation which I read the (indiscernible) very frequently they use of the word grave concern. They took operations and cooperated in Delaware. And Delaware's (indiscernible) law with regard to the cooperation applies. Even if this case is filed in New York State I would like the Court to take analyze that usage of the going concern as a property of (indiscernible). I can understand that it's an operating concern, they will be borrowing money and running the business. But definitely it is not a grave concern whether it

is a legal usage or accounting usage.

The (indiscernible) cooperation -- I mean, the GM cooperation whether you want to use the title GAAP. GAAP means the general acts of accounting principals, or you want to use the fair market values of some of the methodology that you use. The corporation became insolvent three year ago. And since then especially with the loan agreement signed by the Treasury it seems that even though they have created documents stating that this is the loan agreement, actually nobody, if especially, if the government is going to be approving commercial businessman would never lend money. So the expectation was a situation created and not a reality. And you have seen what Mr. Henderson and Mr. Wilson and others saying that if the loan never came through then GM could not have functioned, like what happened in the case of Chrysler.

Now, there are rules in the corporation's law of Delaware saying that at a particular stage if the money was lent not as a businessman but for other reasons, and especially if control of the corporation has been taken over indefinitely, then that entity should be treated as insiders. And so, therefore, the loans must be subordinated to the equity and to the unsecured bondholders. Because it would not be treated as a loan as a creditor, but would be treated as insider, and so therefore it is a capital contribution.

The important reason for that is if that is the

capital contribution and not a law then --

THE COURT: The recharacterization subordination points were made in many briefs, I understood them.

MR. MOTIF: I'm ready to come to the other important point.

If the Court determines that it is a capital contribution and not a loan per se, then the participation fails because in the proposals out of 19.4 billion dollars that was the pre-petition advances made, two million dollars worth of (indiscernible) being taken by the New GM with approximately about eight billion dollars of (indiscernible) and so that leaves about nine million dollars as the big money so there will be a shortage in the bid amount, even if you include the DIP money less the other things. I believe that this money was given here, that the total purchase price of the total value was between fifty and sixty billion dollars. If that is the case then it is my submission that the Treasury bring down that nine million dollars and give it to the Old GM as part of the purchase price. Plus also the eight billion dollars for eight million dollars of the note, plus two billion dollars that also must come for a total of 19.4 billion dollars, must come to the Old GM.

Now, the other argument is that --

THE COURT: Are you getting near the end, sir?

MR. MOTIF: Yes, give me five minutes.

THE COURT: Five more minutes.

MR. MOTIF: Yes. Because this is a very crucial case and I need to explain that clearly. May I proceed?

THE COURT: Yes.

MR. MOTIF: Now, I raised an issue that as an unsecured bondholder there is a breach of contract by GM when they --

THE COURT: GM has breached its contract to everyone of its twenty-eight --

MR. MOTIF: I know, I know. But I'm coming to the final points, Your Honor. There were secured bondholders and there were unsecured bondholders, you've got two categories before September 31 of 2008. I do not know that the secured bondholders are fully secured or partially secured. And I have no idea as to what properties are fully secured, or partially secured by the secured bondholders. Now, when they borrowed 13.4 billion dollars from the Treasury they put a first lien on the property, which is not covered by the secured bondholders. And with regard to the secured bondholders property they put a second lien. The document indenture of 1995 is clear that the moment a lien is put then the unsecured bondholders must be repeated on par with the --

THE COURT: Is that the exact point Mr. Parker made?

MR. MOTIF: No, I'm going to go further, Your Honor. He made one point, but he did not elaborate more.

Accurately, he admitted in his brief that they realized this lien problem. So if you read the brief he acknowledges my brief --

THE COURT: I did read his brief.

MR. MOTIF: Pardon?

THE COURT: I did read his brief.

MR. MOTIF: Yeah. And he acknowledges that he got the idea from me.

THE COURT: Okay.

MR. MOTIF: Here is the question. I read the Chrysler opinion by Judge Gonzalez. He said with regard to the unsecured creditors the takings clause -- and I think he said might apply because they don't have a lien. But if this Court were to decide that the fact that a lien was put on that and that automatically triggered the other problem which is that the unsecured bondholders also has liens on par with the treasury, both with regard to the first lien that decided with regard to the other property, and the second lien that decided on the secured bondholders' property. Then we have a right to argue that the takings clause under the Fifth Amendment do apply.

So with that, Your Honor, thank you very much.

THE COURT: Thank you. Now, putting aside deals on the record and so forth, which we can deal with later, is there any other substantive argument of a non-duplicative nature to

be heard? Sir?

MR. CHEEMA: Your Honor, good afternoon. Bik Cheema, Baker Hostetler on behalf of the Bureau of Ohio Workers' Compensation.

THE COURT: Ohio Workers' Comp.

MR. CHEEMA: Yes. It's OBWC. We filed a limited motion, we don't oppose the sale. The limited motion was the OBWC reads the sale motion as indicating that New GM intends to assume all the debtors' Ohio workers' compensation obligations.

In the last few hours we've reached an agreement on some clarifying language with the U.S. Treasury, and we wish to just offer that clarifying language for the record. It will literally take thirty seconds.

THE COURT: Thirty seconds, it will take longer for me to tell you to sit down and comply with what I said before. So go ahead.

MR. CHEEMA: "Pursuant to the master sale and purchase agreement, New GM is assuming all of Old GM's liabilities and obligations, under the workers' compensation laws, rules and regulations of the State of Ohio. OBWC reads the provision to include the assumption by New GM of Old GM's obligation to provide and to continue to provide security for the payment and performance of all obligations under the workers' compensation laws, rules and regulations of the State of Ohio owed by Old GM. New GM will be required to apply for

status as a self-insuring employer in the State of Ohio. If it seeks such status and nothing in the Court's order approving a sale shall exclude New GM from satisfying all requirements and conditions, including any requirement to provide security of the OBWC to grant self-insuring employer status under applicable Ohio law, rules and regulations."

THE COURT: Okay.

MR. CHEEMA: Thank you, Your Honor.

THE COURT: All right. Mr. Miller, are you ready for -- sir, is this an objection, further argument, non-repetitive argument?

MR. KANSA: This is a non-repetitive very brief argument, Your Honor.

THE COURT: All right, come on up.

MR. KANSA: Good morning, Your Honor. Kenneth Kansa, Sidley Austin on behalf of the TPC Lender Group.

The TPC Lender Group is a consortium of nine commercial lenders with first priority liens on two of the debtors' facilities, one in White Marsh, Maryland and the second in Memphis, Tennessee.

Your Honor, we filed a limited objection to the sale transaction. We are in the process of working on language that we hope will resolve that objection, but we haven't dotted the I's and crossed the T's yet. The only point I would raise in addition to our papers, Your Honor, is in rebuttal to some of

the points that the debtors have made in their reply about our limited objection, which really seeks to characterize this as a garden variety secured creditor 363(f)(3) issue; where on the one hand you have is it the value of the collateral, on the other hand, is it the face amount of the lien. We think in this context, Your Honor, that misses the point. There is only one value on the table here today. That is the amount of the lender's allowed secured proof of claim on file at 90.7 million dollars. The debtors have stated that they will settle for a purchase price in excess of the value of all liens on the property, that's their obligation under 363(f)(3), and that's the subsection they rely on to sell the facilities. Our point is simply in response, no purchase price has been specified, no value has been allocated. The only value that is out there is the value of the claim in our secured proof of claim. And the only value out there is --

THE COURT: You're saying that if you say that your collateral is worth a certain amount it's binding on the world?

MR. KANSA: I'm not saying it's binding on the world, Your Honor. I'm saying if they are going to rely here today on 363(f)(3), saying that they are selling in excess -- for our purchase price, in excess of the value of our liens, that is what the value of the liens is. Today there is no other competing value out there. There's nothing in the record.

THE COURT: You'll agree that sometimes there is a

difference between the amount that people claim in their proofs of claim as secured claims, and the value of their collateral. And that the actual value of the secured claim is measured by the value of the collateral and the remainder is unsecured, I assume.

MR. KANSA: No disagreement, Your Honor.

THE COURT: Okay. So basically the issue to the extent there is an issue, is that you're claiming an amount which the debtor and other parties in the case, probably every single other party in the case, might have a difference in perception from you and might say that your secured claim is measured by the value of your collateral. But the remainder of your claim is unsecured.

MR. KANSA: That's true, Your Honor. But the point is there is no -- no one has articulated their belief as to the other value here today.

THE COURT: I understand your argument.

MR. KANSA: Thank you, Your Honor.

THE COURT: All right. Are we now ready for Mr. Miller? No, one more.

MR. WISLER: Good morning, Your Honor. Jeffrey Wisler on behalf of Connecticut General Life Insurance Company.

Your Honor, I have a non-resolved, non-cure executory contract objection. Would you like to hear that now, Your Honor.

THE COURT: If it's an objection I think I would.

MR. WISLER: Understood. Your Honor, Connecticut General Life Insurance, also known as CIGNA provides a range of healthcare administrative services to GM and administers GM's self-insured employee healthcare benefits plan for thousands of its employees.

CIGNA's objection isn't just critical to CIGNA, it's critical to GM, New GM and it's employees because we want to make sure that the debtors attempt to assume and assign the arrangement it has with CIGNA gets the job done and assures that the employees of New GM will have the benefits that they currently have now with Old GM. So while we do have a cure objection I understand that will be deferred.

Today's objection is more fundamental. And that is that the debtor has not given CIGNA or this Court what is necessary for this Court to approve the assumption and assignment of agreement. And there's three fundamental problems, Your Honor. First is, the debtor in its contract notices identified what appeared to be eight separate contracts relating to CIGNA, but with no detail that we can comprehend. It simply has vendor numbers, contract numbers, row numbers, I don't know what those are. CIGNA has looked at these, they're sophisticated business people, they don't know what these are. And we haven't received any clarification on what they are. Except that GM intends to assume and assign all of the CIGNA

contracts. Well that's meaningless also because we need to know what they are, we need to make sure what we think is all and what they think is all, is the same thing. Because, in fact, CIGNA's position is that there is one overriding contract, it's an administrative services contract. And under that are addendums, and riders, and amendments that encompass all of what CIGNA does for GM and its employee benefit plan.

So to warrant this Court's approval of the assumption and assignment of that agreement, the debtor needs to formally and unequivocally identify that contract and say to the Court and to CIGNA, this is the contract we intend to assume and assign.

THE COURT: Pause please, Mr. Wisler. What extent did you or any of your guys pick up the phone and have a dialogue with the debtor to kind of exchange information and get answers to each of those concerns?

MR. WISLER: Both sides have done that, Your Honor, it is not yet resolved.

THE COURT: And help me understand the problem, because this stuff is done all the time. I didn't hear you accusing the debtor of cherry picking or trying to split apart the master agreement, am I right that that's not your concern?

MR. WISLER: Given the debtors' statement that it wasn't to assume all of our contracts, I will assume that is not the case.

THE COURT: All right. Forgive me, but I know a little bit about this area, and I still can't understand the problem.

MR. WISLER: Well, Your Honor, if a debtor comes to the Court and does not identify the contract it wishes to assume and assign, I don't think the Court can permit that assumption and assignment.

THE COURT: Assuming arguendo that you're right, I mean after you had the dialogue with them you're saying they didn't tell you what contracts they wanted to assume and assign?

MR. WISLER: Not to any specificity that anyone could use to identify these agreements.

The fundamental problem, being number one, that we think there's one agreement and they think there's more than one.

THE COURT: But if the agreement with all of them what difference does that make?

MR. WISLER: If two parties don't agree what all means or, more specifically, if one party believes there's one and one party believes there's multiple agreements, I don't think there's a meeting of the minds, Your Honor. And I'm certainly not standing up here saying this is not a resolvable problem. Today's the day for the sale hearing, today's the day we have to present our objection. We've attempted to come to a

resolution, we may actually be close to a resolution. But because we're not at a resolution I need to present this objection to the Court.

THE COURT: Okay. Make your remaining points.

MR. WISLER: Understood, Your Honor.

THE COURT: And then I'll hear your adversary.

MR. WISLER: Secondly, Your Honor, there are two bank accounts that make this plan work for GM and its employees. And these bank accounts have authorization approvals between GM and CIGNA. And there has been no confirmation and no reference to it in the APA or the form of order and the motion that those authorizations will continue. If they do not continue the self-insured plan that CIGNA administers will not work because there will be no money passing from one account to another to pay employee benefit claims, employee healthcare claims.

So, again, until that is unequivocally and formally confirmed we don't think any contracts, any of this particular contract that CIGNA has with GM can be assumed and assigned.

And, third, Your Honor, and very importantly, nowhere in the APA or the proposed form of order, or the motion, is there confirmation that New GM will be responsible for claims -- healthcare claims -- employee healthcare claims that were incurred prior to closing but will not be processed and paid until after closing. That's very important because as claims come through a system they come through at different

times. If someone goes to the doctor last week, the doctor may take some time to submit the claim to the insurance company, the insurance company has to process it. If it's approve it's then paid. That takes time. There is no way to draw a bright line on a closing date and say hey, these claims are not going to be paid, these claims aren't. It's not a cure issue, it's a question of is New GM going to take responsibility for paying those claims that were incurred prior to closing.

My understanding with the discussions with the debtor is yes, they are. But, again, that ahs not been --

THE COURT: I've encountered this issue over the years. Whether you have to slice and dice whether a claim is a pre-petition claim or post-petition claim. But I've never encountered it with the context of the assume and assign, because it envisions a smooth transition. Has your dialogue led you to believe that there's some difference in perception on this one?

MR. WISLER: No, Your Honor, that's what I was just saying. My dialogue with the debtor indicates that this -- that it is New GM's intent to just continue to pay claims in the ordinary course of business regardless of when they were incurred. But, again, that has not been formalized, it has not been unequivocally stated. Today's the day I have to present this objection. If it's not formalized or unequivocally stated, we have a problem is we go into closing and we don't

know the answer to that question. So our simple request for relief is, Your Honor, do not approve assumption and assignment of the CIGNA agreement until the debtor formally and unequivocally clarifies those three points.

THE COURT: Thank you, Mr. Wisler.

MR. WISLER: Thank you, Your Honor.

THE COURT: Mr. Smolinsky, you're rising. Is this just to respond to what Mr. Wisler said?

MR. SMOLINSKY: Yes, it is.

THE COURT: Sure, come on up.

MR. SMOLINSKY: Your Honor, again, Joe Smolinsky from Weil Gotshal.

I'm not sure if Mr. Wisler is in communication with his client. We are aware of the CIGNA situation. Seth Drucker of Honigman Miller has been working with Janice Heulig, who is the head of HR at GM. I've received no fewer than a dozen e-mails over the last forty-eight hours specifically with respect to CIGNA. We are assuming the CIGNA contracts. We have provided them with the -- with a lot of information. In fact, Jay Manor, an employee of GM who is on vacation this week, came back to the office to put together the documents that CIGNA has requested. There are bank accounts that need to be moved, the company is in the process of moving those bank accounts.

As I understand it, CIGNA has requested execution of a variety of documents. Consent agreements and other documents

which other of our suppliers, such as Medco who provide a similar service, has not requested. I haven't reviewed those document yet to the extent that they are not problematic we will provide them with the assurances they need. But to the extent that CIGNA does stand in our way of closing and transferring the employee benefits we will be back in front of you, Your Honor.

THE COURT: All right, thank you. Okay. Can I now get to debtor reply.

MR. MILLER: I hate to disappoint you, Your Honor, but the U.S. Attorney has asked to go first.

THE COURT: Sure, Mr. Jones.

MR. JONES: Thank you, Your Honor. We thought it appropriate to let GM have the last word, and so we'll have a short summation first.

First, Mr. Schwartz is going to address, particularly, Your Honor's consent decree question, and then I'll have remarks on additional issues.

THE COURT: Sure. Mr. Schwartz.

MS. CORDRY: Your Honor?

THE COURT: Ms. Cordry?

MS. CORDRY: Yes, sir. Karen Cordry from National Association of Attorneys Generals.

We've been working with the debtors late into the night and this morning, and all this time. I think we're at

close to an agreement. But the discussion we've been having with them when we had the terms in the order we would be able to say we have a resolution that I am still in the process of getting all the attorneys general to sign on to that. If it didn't then we would be in position to weave our objections on the record, if the order is not done. I didn't realize I was momentarily distracted, we got it in of everybody else there.

I think we are very close to having that. I guess I would just like to reserve my right to state where that whole position is. I don't want to necessarily hold up all this. And I don't think anything I would say with that would necessarily require them to have any different rebuttal than they would have.

THE COURT: What's your recommendation, Ms. Cordry do I let Mr. Schwartz or Mr. Miller speak? Maybe you'll have the answer again. Otherwise, I assume that on issues that haven't been resolved to your satisfaction I have your papers. But I also sense that you're so close to the go line that you're saying it might help me to do my job if you have some news to report to me.

MS. CORDRY: Yes. I think in the same way that you were saying that other people were trying to work towards reporting, I hope I'm going to be in that position as soon as I hear back their last couple of words or two on that page.

THE COURT: Let's agree that as of this point the

train hasn't left the station. If you need to be heard after everybody else is done, I'll give you that chance, subject to anybody else's rights to express a different view if you need to.

MS. CORDRY: Okay. And when I do that I would certainly keep in mind Your Honor has heard a great deal on a great many topics that we had in our papers.

THE COURT: Yes. I've also heard capable arguments.

MS. CORDRY: Exactly, every capable arguments, far beyond what I was probably planning on doing. So anything that I would say would be specifically on very short points and other issues that people definitely have no raised to this point. So thank you, Your Honor.

THE COURT: Okay.

MR. MILLER: Your Honor, there will be one other speaker. I understand that the UAW would also like to speak.

THE COURT: Is this a good time, or would the UAW be speaking after the U.S. and the debtor?

MR. MILLER: After the Treasury, Your Honor.

MR. SCHWARTZ: Why don't I make my remarks which will take about a minute, and then Mr. Jones and Mr. Bromley can discuss their order.

I just wanted to address -- Matthew Schwartz for the United States, the questions Your Honor asked about environmental consent decrees because, of course, we're here

representing the United States, including the Environmental Protection Agency.

Your Honor asked two specific questions, I'd like to quickly provide answers and then suggest why it is you don't have to answer those questions yourself today on this motion.

First, I heard the Court ask yesterday whether an environmental consent decrees is a contract -- an executory contract that can be rejected by a debtor in bankruptcy. As Mr. Bernstein said, a consent decree has features of contract and features of order. But I think the law is relative clear that they are not executory contracts that can be rejected. I would point you to Judge Coudle's (ph.) opinion in New York v. Mirant. That's at 300 B.R. 174 at page 181.

The further question that Your Honor asked today, I think the important question, is whether a consent decrees is, therefore, enforceable against the debtor. And as Your Honor said that turns on whether the consent decree creates a monetary or injunctive obligation. Whether it embodies a claim within the meaning of the Bankruptcy Code that's Chateaugay in the Second Circuit, Trouweko in the Third Circuit. That is a remarkably fact-intensive inquiry. And the fact --

THE COURT: Depends on what the decree actually says.

MR. SCHWARTZ: That's right. And I've only skimmed the consent decree that Mr. Bernstein was speaking to, but I'll make the general comment that simply because the obligations of

the debtor under a consent decree are to pay money does not necessarily mean that it is a claim within the meaning of the Bankruptcy Code. I think that's enough for today's purposes. Because ultimately the objection that Mr. Bernstein raised is not an objection to the sale. His consent decree is either enforceable against GM or it isn't. So that obligation will either be treated as an unsecured claim, or it will be enforceable and so they will have to pay in full. But either way, the claim is against OldCo. The claim is not against NewCo. There's no basis, as Mr. Bernstein suggests, to go into the MSPA and rewrite excluded liabilities to add his consent decree. That's the only issue on today's record. And so Mr. Bernstein's objection should be denied and we can take up the more substantive issues on a --

THE COURT: To be denied without prejudice to his raising it in a different context against OldCo.

MR. SCHWARTZ: Against OldCo, correct.

THE COURT: Okay.

MR. SCHWARTZ: Against NewCo it's just essentially the successor liability issue.

THE COURT: Okay. All right, Mr. Jones?

MR. JONES: Thank you, Your Honor.

Your Honor, the government simply is not sacrificing principles for expediency as it has been accused of doing. Far from it. We are using established law to purchase assets full

stop. Specifically, the government sponsored purchasing entity is purchasing the pieces necessary to operate the strongest possible New GM. This is a liquidating estate, there's no dispute about that. There is no alternative and no scenario in which this bankruptcy proceeding ends in anything other than some form of liquidation. And as in any liquidation proceeding, the goal is to maximize recoveries and distributions to the estate and its creditors.

So what is before the Court today is simply an asset sale. It's not a plan. What is before the Court does not dictate anything about the treatment of any creditor going forward in the bankruptcy proceedings which will remain in place. The evidence is clear that this sale achieves far and away the highest possible recovery for the assets being sold. And as is salient for legal purposes, vastly in excess of their liquidation value which is the only legally relevant or possible alternative scenario.

The evidence also shows that the opportunity to achieve value through the sale is fleeting. And that the achievable value of this -- of any portion of General Motors is fragile and soon will be lost if not seized now.

There will be a plan as this case progresses. Again, the case will go forward and there are mechanisms to ensure the estate will remain administratively solvent and funded through an orderly wind-down process. And the Court's well established

procedures under the Bankruptcy Code will provide the framework for determining the respect of recoveries for all parties-in-interest

Your Honor, the evidence is unambiguous and unrebutted that the government has no intention of funding this deal if an order is not in place by July 10th. Mr. Richman speculates that the government doesn't really mean it, and that the government will fund beyond that date if Your Honor just calls our supposed bluff. But, Your Honor, speculation does not trump evidence. There is no evidence of bad faith and there is no evidence undermining what the government has plainly stated in Court during these proceedings.

To the contrary, Mr. Wilson was extraordinary forthright and he explained compellingly and without hesitation what steps the government has taken in regards to General Motors so far. And the reasons for those actions. And its plans for its future actions with regard to New GM.

Your Honor, the gamble that Mr. Richman asks the Court to take would be extraordinarily risky and contrary to the best interest of the estate. In fact, he concedes that the risk he asks the Court to take today would, in fact, breach the fiduciary duty if undertaken by GM itself. It is clear that the Court cannot require a lender to lend. It is clear that the Court cannot compel a buyer to buy.

This transaction is certain. It is here today. It

is extraordinarily favorable, and it is the only one insight. The purchase fully complies with all applicable law, including Section 363 of the Code. The Second Circuit just recently in Chrysler heard these issues squarely, and intensively argued to it in an appeal from Judge Gonzalez's decision which also fully considered the very arguments here today. And of course Judge Gonzalez explicitly adopted and followed TWA, the Third Circuit's decision in TWA and has, in turn, been affirmed by the Second Circuit for the reasons Judge Gonzalez stated. That TWA order, just as the Chrysler order, expressly affirmed a sale free and clear of claims, both known and unknown, and it further enjoined claims in the future being brought against the purchaser of the assets.

Your Honor, the -- I know Your Honor's made reference to reading the transcript of arguments before the Second Circuit, and I will not undertake here a detailed exegesis of the interlocking provisions of the Bankruptcy Code. But I will note that Fiat's counsel did an extraordinarily abled job of doing just that in arguing before the Second Circuit. So, for my purposes today, Your Honor, I'll limit myself to saying the case law is very clear and establishes that exactly what is happening here today is permissible and entirely authorized by Section 363.

So -- and, Your Honor, in addition to being law, case law that, at a minimum under principles of stare decisis,

supports the relief sought today, the ruling was correct on its own terms, as shown in ours and GM's papers, and that ruling simply controls here.

Your Honor, I won't elaborate, although -- and go into --

THE COURT: That ruling being Chrysler, you're saying?

MR. JONES: I'm sorry?

THE COURT: That ruling being Chrysler?

MR. JONES: Correct, Your Honor. And through Chrysler, because it expressly adopted TWA, TWA's analysis as well.

THE COURT: Um-hum.

MR. JONES: Your Honor, I'm not going to go into detail on objections. I expect that Weil will address those very ably, more than ably. I want to take a moment to thank the extraordinary assistance provided throughout these proceedings by the Cadwalader who is not authorized to represent the government in court but has done a fantastic job of supporting us in our endeavors and in serving the government as a whole. And, Your Honor, in closing, let me simply urge the Court that for the reasons stated and supported by the evidence presented to the Court over these three days, the Court should grant the 363 sale motion. Thank you.

THE COURT: Thank you.

Sure, Mr. Schein, come on up.

MR. SCHEIN: Yes, Your Honor. So that Mr. Miller can have his final comment, I'm not adding any further comments as to Export Development Canada's position. First of all, for the record, Michael Schein, Vedder Price, on behalf of Export Development Canada for the governments of Ontario and Canada.

I just want to clarify one legal point that was raised yesterday by Mr., I believe, Jakubowski with respect to an argument that he said was that if the DIP lenders exercise their rights under the loan agreement come the July 10th milestone, not defer their fund, he made a statement that that would be an implied breach of covenant of fair dealing and good faith and that maybe that would give rise to a contract claim by the committee.

I'd just like to give the Court a cite that expressly rejects that argument so the Court's aware that if that right is exercised. Specifically, Your Honor, it is Mirax Chemical Products Corp. v. First Interstate Commercial Corp., and Eighth Circuit Court of Appeals Case, 950 F.2d 566. And just one statement. The Court said that that duty, which was the duty of good faith and fair dealing, however, cannot be breached by actions that are specifically authorized in an agreement. That's just the one clarification, Your Honor. Thank you.

THE COURT: Thank you.

Mr. Bromley?

MR. BROMLEY: Thank you, Your Honor. James Bromley of Cleary Gottlieb on behalf of the UAW. Just want to make one particular point before I ceded to Mr. Miller, which is, to address Mr. Richman's issue as opposed -- as it relates to the linkage between the collective bargaining agreement and the VEBA. Mr. Richman made a fair amount of hay out of a lack of linkage, as he said, in the documents and in the evidence. But I think it's important to look at the evidence. What we have here is testimony from Mr. Henderson that if there was no VEBA there would be no collective bargaining agreement, and with no collective bargaining agreement there would be no workforce.

We have testimony from Mr. Wilson, again, saying if there was no VEBA there would be no collective bargaining agreement and, again, without a 1collective bargaining agreement, no workforce.

Mr. Curson's declaration said exactly the same thing. The exhibits to Mr. Curson's declaration, the ratification summary at Exhibit 1 -- Exhibit A, I'm sorry, at page 1 and page 11 made it crystal clear that when the UAW membership was voting, they were voting on both the VEBA and the collective bargaining agreement. And as Mr. Curson said unequivocally, it was a single vote, up or down, for both.

Exhibit B to Mr. Curson's declaration is the white book, the white book which contains the amendments to the collective bargaining agreement. It makes absolutely clear

that the VEBA and the modifications are part of the collective bargaining agreement that appears at page i, which says that the ratification is on the terms of the ratification, that single vote up or down.

And the addendum relating to the changes to the VEBA appears at page 169 of that white book, and it is indeed part and parcel of the amendments to the collective bargaining agreement.

And this shouldn't come as any surprise to the objectors. It's not new. Indeed, of all the information that's been provided to the Court, this is probably the least new because there is a full paragraph in the Chrysler opinion going directly to this point where Judge Gonzalez found that there is unequivocal evidence presented in the Chrysler trial by Mr. Curson as the witness that there was direct linkage, there was clear and unequivocal value being presented to the new company and that the value of the VEBA was receiving was not being received by the old company but indeed by the new company.

In addition, the UAW is an express third-party beneficiary of the master sale and purchase agreement. That agreement requires that the collective bargaining agreement be assumed and assigned. It requires that the VEBA be entered into by the new company. These are unwaivable conditions to closing.

In addition, Section 7.4(h) of the DIP says that unless by July 10 the agreement, the master service sale and purchase agreement, is approved, that there'll be an event of default under the DIP. That includes all of the related documents, and the UAW retiree settlement agreement in Schedule 1.1(e) to the DIP is one of those agreements.

So, Your Honor, I think that the record is replete with evidence of linkage between the UAW's collective bargaining agreement and the VEBA. And there shouldn't be any doubt or any concern that a showing's been made on that front. And it's very important to keep in mind that that showing is being made by the UAW on behalf of the 475,000 individuals who have either worked or depended on those who've worked for General Motors, as well as the 61,000 active employees. There are over half a million individuals who are dependent on this transaction closing, and closing quickly. And I think we need to look through the shorthand that is being used as timing. If a little more time is given, everything will be fine, nothing will change. But that's shorthand for if there's a little more time, I can get a little more, maybe a lot more. And it would fundamentally change all of the carefully constructed arrangements that have been put in place and, indeed, would go directly to the problem that both Treasury and General Motors have pointed out, which is the damage that would be done to this business in connection with a long-term contested Chapter

11 proceeding.

So for those reasons, Your Honor, the UAW strongly urges that the Court approve the sale transaction.

THE COURT: Okay.

MR. BROMLEY: Thank you.

THE COURT: Thank you.

Mr. Miller?

MR. MILLER: Good afternoon, Your Honor. Harvey Miller on behalf of the debtors. First, Your Honor, one overarching comment. I was brought up in the school that closing arguments should be confined by the record that was made before the Court. As I sat here and listened to the closing arguments, Your Honor, many of the closing arguments made no reference to evidence which is in the record in these cases. Rather, we heard opinions as to what could have happened and not references to evidence that's in the record. So I just make that as an overarching comment.

I want to note that none of the objectors has suggested to the Court that it wants to see a liquidation of the assets of GM. Rather, each of the objectors reiterates that it should not be affected by the 363 transaction and, therefore, it will receive more consideration than what otherwise will be recoverable from the Old GM pursuant to the plan of liquidation which will follow the consummation of the 363 transaction.

Every objector recognizes that a liquidation will result in no recovery to general unsecured creditors. So what has happened? By objecting to the 363 transaction, the objectors are exercising what they perceive to be their leverage. Certain of the objectors are asking the Court to conditionally allow the 363 transaction by laying down terms and conditions that the purchaser would have to comply with or walk.

To paraphrase the words of Mr. Jakubowski, Your Honor, they want you to enter the negotiations and bargain with the purchaser. Indeed, Mr. Jakubowski suggested that the debtors and the purchasers should have come to you as soon as they knew you were assigned to the case to negotiate the terms and conditions of the sale before finalizing the master purchase agreement. I suggest that the role that Mr. Jakubowski has tailored for you is inconsistent with your role and your responsibilities as a judge.

The essence of what the objectors want, as pointed out by my predecessors, is that you should gamble the preservation of the value of the GM assets, the hundreds of thousands of jobs involved, the welfare of the communities they rely upon in an ongoing automotive industry as well as incur the risk of the probability of systemic failure in the hope that the undisputed testimony of the Treasury's representative is a lie and that the Treasury will not exercise its rights to

cease financing the debtors.

This is an awesome gamble. It ignores the interests of all other economic stakeholders, including the over 60,000 UAW active employees as well as the approximate 500,000 retirees and dependents represented by the UAW, as well as the bondholders who have supported the 363 transaction, the suppliers and their industry and the states and communities who will be severely prejudiced if the gamble is lost. Essentially, the objectors ask Your Honor to play Russian Roulette.

Now, Mr. Richman referred to footnote 15 in Judge Gonzalez's decision, and he read to you a portion of it, but he did not read the last sentence. He read the sentence, "The Court concludes that gambling on the possibility that the government was bluffing and risking the potential for a lesser recovery in a resulting liquidation would have been a breach of the debtor's fiduciary duty." The next sentence is the key sentence, Your Honor: "This was simply not a viable option."

So what Judge Gonzalez held and used as a material point in his decision, he could not take that option of the financing disappearing and risking and bluffed -- that the U.S. Treasury was bluffing.

In effect, the objectors are saying if I can't get my pound of flesh, then let GM go down in flames and everybody lose and the devil take the hindmost. It is not a rational

avenue for the Court to go down in the face of the record in these proceedings. Liquidation or the risk of liquidation is too great a danger to imperil the many beneficiaries of the 363 transaction. A transaction, Your Honor, that squarely complies with the applicable principles of law, no objector questions the business rationale articulated by GM in support of the sale. No evidence was presented to Your Honor, through testimony or otherwise, that the business rationale to reconstitute these assets and make them the foundation of a viable automotive manufacturing company -- there is no contrary evidence in the record. Rather, the complaint is that the pie is not big enough to satisfy the particular needs of each objector and, therefore, the 363 transaction cannot be approved. That is not a legally sustainable objection.

Mr. Bressler, representing the tort victims, or some tort victims who have actual claims has argued that this clients are entitled to extra indulgence. He cites no legal proposition or authority for that proposition -- I'm sorry, no legal authority for that proposition. Of course everybody empathizes with his clients, but as stated, bankruptcy is a zero-sum game. And if GM is liquidated, his clients will receive no recovery.

He described the purchase as an extraordinary transaction because the government is not the usual purchaser. But as Mr. Jones has pointed out, Your Honor, the United States

Treasury, in the perspective of this case, is a creditor; it is a secured creditor. It can stand in the position of any secured creditor that appears in the bankruptcy proceeding.

From that conclusion, he jumps to another and more far-fetched contention that the purchase is a result of a conspiracy among the Treasury, General Motors, and I guess the UAW, to deprive his clients of their right to trace the assets to New GM. He argues that New GM must assume the potential liabilities due to his clients because there was no independent purchaser of the GM assets. Yet, the record is devoid of any evidence to establish the facts that would support a finding and conclusion of the existence of a conspiracy directed at all product liability claimants. It's just not in the record, Your Honor.

So Mr. Bressler argues that there are no similar situations where a pre-petition lender has been the purchaser and the DIP financer and pre-petition creditor. I suggest that Mr. Bressler is on weak ground. The concept of loan-to-own has permeated bankruptcy practice throughout this decade. An example is In re Radner Holdings Corporation, 353 B.R. 820, a bankruptcy case in Delaware before Judge Walsh. In that case, Tennenbaum Capital Partners was a substantial investor. It continued to finance the debtor as its fortunes declined and acquired more and more collateral security in substantially of the debtor's property. When the debtor's revolving lenders

threatened to cut off funding, the company commenced a Chapter 11 case.

TCP, Tennenbaum, agreed to purchase the assets under Section 363 and credit bid its 128.8 million dollar pre-petition date claims. That was challenged, Your Honor, as not an independent purchaser, was challenged in the context of recharacterization and equitable subordination.

In another case, Your Honor, of that -- and I didn't have a chance, Your Honor, to do a great deal of research, but another case is In re Medical Software Solutions, 286 B.R. 431, a bankruptcy case out of the district of Utah.

THE COURT: Before you go on to the second one, the Software Solutions, you told me the contention rendered. Judge Walsh rejected the contention and he said that the lender did in fact have the ability to --

MR. MILLER: Yes, Your Honor.

THE COURT: -- take it over?

MR. MILLER: And he approved the 363 sale, and in a long opinion, Your Honor.

THE COURT: With the same types of protection on 363?

MR. MILLER: Yes, Your Honor.

THE COURT: Um-hum.

MR. MILLER: In the Medical Software case, Judge Thurman held that there was a sound business reason that existed for the sale of the Chapter 11 debtors outside the

ordinary course of business and outside of the plan based chiefly upon the lack of funds for continued operations and the narrowing window for the sale of assets before they significantly declined in value.

THE COURT: The Judge Thurman, is that Bill Thurman out in Utah?

MR. MILLER: Yes, sir. A corporate insider that had provided both pre- and post-petition financing for the operation of the debtor's business had a valid security interest in the assets being sold and could credit bid its secured claim. An insider qualified as a good-faith purchaser, and the Court approved the sale as being for a fair and reasonable price and supported by sound business reasons.

There are -- I'm sure, Your Honor, with additional time, we can find many more cases that follow in the concept of loan-to-own.

So, turning to the concept that this was not an independent transaction, the record demonstrates, Your Honor, that there were strenuous arms'-length negotiations. There were differences of opinion. There were requests made by GM; they were either rejected by Treasury or they were negotiated. And one example, Your Honor, is that GM tried to, in respect of the seven-plus billion dollars of retiree benefits, it tried to keep the cut down to sixty-two percent, but the Treasury came back and said no, it's got to be sixty-six and two-thirds.

There was a negotiation over that, and that's just one little item, Your Honor, of what was negotiated during the course of this somewhat complex proceeding.

In terms of independence, Your Honor, a great deal of moment is given to the fact that Mr. Henderson will be the CEO of New GM. Other executives will be employees of New GM. And because of that, this is a tainted transaction. But as Your Honor knows, there are many cases in the bankruptcy court where an acquirer of a business will take that business with its employees. And when you think of this behemoth that is Old GM, a purchaser would not be in its right frame of mind if it did not take the employees who know the business, at least initially, to allow the stabilization of the business while other events may unfold. The testimony is clear, Your Honor, Mr. Henderson doesn't have an employment contract, he has no employment contract with the purchaser, and none of the other executives have employments contracts.

And in terms of independence, Your Honor, what's happened to the stockholders of Old GM? They're being wiped out, Your Honor, because of the financial condition of the estate. New GM will have new stockholders. In addition, New GM, Your Honor, will have an independent board of directors. Five independent directors from Old GM, people of great repute and great business experience, are moving over to New GM. Mr. Henderson is moving over to New GM. But there will be

seven other directors. And Mr. Edward Whittaker, the former CEO of AT&T, has already been designated to be the chairman of the board of directors.

That board of directors, Your Honor, will decide the role in the future -- I mean the future role that Mr. Henderson and other executives and other employees of Old GM will occupy in the operation of New GM. There has been full disclosure, Your Honor, in this record of what the relationships are between the parties and which, I submit to Your Honor, clearly established the independence of the parties.

Mr. Bressler also complains that the UAW VEBA is just too good a deal to be approved. He ignores the fact that it is the purchaser who made the deal with the VEBA in its interest of getting employees to operate the business and enhance the recoveries and the general unsecured creditors who will receive equity securities as part of this transaction. One objective of this transaction, Your Honor, is to enhance the value of the equity securities. And that enhancement obviously requires the employment of the UAW and the other employees. There would be no business without that. And as Mr. Curson testified, Your Honor, and notwithstanding Mr. Richman's statements, the record is clear there is only one witness -- and he testified, and he's a union officer -- that the ratification of a modified collective bargaining agreement and the VEBA was one ratification. And if the VEBA is not approved, all of the

modifications to the collective bargaining agreement are rescinded and we're back to where we were before with work conditions, wage rates, et cetera, which are not tenable in an automotive industry that is in such severe crisis as this automotive industry.

The argument, Your Honor, that another potential 900 million dollars of liabilities, irrespective of the asbestos liabilities, assuming the asbestos liabilities, and another 300 million-plus dollars of liabilities in connection with retiree benefits, is insignificant. And, therefore, the purchaser should be required to assume those liabilities.

The objective of the purchase, as I said, Your Honor, is to acquire the assets and assume only those liabilities that will contribute to the success of the purchaser. You take 900 million, 300 million, another 600 million, and pretty soon you're in the area where Senator Dirksen said you're talking about real money.

The purchaser has drawn the line as to what it is willing to pay for the assets in the context of its credit bid and its assumption of liabilities and the voluntary contractual obligations that it has made to the UAW VEBA.

Now, Your Honor, turning to Mr. Jakubowski, Mr. Jakubowski made an impassioned argument. Essentially he told the Court that it should forget about being in the Second Circuit and it should ignore the Court's stated principle of

consistency in the decisions of the bankruptcy court in this district. Mr. Jakubowski speaks of Judge Posner in the Seventh Circuit as if he is immortal and infallible. I have great respect for Judge Posner and for his colleague Judge Easterbrook, but neither is infallible and particularly conversant with bankruptcy in Chapter 11. I once debated Judge Easterbrook at a University of Pennsylvania Business and Law Forum. He argued that persons in businesses should be allowed to contractually waive the benefit of the right to seek bankruptcy protection. He posited the argument on the basis that the contracting parties had equal bargaining leverage and could freely negotiate that provision. I asked Judge Easterbrook if he had ever studied a credit card agreement and tried to change the terms of that printed agreement or borrowed money from a financial institution while in financial distress. He replied in the negative and then said he would have to rethink his position.

As for Judge Posner, Mr. Jakubowski never named a particular case that he was talking about yesterday and stating that it was in conflict with TWA. Let us not forget, Your Honor, that the Seventh Circuit is the circuit that is the Chicago school of finance, and it is the circuit that is the least receptive to business reorganizations. A circuit, Your Honor, that is so unreceptive that it does not endorse the critical vendor situation that is so important in most

reorganizations. But --

THE COURT: Or NOL protection.

MR. MILLER: Or NO -- exactly, Your Honor. But be that as it may, Mr. Jakubowski argued that the jurisdiction of this Court is extremely limited and unless you are able to find specific words in the Code you are acting beyond your power. He invites you to teach a lesson to the Second Circuit and tell the judges of that court that they don't really understand statutory construction. Yet, his idol Judge Posner, in a case called FutureSources LLC v. Reuters Limited at 312 F.2d 281, 283, a 2002 case, Judge Posner criticized a district court for relying on an unreported opinion from another circuit and for one of the parties to rely upon it in his argument. Judge Posner said that while, and I'm quoting, "The reasoning of a district judge is of course is entitled to respect, the decision of a district judge cannot be controlling precedent. The law's coherence could not be maintained if district courts were deemed to make law for their circuit, let alone for the nation, since district courts do not have circuitwide or nationwide jurisdiction." Notwithstanding those piercing words of Judge Posner, Mr. Jakubowski wants you to take on the Second Circuit judges and, in effect, suggests to them that they really ought to act a lot more like Judge Posner. I don't believe that Your Honor has a death wish.

Last week in the argument on the effect of the

Sprague Sixth Circuit decision, Your Honor unequivocally stated that Sprague was never binding on you -- was not binding on you and that your obligation is to follow the directions of the Second Circuit and to maintain consistency of bankruptcy court decisions in this district in the absence of clear error. And as Your Honor stated yesterday, you don't view Judge Gonzalez's decision as clear error. And right now, Your Honor, the law of this circuit is the decision of the Second Circuit affirming the Chrysler decision on the basis of the reasoning that Judge Gonzalez used in his opinion. That's the law in this circuit which I believe Your Honor is required to follow.

Mr. Jakubowski alluded to stare -- I'm sorry, Your Honor, alluded to stare decisis and the peril of the Court to fill in gaps in the statute. Mr. Jakubowski argued that 363(f) subject to the plain meaning rule and must be construed narrowly based upon a whole host of Supreme Court decisions that he cited generally involving Chapter 7 or Chapter 13 cases. Bankruptcy courts deal with business reorganizations as situations which require flexibility and the exercise of reasonable judgment by a bankruptcy court. Courts need to fit the requirements of the case in achieving the objectives and policies of the Code. A perfect example of the kind of role that must be played by bankruptcy courts is demonstrated with the situation that arose as a result of the Supreme Court's decision in Hartford Accident and Underwriters v. Union

Planter's Bank at 530 U.S. 1, a 2000 case. As Your Honor undoubtedly knows, the case involved the construction of Section 506(c) of the Bankruptcy Code and whether the Hartford Accident and Underwriters could present a case for administrative expenses under 506(c) when the language of the statute read that only a trustee could do that.

And the Supreme Court, in applying what essentially, I think, was Judge Scalia, the plain meaning rule, said the statute says the trustee can only do that, therefore Hartford could not step into the shoes of the trustee, could not qualify under 506(c), and that's what the statute says and that's what courts have to pay attention to. So -- and they cite the Ron Pair case and some of the cases that were cited by Mr. Jakubowski.

So what followed after Hartford? In 2003, a case came to the Third Circuit, Cybergenics case at 130 F.3d 545, a 2003 case. This was an en banc --

THE COURT: You're talking about Cybergenics before or after the first en banc?

MR. MILLER: I'm talking about the en banc decision, Your Honor. The issue in Cybergenics involved Section 544(b) of the Bankruptcy Code and that's the section, part of the avoidance powers where a trustee may prosecute actions based upon nonbankruptcy law to recover preferences, fraudulent transfers, et cetera.

The language of the statute is almost precisely the same as Section 506(c) of the Bankruptcy Code. And when the case was heard before the Third Circuit on appeal from the bankruptcy court and the district court, a three-judge court in the Third Circuit reversed the lower courts on the basis of the Hartford Accident case, a pure case of statutory construction as far as the three-judge court was concerned. That decision was withdrawn as a result of the granting of a motion that the case be heard en banc.

When it was heard en banc, the issue of the creditors' committee prosecuting avoidance actions under Section 544(b) was upheld by a majority of the en banc court. The Third Circuit decision, the en banc decision, reflects a court recognizing the needs of the case and the necessity of making the statute work. And, if I might find -- let me just get that decision.

THE COURT: You're talking the second Cybergenics decision, the en banc one that --

MR. MILLER: Yes, I am. As Your Honor does with great frequency, first you look at the statute. And they looked at the statue. And -- can you hear me? How's that.

First the Court noted that statutory construction is a holistic endeavor, citing the Timbers case. And then, Your Honor, in reviewing what had occurred, the Third Circuit noted that the fact that the language does not authorize derivative

action in the first instance, should be recognized. But that there was a missing link. And where there was a missing link the Court said we believe that the missing link is supplied by bankruptcy court's equitable powers "to craft flexible remedies in situations where the Code's causes of action failed to receive their intended purpose."

The Third Circuit went on to say, Your Honor, "that the Supreme Court has long recognized that bankruptcy courts are equitable tribunals that apply equitable principals in the administration of bankruptcy proceedings." And it noted, Your Honor, that the Court in the 105(a) has the power to issue any orders, process or judgment that is necessary or appropriate to carry out the provisions of this title. No provisions of this title providing for the raising of an issue by a party-in-interest shall be construed to preclude the Court from sua sponte taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

So what that -- those decisions say, Your Honor, is where there is a statutory provision that doesn't comport with a holistic interpretation of the Bankruptcy Code, and the objectors and policies of the Bankruptcy Code, the bankruptcy courts have the equitable power to construe that statute to accomplish those objectives and purposes of the Bankruptcy Code.

And in connection with Section 363(f), Your Honor, Mr. Jakubowski says you can't give it effect. It cannot -- it just doesn't cover claims. Claims are not included in the statutory language and, therefore, this Court is without power to issue an order that provides free and clear of all liens, claims and encumbrances.

Now, if you think about Mr. Jakubowski's argument, Your Honor, what he is basically saying that every single unsecured claim carries over, that 363(f) is totally inapplicable, that it doesn't work. That, Your Honor, is not a principal statutory construction. Courts are under the duty, I believe, Your Honor, to give effect to the words of a statute, and to harmonize a statue so that it is effective. And for many, many years, Your Honor, courts have issued 363(f) protections in connection with the 363(b) transaction. And the law in this Circuit, based upon Judge Gonzalez' order, is that this Court -- the bankruptcy court has the authority to issue a free and clear order as requested by the debtors in this action, which is almost identical to the order that was entered in the Chrysler case.

The scope of the power of the bankruptcy court under Section 363 Your Honor once referred to in the Magnesium Corporation of America case. And you said in that case on June 13, 2002 "I believe Judge Walsh got it exactly right in TWA. I am not going to burden this already very lengthy decision by

telling you all of the reasons I believe Judge Walsh is right. But I have rarely seen on my time on the bench a decision that was as closely relevant and directly on point" -- and this was in connection with a 363(b) sale, "and as well thought out as his decision. At the risk of appearing less than thorough I am going to adopt his analysis by reference."

THE COURT: That is the same TWA but before it was affirmed all the way up to the Third Circuit?

MR. MILLER: That's correct, Your Honor. Your Honor also referred to the Leckie Smokeless Coal Company case at 99 F.3d 573. Your Honor said that Leckie -- that you interpreted the Fourth Circuit as saying "That Congress did not expressly indicate that the language of 363(f) was intended to limit the scope of its application to in rem interest."

If Mr. Jakubowski's argument was taken and adopted by Your Honor it would mean, Your Honor, that 363(b) is out of the statute, and there can never be any sales of assets if they're always going to be subject to the claims, the unsecured claims, of the debtor. Even outside of selling substantially all of the assets every single sale under Section 363(b) would be impaired by the fact that the purchaser is assuming or is going to be responsible for claims that may drift or migrate with the assets that are being sold. That, Your Honor, cannot be the law. Common sense says that you cannot effect that kind of a ruling in the face of what has transpired in bankruptcy courts

through thirty years since the adoption of the 1978 code. And, again, Your Honor, as I said before, the law in this circuit is clearly Chrysler.

Now, Mr. Jakubowski also, like a true plaintiff's lawyer, immediately jumped up and said if the government doesn't go through with this acquisition or finance this acquisition it will be a clear breach of contract. And he turns to the creditors' committee and says I hope you're drafting a complaint against the government.

Counsel referred to a case right on point and in Willis on Contracts under the title Express Conditions "assume liabilities and express conditions in a contract, where there are express conditions in a contract, where there are milestone that have to be accomplished, such as there are in this financing, if there is no order of approval on September 10 and there is no wavier on the part of the U.S. Treasury, the U.S. Treasury has the absolute right to terminate. And that does not give rise to a breach of contract. And it is not subject to a commercially unreasonable actions."

In connection, Your Honor, to the arguments that Mr. Jakubowski made that the treasury is not -- if it wants to act like a commercial bank it should be treated like a commercial bank. I would submit to Your Honor that the commercial bank analogy is inappropriate. We are not just talking about a JPMorgan or a Citibank, we are involved with a federal

department that is attempting to salvage an industry and all it represents, as well as protect the taxpayers' money. The Treasury hired an extremely abled cadre of experienced persons to discharge this function. They have made -- the Treasury has made a decision that a prompt approval of the 363 transaction is a condition precedent. If there is no sale order there's no more financing. And, Your Honor, there is no evidence to the contrary in respect of that.

Mr. Richman raises for the first time the credibility of Mr. Wilson. Mr. Wilson testified yesterday candidly and at length. And there is nothing in his testimony which would establish that he was lying, falsifying any respect whatsoever. And counsel for the treasury has reiterated the position that Mr. Wilson testified, and there's nothing else in the record, Your Honor.

The Court must accept that undisputed evidence and take it into account the consequences of non-approval. So in connection with Mr. Jakubowski's argument, both the statutory construction, I would submit to Your Honor that this Court has ample power under its equitable powers to construe a statute so that it may implement and further the interests of bankruptcy reorganization and bankruptcy law under the bankruptcy code.

And in the context of stare decisis, again, Your Honor, the Chrysler case is the decisional authority in this circuit. And, certainly, the TWA case is very persuasive, both

on bankruptcy court level and on the Court of Appeals level.

So then, Your Honor, I turn to Mr. Esserman. And in connection with that I will also deal with all the asbestos claimants. The argument is made, Your Honor, that somehow OldCo should comply with 524(g). 524(g), by it's very language, refers to the confirmation of a plan of reorganization that would discharge asbestos claimants. There is not going to be any discharge here, Your Honor. OldCo is in liquidation, there will be no discharge of liabilities. 524(g), by its very terms, could not be complied with because fifty percent of the equity of the so-called surviving corporation is not available. So 524(g) is not a player in this scenario, Your Honor. And Judge Gonzalez, again, Your Honor, specifically held that 524(g) did not apply to the Chrysler 363 transaction. There is no discharge and there is no channeling order requested. What we have said to Your Honor in the course of these proceedings, this will be an issue that Old GM, OldCo, will have to deal with. That the creditors' committee will have to deal with in structuring a plan of liquidation for OldCo. How existing asbestos claimants are going to be treated to the extent they have allowed claims, and potential future claimants may be treated is an appropriate subject for OldCo. And it would not be different from some other cases where, in the situation of a liquidation, a specific fund is created to deal with future claimants. But

that's an issue to be determined, Your Honor, after the sale is consummated.

THE COURT: Mr. Miller, there's no channeling order, but there is an injunction requested. And the two lawyers who were raising asbestos issues pointed out that if you did give personal notice and applied it to every state in the United States you wouldn't be able to do much with it because they wouldn't know that they've contracted asbestos.

Now, I have an interesting twist here. Both of those folks represent existing asbestos claimants who analytically in the Jakubowski situation. But I also believe that this issue was raised that hasn't been discussed in the Second Circuit argument in the (indiscernible) appeal. To what extent would it be proper or improper in Your view if words were added to any approval order that said to the fullest extent constitutional principal?

MR. MILLER: Just speaking for myself, Your Honor, without consultation for client, I don't have problem with that language. But I would, again, note, Your Honor, that Judge Gonzalez dealt with the issue of notice and I do not recall the colloquy between Judge Sack and Mr. Esserman, and I'm not sure that colloquy related to injunctions or the ability to sue. All I'm saying, Your Honor, there is going to be an estate. And estate which we believe will have significant value.

Part of the claimants who will have rights against

the property of that estate will be asbestos claimants, current and future. And that estate, as part of its plan of liquidation can provide a mechanic to deal with future claimants. That's not unheard of, Your Honor, the creation of a fund or putting aside assets, so when the disease manifests itself and there is an actual claim there will be a source of recovery. That can be done within that context. And there is no discharge in connection with that, Your Honor.

And besides, Your Honor, I think it was Mr. Koch testified it will be three or five years, the asbestos situation has been going on now, Your Honor, for I think pretty close to thirty-five years. GM has not been using brake linings with asbestos for a long time. If and when these claims manifest and whether they're allowable or not, Your Honor, is another issue that has to be dealt with. But as far as 363(f) is concerned, as Judge Gonzalez held, and the specific provision in the order is I would construe it as a very broad provision. And you have to assume, Your Honor, that in the appeal in Chrysler it was considered as Your Honor may have noted in the colloquy, there was a discussion of it.

THE COURT: Oh, there was definitely a discussion of it.

MR. MILLER: And also, Your Honor, I think we have to refer to the per curiam decision of the Supreme Court in connection with the application for a stay. While the Supreme

Court said that it wasn't ruling on the merits, it did say that the applicant, the Indiana Pension Funds, had failed to demonstrate: 1) a reasonable probability that four justices would consider an issue sufficiently meritorious to grant certiorari, or to no probable jurisdiction. Now, in reaching that conclusion they had to evaluate what was decided by Judge Gonzalez. 2) a fair prospect that a majority of the Court will conclude that the decision below was erroneous; and 3) a likelihood that an irreparable harm would result from the denial of the stay. So while it's not a ruling on the merits, Your Honor, it does say something about the Supreme Court's view of Judge Gonzalez's decision.

So coming back, Your Honor, into the context of stare decisis, again, this is the law in the Second Circuit, and this is the law that should be followed in connection with this transaction that is so important to so many people.

Now, Your Honor, turning to Mr. Kennedy who made, likewise, a very impassioned and emotional argument, and likewise, I and everybody here, Your Honor, empathizes with his clients and wished that there was a way to assuage his emotion as well as his client's. But alas, I can't do it, Your Honor. He took issue, Your Honor, with a statement I made in connection with my initial closing argument referring to his papers as construing that there was a conspiracy, a conspiracy among GM and the Treasury to deprive the splinter union

retirees of their benefits.

There is nothing in this record, Your Honor, that would support a determination of a conspiracy and all of the elements that would constitute a conspiracy. Indeed, the record goes the other way, Your Honor. Mr. Henderson testified that up until the very end of May, there was the hope of GM that the bond exchange offer would be successful. And if the bond exchange offer would have been successful, there would have been no impact on the retirees.

And further, Your Honor, in Mr. Rory's deposition, which has been designated to Your Honor, at page 44 -- I'm sorry, page 43, Your Honor, he refers to an exhibit which is really Exhibit 9, which is in the record. And he was directed his attention to the first page of that exhibit. And there's a line in this exhibit, and the title of this exhibit, Your Honor, is History of OPEB Defeasement - IUE. And in the middle of the third bullet point, it says, "2006, IUE resisted mitigation VEBA concept - reluctant to bargain retiree VEBA for large population from legacy operations (e.g. Frigidaire) not represented by active members - relatively small active population to generate wage and COLA deferrals."

So what does that demonstrate, Your Honor? That in 2006, GM was in actual negotiations with the IUE about creating a VEBA, a VEBA that would have provided the health and medical benefits, and yet the union resisted that. That VEBA could

have been set up in 2006, Your Honor, and it would have been active.

In addition, Your Honor, Mr. Kennedy is an excellent lawyer, and he knew how to play the strings on numbers. He talked about the 26,000 retirees of the splinter unions who will be deprived of retiree benefits. And actually, as he spoke, Your Honor, he went on to say that approximately 20,000 of those retirees are already post-sixty-five, so they're on Medicare. And under the proposed retiree benefits that had been offered, all benefits cease from the VEBA or General Motors at the point that you go on Medicare. So basically, Your Honor, we're talking about 6,000 retirees, who right now, are getting their retiree benefits.

Unfortunately, as OldCo goes into liquidation, there's no way that you can sustain paying 26 million dollars a month for retiree and medical benefits. The exhibit -- I forget the number, Your Honor -- of the statement made by Mr. Henderson, clearly demonstrates that there was an effort to try and find a way, a means, to assist the splinter union retirees and the maintenance of benefits for those retirees. There's nothing else in the record, Your Honor, except that what happened at the end of May when a decision was made that there had to be a transaction, there had to be something to regenerate and maintain the going concern value of these assets, and that the 363 transaction was the best way to do

that, that this sale was finalized.

That doesn't give rise, Your Honor, to a conspiracy to deprive these retirees of their benefits. As Mr. Wilson testified, Your Honor, the guiding principle of the Treasury was to acquire the assets and assume the liabilities which were necessary and incidental to the creation of a commercial success; a commercial success, Your Honor, which would inure to the benefit of OldCo and the creditors of OldCo.

This morning Your Honor heard of a potential compromise with the State of Michigan on Workman's Compensation, where NewCo or New GM has agreed to pick up the Workman's Compensation obligations. Now, why was that done? That was done because if GM -- New GM did not do that, the State of Michigan was not going to allow New GM to be a self insurer, which would have cost New GM an enormous amount of money; and which would come out of its cash flow. By assuming that liability, it is now going to be allowed to be a self insurer.

Essentially, Mr. Kennedy, in his impassioned plea, is arguing something which is novel. He is basically saying, Your Honor, that Sections 1113 and 1114 are effectively in the same status as liens on the land. They run with the assets. That you cannot transfer assets of a unionized business without dealing with obligations under 1113 and 1114. There is no legal authority that supports that proposition, Your Honor.

There is no requirement that before you transfer assets, you must reject the collective bargaining agreement, if that's the condition. There is no requirement in connection with a 363 sale that you must comply with 1114. OldCo --

THE COURT: Can I assume that there will be compliance by OldCo with 1114?

MR. MILLER: Until such time as Your Honor may rule on an 1114 motion. Yes, sir. Right now, today, all of the IUE retirees are still receiving the full benefits under that program. That's what's costing -- and I'm including all the splinter unions, Your Honor -- that's what's costing approximately twenty-five- to twenty-six million dollars a month.

Now, as OldCo goes into its liquidation phase, obviously that is not a sustainable benefit in a liquidation scenario, nor is it a sustainable benefit in the context of New GM, Your Honor. Are we going to inflict upon New GM some of the problems that contributed mightily to the demise of Old GM. The concept of having job banks of thousands of employees who sit around and don't do anything except paychecks with no benefit to the ongoing operations, work rules, et cetera, and conditions under collective bargaining agreements. What has happened here, Your Honor, is the Treasury, a government sponsored purchaser, who has had to make an agreement with the UAW because otherwise there would be no employees. And it's

unfortunate that the IUE has basically no active employees. Not necessary to the operation of the plants that are being acquired by the purchaser. And there has to be a line of commercial reasonableness in terms of what New GM is going to assume in connection with a sale.

Mr. Kennedy also criticized me because I used the word jealousy in respect of the discussions or descriptions that have been made in connection of the UAW recoveries through the purchaser. I withdraw the word jealousy. Nonetheless, through half this case I have heard repeated over, and over again, that the UAW is getting too much and that it's just unfair. Well, it's the economic circumstances, Your Honor, that resulted in the UAW situation. The proposal by Mr. Jakubowski that Your Honor an order of conditional approval just doesn't work, it's not acceptable to the purchaser. It doesn't benefit the New GM and it doesn't benefit the Old GM. Because the conditional approval will have a terrible negative effect on consumers. Everything that this company has been fighting for the last thirty days to make it clear to the consumer that it's not going to be entangled in a bankruptcy case, that these assets which will form a foundation of a new OEM will be there free of the entanglements of bankruptcy will dissipate.

And Mr. Richman, again, raised the issue in his closing argument well, GM is really doing well in Chapter 11,

look at the month of June. It was only thirty-three percent below June of 2008. And as Mr. Henderson testified lead sales were down by an even greater margin. And if Your Honor happened to read this morning's New York Times it shows the relative figures between Chrysler, Ford and GM. And what you have to surmise out of that or infer out of those discussions, Your Honor, that Ford's market share is rising. And where is that market share coming from. As we sit here today -- stand here today, GM's market share is our owee. And the longer it's in this process the more that will happen.

And Mr. Henderson testified that GM will not make money in 2009, which means that somebody has to finance these operations going forward. And not one objector has brought forth a financier. Not one objector has brought forth an alterative -- a viable alternative other than, Your Honor, you should deny this application, we'll play poker or Russian roulette with the government. And if the government walks, well, we'll just have a Chapter 11 case and see what happens.

Well, what does that mean, Your Honor? Without financing it would be the obligation of Old GM to close every factory, to terminate every employee except those that are needed to preserve and protect the properties. The results will be catastrophic, Your Honor, and irreversible. So we're be brought back again, Your Honor, to the bluff game.

But there's nothing in the record that says that the

Treasury is bluffing. And I take the representation of counsel for the United States that that representation is made on information furnished to him by his client, the U.S. Treasury. But again we hear the argument, Your Honor, that this was all a -- this is not a true sale, and part of that also relates back to this infamous document, Bondholders' Exhibit 2 from the Cadwalader firm, about the use of Section 363. I would venture to say, Your Honor, if anybody goes to a CLE program on bankruptcy, they will get this slide show without the names. I don't want to demean Cadwalader, Your Honor, but I think that this is in general circulation.

Now, looking at that exhibit, Your Honor, and looking at the record as to what GM did, if the board of directors of GM did not consider the various alternatives, that board of directors might have been remiss in its duties. It had an obligation to consider all alternatives and to rely upon the advice of its professionals and advisors. That's what the board of directors did, and that's what the exhibits establish. Clearly, there were presentations to the board as to what bankruptcy provides for, what happens in a bankruptcy. Otherwise, the board of directors could not be discharging its fiduciary obligations.

I just want to see where I am in this, Your Honor.

Now, if I might, Your Honor, I would turn to Mr. Richman's comments. Last evening, Your Honor, Mr. Richman

asked for more time to prepare his closing arguments so that he could address the evidence in the record. I listened carefully to Mr. Richman's argument. There were no references to the record other than his claim that Mr. Wilson is not credible. During the course of these proceedings, he put on no evidence, no witnesses, no declaration of fact, no expert witness. In fact, he didn't do very much other than work off what was in the record.

All of the others' evidence shows good-faith bargaining, good-faith business judgment. And he concedes that it's in the best interest of all parties that the GM assets be sold. His cross-examination of Mr. Wilson certainly did not shake Mr. Wilson's credibility. What he's doing, Your Honor, he's asking you to take his opinion and speculate on the future and not refer to the evidence that has been sworn to in these cases -- in these proceedings. And basically he says, Your Honor, oh, Chapter 11 is an easy process, given a few days parties can agree on various things and in ninety days we can be out of Chapter 11. I would just say, Your Honor, just taking these three days of hearings as an example of what happens in a Chapter 11, the concept that you could file a Chapter 11 plan, and he doesn't even describe the Chapter 11 plan that you would file on the first day, but any Chapter 11 plan that you file that had open ends to it would involve the appointment of creditors' committees, disclosure statements,

arguments over valuation. The concept that a case of the size and complexity of GM would move through some accelerated basis so that you can have a confirmation in ninety days, I think, Your Honor, is not credible. It just doesn't happen.

I refer to the Delphi case. The Delphi case was supposed to move on a fast track. That track seems to have disappeared. And in July -- later this month, I should say, Your Honor, Delphi will either have a resolicited plan of reorganization or will have a 363 sale with substantially less recoveries for the creditors and basically no recoveries for the unsecured creditors.

The problem with long term bankruptcies -- and I don't mean long term to be years, Your Honor -- is that things happen in bankruptcy cases. People come into the court with all kinds of motions, applications, and various moves to get leverage. We spent three days on this proceeding. Think of the days that would be spent in valuation discussions; the possibility of the appointment of an examiner; fights between ad hoc committees and independent committees. And all during this process, Mr. Richman never refers to who's going to finance it. Where's the money going to come from while everybody's having fun in the courtroom.

Mr. Jones says don't look at the Treasury. We've got to protect the taxpayer's money and we're not going to put good dollars after bad dollars. And while this is happening, Your

Honor, the consumer is scratching his or her head and saying is there going to be a GM that's going to produce good vehicles, reliable vehicles that I know I can service? What are the dealers going to say, Your Honor, when this process goes on with no plan other than "We're going to stiff the Treasury and we're going to make the Treasury put in more money." That is an awful gamble to play in this case when you're dealing with -- and I sympathize with Mr. Kennedy and his 26,000 retirees, but we're talking about the UAWs with almost 600,000 retirees and active employees, 235,000 GM employees worldwide.

Yesterday, I think, Your Honor, Lear, a supplier to GM, commenced bankruptcy, Chapter 11 cases. In the past month I think there have been three or four suppliers. If this case doesn't come out the way it has been programmed, with a 363 transaction, there will be chaos in the supplier industry. Systemic danger is all over the horizon, Your Honor.

So what do we get down to, Your Honor? We get down to a situation in which there is no palatable alternative. No financier has shown up, and I think it is very significant, Your Honor, that notwithstanding all the notoriety about GM pre-Chapter 11 and post-Chapter 11, nobody -- no hedge fund, no private equity fund, no foreign investor has come along and said gee, I really would like to take a look at GM and maybe I would like to buy it or parts of it. Not one party has been interested. Not one party has been willing to sign a

House recently about these cases, but I recall President Obama's speech that either Chrysler finds itself a purchaser by May 1 or April 30 or there will be no further financing. And if GM doesn't come up with a viable plan by June 1st, that's the end. And I believe the President meant it. And clearly, the Chrysler people believe that he meant it, even though it must have given Fiat some bargaining leverage. There is nothing on the record -- I keep repeating this Your Honor -- that there will ever be additional financing.

I believe all of the objectors agree that if Your Honor found that this is a legitimate sale, then the transaction should be approved. Delaying the transaction so that various parties can try to exercise leverage by being ad hoc committees in a Chapter 11 or attempting to be additional committees only means further delay in the conservation of a plan, a delay that cannot be borne by this company.

Mr. Richman's closing argument, Your Honor, as I said, had nothing to do with the record that was made before Your Honor in the past two days. It was his ipse dixit as to what he thinks could happen in a Chapter 11 case. With no expert testifying, there's no other person offering any support for that position. He offers nothing in the way of a purchaser. He offers nothing in the way of a financier.

I believe, Your Honor, Mr. Richman's closing argument was just his opinion and his advice to you that you should take

confidentiality agreement to get into the data room and look at it for the purposes of considering a bid. There hasn't been one expression of interest.

So we have a situation, Your Honor, where the only offer at all for these assets is the government-sponsored purchaser, the only entity that will be able to get financing and make these assets into a valuable original equipment manufacture. The only other option is to commence the liquidation process because this company cannot survive without financing, and there is no financing. And when that becomes public knowledge, that's the end of its ability to really sell cars. Then you are in the liquidation and no consumer, unless he gets a terrific discount and takes his chances or her chances, will buy a GM vehicle.

There has to be a cutoff and a creation of certainty as to the future of these GM assets. And the fact, Your Honor, as I alluded to before, that GM management is moving over, doesn't make it a nonsale. It's a sale. There's a real purchase price that's being paid here. There is an independent company that is buying these assets and will be an independent company going forward, and hopefully in a very short period of time, a publicly owned company for the benefit not only of shareholders of this company but the whole automotive industry.

Mr. Richman said that the White House will not allow GM to fail. I haven't heard anything come out of the White

up the purported bluff of the U.S. Treasury and that's an awesome responsibility that he wants to impose on your shoulders.

With respect to, Your Honor, to Mr. Parker, we have submitted, Your Honor, and I'm not going to speak further on it, the statements and the arguments made by Mr. Parker with respect to the equal and ratable clauses in the indentures, are just not accurate. Mr. Parker has not established and he's not produced any certifications or a record of any lien filings with respect to the excluded assets, and the agreements are quite clear that if there were no liens granted to the federal government, the U.S. Treasure in connection with the security agreement of 12/31/08 that was subject to those indentures.

THE COURT: Let me go back to the Secured Financing 101. UCC-1 perfects the security interests but the security interest has to -- it's separately granted, am I correct?

MR. MILLER: That's correct, Your Honor.

THE COURT: And romanette v says that (indiscernible) will be granting the security interest?

MR. MILLER: I'm sorry, sir?

THE COURT: And romanette v says, in its excluded assets -- or excluded liens provision, that there isn't a grant of security?

MR. MILLER: That's correct, Your Honor.

THE COURT: Okay.

MR. MILLER: And Mr. Henderson testified at length, Your Honor, that there were no liens granted in violation of the indentures.

Bad faith. Mr. Parker says that the purchaser has not acted in good faith. Yet the record is to the contrary. The record establishes the extent and nature of the negotiations, how they were conducted, and that they were consistent with the standards of good faith under the cases.

The TARP argument. Again, Your Honor, that argument was raised in Chrysler, and Judge Gonzalez ruled on that. It involved the DDSA and TARP, and that argument was not successful and was continually raised by the Indiana pension plans that you can't use TARP money for these purposes. And in this circuit, Your Honor, at least, that is not an argument that can stand.

Mr. Parker also complains about the scheme of distribution. And again, the basis of his argument on the scheme of distribution is the UAW is just getting too much, while the record is replete with the rationalization and reasons why the UAW ended up in that position. There are sometimes, Your Honor, when union membership is a good thing. Sometimes not. But these active employees are critical to this transaction. If we did not have these employees, there would not be a 363 transaction. And more importantly, Your Honor, the consideration that is being given to the UAW VEBA is coming

from the purchaser and not from OldCo.

And if this deal is not approved and this transaction doesn't go forward, and Mr. Curson's testimony demonstrates, the UAW claims, the VEBA claims will be reasserted in the OldCo case so that you will be adding on an additional twenty plus billion dollars of liabilities which will substantially dilute the position of the bondholders and other creditors.

I am not going to deal with Mr. Bernstein's argument, Your Honor, as to the consent decree and the effect of that. That's an issue that can be determined in the future. My colleague, Mr. Karotkin, said I should refer to the case of In re Rochnunis (ph.) and say pay the 62,000 dollars. I'm not going to do that.

As I understand it, Your Honor, the indenture trustees are no longer objecting. Mr. Reinsel, I think his name is, made the same arguments as Mr. Esserman in respect of asbestos claimants, and I think I've dealt with that.

So Your Honor, we get down to the basic issue. And in connection with --

THE COURT: Before you wrap up, do you want to comment in any way on Ms. Taylor's point that I should have language in the approved order that says, in substance -- I don't know if she's saying just that nothing in this order affects the government's ability to use its police power or if she's looking for more than that. And I don't know if what she

says has controversial implications that I'm not sensitive enough to.

MR. MILLER: I would just note, Your Honor, that the proposed sale order in paragraph 55 states, "Nothing contained in this order shall in any way: 1) diminish the obligation of the purchasers to comply with environmental laws or 2) diminish the obligations of the debtors to comply with environmental laws consistent with their rights and obligations as debtors-in-possession under the Bankruptcy Code." I would submit to Your Honor that is fairly broad language that imposes on the purchaser and the debtors as debtors-in-possession. And there is no intent to circumvent or evade the environmental laws. To the extent that New GM is acquiring plants that may have environmental problems, they will be responsible for that. To the extent --

THE COURT: Kind of like in Magcorp.

MR. MILLER: I'm sorry?

THE COURT: Kind of like in Magnesium Corporation of America.

MR. MILLER: That's correct, Your Honor. And to the extent that OldCo retains plants that haven't -- I mean, the whole controversy, Your Honor, about the wind-down budget only related to environmental claims. As the analysis of the environmental claims and the potential exposure there went up, the committee, justifiably, said we need more in the wind-down

budget to cover environmental claims. So there is no intent -- and I would submit to Your Honor the language is sufficiently broad, and if the New York State Attorney General has a problem with it, we'd be happy to work that language out with her.

THE COURT: Okay. Continue.

MR. MILLER: So Your Honor, we come down to the final aspect, I hope, of this proceeding. The record, Your Honor, I believe is abundantly clear. The business justification has been articulated. Mr. Richman referred to the Lionel case and the various factors in the Lionel case. And in the Lionel case, as Your Honor may recall, the sale was disapproved. It was disapproved and reversed by the Second Circuit because it was being done at the insistence of the creditors' committee who wanted a cash distribution as part of a subsequent plan of reorganization. And the issue was their electronics, the common stock of that partially owned subsidiary. But in the Lionel case, Your Honor, there was no danger of diminution in value. Dale Electronics was an independent company listed on the New York Stock Exchange. The value of that stock was not diminishing. And as it turns out, three years later or two years later it was at the same value.

We have a different case, Your Honor. And as pointed out by the Second Circuit in Lionel, the most important factor is the potential diminution in the value of the assets. This record establishes that if this transaction is not approved,

the value of the GM assets will deteriorate and may deteriorate at a much more rapid pace than either you or I or Mr. Richman understands. The fact that GM did better than its downside projections in the month of June doesn't establish anything when the month of June was thirty-three percent below the same period in 2008, and a decline of forty-three percent in fleet sales. And then we have Mr. Henderson's testimony, even going forward GM will lose money in 2009. If we don't start -- if the purchaser doesn't start using these assets as part of a new GM, a new, leaner, more competitive, more efficient GM, the downward cycle will be irreversible.

So we fit right within Lionel and its progeny. We have -- I will have to call it, Your Honor -- I don't want to call it a melting ice cube because I got criticized for that once before -- a wasting asset. These are assets that will deteriorate in value. And that deterioration will be felt by all of the stakeholders, including the stakeholders that oppose this transaction.

The bottom line, Your Honor, is that there is no viable alternative. And that's the kind of situation that Section 363 was enacted for, to deal with a situation where there had to be a relatively quick sale of assets. And fortunately, we've had thirty days to see if there's anybody else in the market for these assets. What we have done, Your Honor, is establish the value of these assets. We've also

established that nobody's interested in buying them other than this purchaser.

And the fact that it's the government, Your Honor, doesn't detract that it is a purchaser. It's voluntarily doing this, Your Honor. One, to protect the taxpayer's monies in the hope that it will recover a portion of the taxpayer's monies. And two, to try and salvage an industry. But there are limits to that, Your Honor, and the government has clearly said what the limits are.

So we are in a situation where we can do this transaction, we can create a new GM. Yes, we're going to use the same name, but we're only going to have four brands, Your Honor. We're going to have Cadillac, Chevrolet, Buick, and GMC. A leaner, more competitive GM that will benefit the domestic industry, that will provide more value to the economic stakeholders than any other alternative that has been proffered, and no alternative, unfortunately, Your Honor, has been proffered to date.

So on behalf of the debtors, Your Honor, we submit that this case fits squarely within the four corners of 363(b). There has been an articulated business reason for this sale. It is reasonable business judgment. The board of directors of GM discharged their fiduciary obligations in considering the alternatives and going forward with this Section 363 sale. And the purchaser, the government-sponsored entity, has acted in

good faith in negotiating this transaction, as demonstrated by the negotiations that have gone on to this very hour. There has been no bad faith as Mr. Parker alleges.

To allow these assets to go through a process of liquidation would be horrific, Your Honor, a situation that Your Honor should not allow. And Your Honor should approve this transaction. Thank you.

THE COURT: All right. Thank you. All right. Ladies and gentlemen, this hearing is now closed. We're going to take a lunch break for an hour, and then if you have any deals to announce to me or any housekeeping matters, I'll hear them an hour from now. However, there will be no further argument on today. If it turns out that there are no additional deals to announce or understandings to confirm, it will be very short an hour from now. The purpose of this, among other things, is to give you a chance to talk to folks to ascertain whether or not you need or want to put anything on the record. And there may be other people similarly situated. I also will need to talk to at least one person of medium or higher level seniority from each constituency to discuss getting the transcript and exhibits to make sure that I have a full set and the like. This matter is taken under submission and at this point we're in recess. Thank you.

(Recess from 1:42 p.m. until 2:54 p.m.)

THE COURT: Okay, folks, I need to get to work. And

we said that we would set aside some time for you folks to put deals on the record and deal with housekeeping matters, and I have one or two of my own.

Mr. Karotkin or Ms. Cordry, who would like to take the lead on taking care of some of those things?

MR. KAROTKIN: Your Honor, I believe we have reached an understanding with Ms. Cordry as to the proposed terms and provisions of a proposed order to address the concerns she has raised.

THE COURT: Okay.

MR. KAROTKIN: Is that correct?

MS. CORDY: Yes.

MR. KAROTKIN: Okay. And the one -- so I think that addresses those issues. If I might, Your Honor, the Attorney General from the State of Texas would like to leave to catch a plane.

THE COURT: Sure.

MR. KAROTKIN: So I --

THE COURT: Would you like to say something before you have to go?

MR. KAROTKIN: He had asked me if I would read into the record --

THE COURT: Oh, okay.

MR. KAROTKIN: -- three paragraphs which would address his concerns as well.

THE COURT: All right.
MR. KAROTKIN: These would be three paragraphs that would be inserted into the proposed order:
"Entry by GM into the Participation Agreements with Accepting Dealers is hereby approved, and that the offer by GM and entry into the Participation Agreements was appropriate and not the product of coercion. The Court makes no finding as to whether any specific provision of any participation agreement governing the obligations of Purchaser and its Dealers is enforceable under applicable provisions of state law. Any disputes that may arise under the Participation Agreements shall be adjudicated on a case-by-case basis in an appropriate forum other than this court."
THE COURT: Mr. Roy, did he get it right?
MR. ROY: He got the first paragraph right, Your Honor.
THE COURT: Still didn't express your last implication there?
MR. KAROTKIN: This is very stressful for me, Your Honor.
THE COURT: Okay.
MR. KAROTKIN: The next paragraph would be, "Nothing contained in the preceding two paragraphs shall impact the authority of any state to regulate Purchaser subsequent to the closing."

And the final paragraph is as follows: "This Court retains exclusive jurisdiction to enforce and implement the terms and provisions of this order, the MPA, all amendments thereto, any waivers and consents thereunder, and each of the agreements executed in connection therewith, including the Deferred Termination Agreements in all respects, including but not limited to retaining jurisdiction to: (a) compel delivery of the Purchased Assets to the Purchaser; (b) compel delivery of the Purchase Price or performance of other obligations owed by or to the Debtors; (c) resolve any disputes arising under or related to the MPA, except as otherwise provided therein; (d) interpret, implement and enforce the provisions of this order; (e) protect the Purchaser against any of the retained liabilities or the assertion of any lien, claim, encumbrance or other interest of any kind or nature whatsoever against the Purchased Assets; and (f) resolve any disputes with respect to or concerning the Deferred Termination Agreements.
"The Court does not retain jurisdiction to hear disputes arising in connection with the application of the Participation Agreements, which disputes shall be adjudicated as necessary under applicable state or federal law in any other court or administrative agency of competent jurisdiction."
THE COURT: Okay, I'll try to -- again, Mr. Roy, did he get it right this time?
MR. ROY: He got it all right this time, Your Honor.

THE COURT: Okay. Fair enough.
MR. KAROTKIN: I believe, with that, this gentleman is prepared to withdraw the --
MR. ROY: Yeah, Your Honor, with the agreement that that language is going to be in the order that the debtors submit as a proposed sale order, and with the understanding that there's no objection from any other party, including Treasury, the State of Texas is prepared to withdraw its objection.
THE COURT: Okay, Mr. Schwartz?
MR. SCHWARTZ: That's correct, there's no objection. We had a small tweak to add the federal government's ability to continue to regulate the purchaser. I'm not sure if these folks have signed off on it.
THE COURT: In other words, you're proposing that there be an even more regulatory environment than what Mr. Roy was asking for?
MR. SCHWARTZ: Exactly right.
MR. ROY: So I'm getting more than I asked for.
THE COURT: It sounds to me like you wouldn't care if they got that, Mr. Roy.
MR. ROY: No, not at all. This -- I believe that this protects the state's ability to enforce its regulatory scheme.
THE COURT: Okay. Well, fair enough. I assume that

takes care of your needs and concerns then, Mr. Roy?
MR. ROY: It does, Your Honor.
THE COURT: Have a good flight.
MR. ROY: Thank you so much.
THE COURT: Thank you.
MR. ROY: It's been a privilege.
THE COURT: Thank you.
Ms. Cordry?
MS. CORDY: Having come here and sat here through the last couple of days, I did want to indicate for the record the basis on which the states were finding a resolution of their objection. And I will be very brief, but I do want to, sort of, lay out what is in here and what the basis was for pulling what we had filed.
Certainly this is an extraordinary case; I think everyone agrees on that. On the other hand, in some ways it's also like every other Chapter 11 case in that it has to follow the Bankruptcy Code. The Supreme Court has told us that the uniformity clause sets aside bankruptcy from every other portion of Congress's powers. So it's for those reasons that the states initially analyzed this case under their view of what the Bankruptcy Code says without a special exception for the mega auto bankruptcy problems.
We had a number of problems with the order with respect to clarity in a number of respects, with taxes,

environmental law, other provisions. We had concerns with the substance of the terms in terms of what was being assumed, what was not being assumed. The treatment of these dealer agreements was a major issue for the states, and I'll get to that in just a moment, and then some of the terms of the order in terms of the way it was phrased about successor liability, which was some of the questions I asked yesterday.

We have worked very hard since the beginning of the case with debtors' counsel initially, with Treasury counsel, almost everybody in this room at some point or another, it feels like. And I think a great number of improvements have been made in this agreement over that time period. The first was the assumption of the future product liability claims. Obviously, we -- you know, in a perfect world, we would not be distinguishing between those two categories, but certainly that's better than none of them. And it certainly goes a ways to addressing issues that were raised by the state Attorney Generals. And by the way, I am speaking strictly on behalf of the forty-five-Attorney-General-objection that's there.

With respect to the dealers, you heard yesterday, one set of dealers talked to you about the process of being required to sign on to those. And there was a statement that while 99.6 percent of the people signed it, so it must have been a great deal. I -- as a matter of reality, I think most things that you get 99.6 percent of people signing on are

probably not the greatest deal in the world; they're just better than something really awful. But we're leaving aside that concern.

There was a second concern that the ongoing terms of those agreements that we were being asked to sign had provisions that could be substantively unlawful under state law. And we do not understand that anything that is said with respect to rejection can carry over to the notion of saying that if you assume a contract you can thereby assume some terms that violate state law on a going-forward basis, any more than if someone could make you sign a contract that said I'll take less than the minimum wage and then assume that contract and make you take less than the minimum wage.

So that was a concern on the dealer agreements. And what you just heard read into the record dealt with that by leaving us free to -- and the jurisdictional piece as well, taking the jurisdiction to enforce ongoing agreements between nondebtor parties, post-closing, that could not affect the estate in trying to leave them in this bankruptcy court's jurisdiction.

THE COURT: Let me interrupt you --

MS. CORDY: Sure.

THE COURT: -- for a second, Ms. Cordry. When Mr. Roy was standing up next to Mr. Karotkin, they were talking about the things in the context of resolving Mr. Roy's

objections. That was -- he was standing there and you weren't, but that was part of a dialogue to which you were also a part.

MS. CORDY: Right. Yes, and that is part of the overall package that is here. He spoke to it simply because he had the separate objection on it. But, yes, that is one of the pieces that went into this overall deal here.

So we were very concerned about that treatment of assumed contracts, and that agreement works on that part. We also wanted to be sure that lemon laws were covered under the notion of warranty claims, but they did not specifically refer to state lemon laws, and that coverage is being picked up.

Privacy, we had no idea what they were going to do with privacy. We've read the consumer privacy ombudsman's report. We couldn't talk to them directly, but we did try to give some input. And what I've seen from his report appears to be constructive and useful. And there is some language in the agreement right now that was drafted without seeing his report. It's pretty much consistent with what the report recommends, perhaps not completely consistent. That's, I think, up to Your Honor to decide with the debtor what they'll require for that. We had signed off on the other language before we saw what the consumer privacy ombudsman said.

On taxes, we clarified that the taxes in the first-day order are all being assumed by the purchaser. We clarified a number of other pieces of language; some of them are in with

the environmental piece.

THE COURT: Time out, Ms. Cordry.

MS. CORDY: Yes.

THE COURT: I thought I authorized taxes to be paid under the first-day order.

MS. CORDY: Yes.

THE COURT: Your point being that, to the extent they haven't been paid, they'll be assumed?

MS. CORDY: Well, that the -- the assumption was clarified, which was somewhat unclear in the order, that the provision for assumption of taxes is congruent with the kind of taxes that were covered by the first-day order so that if they are the kind of taxes that were being picked up under the first-day order, they will be the kind of taxes that will be assumed, either that there -- there may be some that have just not been paid yet or a dispute or an audit, an ongoing assessment, any of those kind --

THE COURT: One way or another, they'll get paid --

MS. CORDY: Right.

THE COURT: -- at some point in time?

MS. CORDY: Right, and that so they're going to be assumed. And similarly with the environmental liabilities, we clarified that the New GM intends to be fully liable for environmental liabilities of its transferred facility.

So all of these were matters that were very important

to us.

The other piece we talked about, obviously, was the successor liability. And the basic construct we dealt with was this notion that I raised yesterday of what is -- assuming you can sell free and clear of liability on a claim or on something, what is the scope of that? And we came to an agreement that we would limit it to a bankruptcy claim, a 1015 claim. So the language on that is all in the agreement.

On the TWA issue, I can only say our view remains as to what it is of the proper construction of law. But we also recognize that there's been a little water under the dam and a lot of people have structured deals based on what they believe the law to be, and certainly this case is an example of that.

So for all those reasons, after exhaustive, literally of course, negotiations, we have reached agreement with the debtor, with Treasury on the terms of the order that I have recom -- well, when we say "we", mostly me. I've recommended to the AGs; I have talked to the staff, counsel, contacts, the ones I could gather last night at 10:00. We have sent it around. We have made the request to all the Attorneys General to sign off on this, which they started getting that request at about 9:30 this morning. As of now, I've been told there are forty-five -- the final total, I believe, was forty-five Attorney Generals on the brief. At this point I've been told, I think, that the last count of approvals so far is twenty-

seven. I'm reasonably optimistic that we will continue to get the rest of them signed on over the course of the day or so.

At this point, my view would be I believe that we have an agreement. I don't believe we're going to have dissent that would overturn the agreement, but the last position, I understood, with the debtors and Treasury, was simply that if for any reason we -- if the other fifteen AGs come back and say no, no, over our dead bodies, that we would just say the deal's off, the order goes back to what you were doing before you had the agreement without us, and we'd just stand on our objections. But as of now, we think this agreement is going to hold and we think it is a preferable agreement for the Attorney Generals. We also think it's preferable for all the other parties as well in not having the Attorney Generals seek to overturn this transaction.

THE COURT: All right, thank you.

Mr. Karotkin?

MR. KAROTKIN: Thank you, Your Honor. With respect to Ms. Cordry's colloquy and commentary, I don't know if that was meant to be interpreting what the order said or embellishing what the order said. As far as we are concerned, the agreement we have reached is in the order. And we are not necessarily agreeing that how she described it or how she interpreted it is accurate or inaccurate. It is what it is.

THE COURT: If I approved the motion and entered the

order in the form as modified, the order would say whatever it says?

MR. KAROTKIN: Correct.

THE COURT: Okay.

MR. KAROTKIN: For example, to the extent she was referring to how environmental laws are being treated under the order, they are being treated as they are being treated.

THE COURT: You're saying the order has them in support of sales.

MR. KAROTKIN: Exactly, sir.

THE COURT: And that what she's saying isn't like a presidential signing statement or --

MS. CORDY: I would stipulate to that, Your Honor. If I get to be president, then I'll determine what kind of authority I have at this point. But --

THE COURT: Okay.

MS. CORDY: -- I was simply attempting to deal with the fact that we did deal with issues regarding environmental laws and made some improvements in that area that I think are --

THE COURT: Okay.

MS. CORDY: -- hopeful and satisfactory to my clients. Thank you.

THE COURT: All right. Fair enough.

MR. KAROTKIN: Thank you, sir.

THE COURT: To what extent do we have other things that people want to note on the record?

Mr. Smolinsky, I see a few people coming up. You want to, kind of, help coordinate that, if you can?

MR. SMOLINSKY: Sure, Your Honor. Let me at least try. Your Honor, there are approximately 600 objections related to what I would call contract issues, and they continue to come in. So I thought, to try to head off everyone coming up and making reservation of rights, that I would describe to Your Honor the process that we're undergoing and perhaps that satisfies everyone's concerns, and we could make -- shorten the time here.

Your Honor, in connection with the sale, the purchaser has identified over 700,000 contracts for probable assumption and assignment. We've done everything in our power to manage the process focused on three goals: First, to have the ability to update the reconciliation process as new invoices come in from the pre-petition and post-petition period; two, allow the purchaser to continue its due diligence with respect to the contracts; and, finally, to try to not bog down this Court's docket with multiple objections.

The company, together with AlixPartners, developed a fully trackable system to allow counterparties to see online their contracts which are scheduled for assumption, as well as backup on how cure amounts are derived.

You've heard a little bit about the call center. The call centers set up in Warren, Michigan have been fielding calls, have been proactively reaching out to all parties who have filed objections, and have also handled over 6,600 calls from other parties that are making inquiries as to their supplier agreements.

Your Honor, when we filed our initial reply last Friday, we attached to it a schedule of those parties that filed objections with respect to contract disputes. And on Monday when we filed our supplemental brief, we attached a new Schedule J, which had three schedules in it, creatively named J-1, J-2 and J-3.

I just want to walk Your Honor through these schedules. And let me just update that, Monday night after we had made further progress on the contracts, we filed a supplemental schedule and I think we made some significant progress. And if Your Honor would allow, I'd like to hand up a copy.

THE COURT: Sure.

MR. SMOLINSKY: I have taken the liberty of highlighting for you the few changes that have been made since then. Your Honor, if you turn to Schedule J-1, which is about six pages long, that is a schedule of withdrawn objections. Now, just to make clear for the record, that doesn't mean that each and every counterparty on the schedule has agreed that

there are no reconciliation issues. Either they've been withdrawn because the reconciliation issues have been resolved, or they signed trade agreements which elected into the alternative dispute resolution to the extent a reasonable resolution can't be obtained simply by talking to the call center and working out their differences. And we've had significant progress there.

The only changes I just want to note for the record, on page 1, Cellco Partnership d/b/a Verizon Wireless is going to be moved to J-2; the same for Fiat on page 2. On page 3, Hitachi Cable Indiana, Inc. and Hitachi, Limited will be moved to J-2. Isuzu Motors will be moved to J-2; LMC Phase II to phase (sic) 2. On page 4, Progressive Stamping Company, Inc. moved to J-2. On page 5, Interpublic Group of Companies Inc. to page 2 -- to J-2, as well as Toyota Motor Sales U.S.A. And on the last page, the two Verizon contracts will be moved to J-2.

Other than that, Your Honor, we believe that the remaining objections can be marked off calendar.

We have provided, in consultation with the creditors' committee, to include in the order that if a contract was withdrawn and then there's still a basis for coming back to the Court, that both parties can do so on no less than fifteen days' notice in case there are any further mistakes or omissions. What we'll propose at the end is to file a final

schedule and then to provide Your Honor's chambers with a list by docket number rather than alphabetically so that the matters could be marked off calendar.

Your Honor, Schedule J-2 is a schedule of objections that have been limited to cure disputes, and they are subject to adjournment. And we have included in the order a request for a hearing date around the third week of July for Your Honor to carry these objections while we continue to try to resolve them and get them off the Court's docket.

We have been having open dialogues with each of these parties; we have delivered documents to them. We have worked with them on finalizing a list of contracts and cure amounts. And we've dealt with a number of them in stipulations, which I'll get to in a moment.

So the only changes to Schedule 2 is on page 2. Behr-Hella Thermocontrol has filed a withdrawal, and that could be moved to J-1, along with, on page 3, the Hewlett Packard three objections can be moved to J-1 as well.

Your Honor, Schedule J-3 is a schedule which has gotten shorter and shorter, which deals with objections that we have not been able to resolve, some of which we have been now able to resolve, and I just want to walk through a few of them and then we can give the other parties an opportunity to speak today if they still have ongoing objections. To the extent that they don't, I would suggest that we move them to J-2 and

adjourn them along with the others as a holding date while we continue to reach out for them.

So if you turn to --

THE COURT: I sense the way you did it, Mr. Smolinsky, that these deal with something different than cure amounts?

MR. SMOLINSKY: It's unclear, Your Honor. We've looked at all of these objections and we believe that most of them, even though they may raise adequate protection -- adequate assurance issues, they -- I believe they're all quintessentially cure objections, with the exceptions of the ones that I'm going to walk through.

THE COURT: Okay.

MR. SMOLINSKY: The first one that I'd like to speak about is Hertz Corporation. Your Honor will recall that Mr. Henderson testified that some of the fleet customers are not purchasing vehicles from General Motors because they have issues, internal issues. Hertz is a prime example. They have securitizations. And if their contracts are not assumed by a certain date, then they have to provide additional collateral into their securitizations, which is an anti-competitive issue for them.

So we have entered into discussions with Hertz. We have agreed to assume their contract now with the understanding that they have no objection to the assignment of that contract

to New GM upon the sale closing. They acknowledge in the stipulation they're not aware of any cure amounts that are outstanding, and we do not believe that there are any either. We've discussed this with U.S. Treasury, we've discussed this with the committee, and they have no objection.

THE COURT: Okay. Continue, please.

MR. SMOLINSKY: Okay. Your Honor, the next contract, Kolbenschmidt Pierburg AG, that could now be moved to J-2. LBA Realty Fund -- I think you heard from counsel to LBA this morning.

THE COURT: Mr. LeHane?

MR. SMOLINSKY: That's correct, Your Honor. And, again, I could put it on the record, but I think you heard the agreement that we intend to assume at closing, to the extent that we finish our amendment discussions, or modification discussions, and the indemnities will follow through with respect to any claims that arise or become known after the closing.

Pratt & Miller Engineering & Fabrication can be moved to J-1. They withdrew their objection.

Royal Bank of Scotland, these contracts -- there are four contracts that relate to the Lordstown plant. Subject to closing, GM has agreed to assume those contracts and we agreed to work cooperatively with RBS to make sure that we deal with any transfer documents that are necessary and any third-party

consents.

Last one, Trafasee (ph.) Marketplaces Inc., that could be moved to J-2 as well.

So, Your Honor, we did our best in these schedules to reflect the desire and intention of the parties. We're also working with the committee to add language to the order to make it clear as to what the cure resolution process is and to preserve everyone's rights while we work it out.

We're not currently intending to bar any reasonable late objections. We understand the process was quick. We're -- ultimately our goal is to try to reconcile all the claims to the satisfaction of all parties. Of course, if there's an unreasonable delay, then we'll bring it to Your Honor.

We intend to send notice; we propose in our order within two business days of the entry of the order. We would send out notice to each of the parties in here notifying them of the adjourn date for their objection or, if their objection has been withdrawn, notifying them as to why it was withdrawn and giving them the opportunity to come back and explain if there was an error.

Turning to stipulations -- and many of these stipulations, I don't believe, require the signature of Your Honor; we're simply to going to file them -- we have received the stipulation from approximately 115 suppliers who have

agreed to withdraw their objection and to appear on Schedule J-1 and defer into the alternative dispute resolution process so that we don't have to deal with them further in the bankruptcy process.

We have some additional stipulations, one with International Automotive Components Group, one with Dell and one with Timken that likewise withdraw their objection, but they have not agreed to the ADR process. They have agreed to work with us to try to reconcile, and if they can't reconcile then we would use the procedure that I explained before that on fifteen days' notice we can come back to Your Honor and litigate the objection.

Your Honor, like Hertz, Avis is another fleet customer. They're having a similar issue, but they don't have the same timing issues that Hertz has. So they've entered into a stipulation, again, acknowledging that they're not aware of any cure amounts under the agreements. But we have agreed to assume and assign those contracts upon the closing. So, unlike Hertz, which happens immediately, the Avis will happen upon the sale. Again, we shared that stipulation with the committee and the Treasury and they have no problem.

Cigna, Your Honor, I think, we talked about earlier. We continue to work with Cigna to try to get their comfort level up on the assignment of those employee benefit-related contracts. And, again, we wouldn't expect to be back before

Your Honor unless there's a problem in assigning those contracts.

Equipment lessors. I just want to put on the record that Manufacturers and Traders Company, as well as Wells Fargo Bank, have equipment leases with the company. They've filed objections. There are additional indentured trustees related to those that have objections. And we've agreed to put on the record that all those contracts are still in the undetermined bucket, meaning that they haven't been noticed out for assumption and assignment. Everyone reserves their rights. We reserve the right to assume and assign those contracts. They reserve the right to object. And we're going to work with them over the next week to enter into an adequate protection stipulation with respect to the use of that equipment as we go through the transition of closing the sale. So we'll be back before Your Honor on that.

Your Honor, I think that's the end. Of course, people may want to make statements, and I'm happy to come back and explain any clarifications that are necessary.

THE COURT: Okay.

People can now come on up, and those who I sent back can now come up again.

Go ahead.

MR. BACON: Good afternoon, Your Honor. Doug Bacon with Latham & Watkins for GE Capital. We spoke at the end of

yesterday's hearing and this morning and tendered a proposed stipulation and order that has been underway for about the last five days, about twenty hours a day. And Mr. Weiss, who had to depart but left his colleague here and his special counsel to the debtor, we have been successful in getting the creditors' committee's support, or lack of objection.

Mr. Mayer -- this is the stipulation that Mr. Mayer confirmed that indeed they're fine with and Treasury's counsel is not opposed to. And we -- this bears the signature of the debtors' special counsel and me as counsel for GE. Mr. Weiss explained it to some degree earlier. We can certainly go into more detail. There's a great deal of money involved and hundreds of millions of dollars' worth of equipment, which is why both sides have put a lot of energy into this.

We tendered this earlier today, Your Honor. And since then, the only change that has been made is to change the name of the purchaser. And I'm hoping Your Honor, under the circumstances, will just indulge us in interlineation.

THE COURT: I would if it weren't for the fact that it has to be electronically entered. I guess it can be scanned. Otherwise, if I could ask somebody to -- do you have a floppy disk with the underlying document?

MR. BACON: I can arrange to have that down here this afternoon, Your Honor.

THE COURT: Can you have it e-mailed to my chambers?

MR. BACON: Easily, Your Honor.

THE COURT: Okay. My law clerk can help you as to how to do that. And I'm glad -- it's just as well that a new one's coming, Mr. Bacon, because I think you did hand me up something, or did you?

UNIDENTIFIED SPEAKER: Yes.

MR. BACON: We did.

THE COURT: I don't know if you saw how much paper was on this thing just --

MR. BACON: I understand, Judge.

THE COURT: So e-mail it when it's finalized to the Gerber chambers. Charlie will give you the exact e-mail address. And on the transmission for the e-mail, note that this is the one that Gerber said that he would enter today. And we'll take care of it today.

MR. BACON: Thank you, Judge. Thank you very much. May I approach Charlie?

THE COURT: Yes.

MR. BACON: Thank you.

THE COURT: Who's on deck?

MR. DUETCHE: I think I am, Your Honor.

THE COURT: Sure. Come on up, please.

MR. DEUTSCHE: Good afternoon, Your Honor. Benjamin Deutsche, Schnader Harrison Segal & Lewis on behalf of New United Motor Manufacturing Corp., commonly referred to as

NUMMI. NUMMI is a joint venture between Toyota and GM. We had -- we received a notice to assume and assign. Based on the notice and based on the Web site, we simply can't tell what contracts GM is talking about. We're trying to work it out. I believe -- I thought -- I spoke to Mr. Smolinsky earlier. I thought we were going to have a stipulation, basically push this over, give the parties a chance to figure out which contracts they're talking about and then mark this down for something later in July.

THE COURT: I think Mr. Smolinsky's being pulled in more than one direction at the same time.

MR. SMOLINSKY: Your Honor, I believe we've been having communications with Foley & Lardner, who are representing Toyota in this matter. And we've agreed that we're going to work together to resolve all these contracts.

MR. DEUTSCHE: Yeah -- I represent NUMMI and, obviously, my clients instructed us to get resolution. I don't represent Toyota --

THE COURT: Who does Foley represent?

MR. DEUTSCHE: I believe the Toyota part of NUMMI.

THE COURT: And who are the agreements with?

MR. DEUTSCHE: I believe with NUMMI. But, yeah, I'm sure they're contracts --

MR. SMOLINSKY: We'd be happy to involve them in the discussions.

THE COURT: Yeah, why don't you just turn it into a three-way conversation so nobody's toes get stepped on.

MR. SMOLINSKY: Certainly makes sense, Your Honor.

THE COURT: Okay.

MR. DEUTSCHE: Thank you, Your Honor.

THE COURT: All right.

MR. QUIGLEY: Good afternoon, Your Honor. Sean Quigley from Lowenstein Sandler on behalf of Group 1 Automotive Inc., a company owning approximately seven dealerships in Texas. Your Honor, we filed a limited cure objection. Subsequently, however, we recently learned from the debtors that the Group 1 dealers were sent either participation agreements or wind-down agreements. Certainly, we don't object to the sale, Your Honor, but --

THE COURT: Some have one type and some got the other?

MR. QUIGLEY: Correct, Judge. Certainly, we don't object to the sale, but to the extent there are any cure amounts or other payments due under these agreements, we simply want to reserve our rights.

THE COURT: Okay.

Would it help, folks, if I said that, unless there's some reason why I shouldn't, Mr. Smolinsky or Mr. Schwartz, that everybody who wants a reservation of rights on this stuff can have it? Or is it more complicated than that?

Got an affirmative nod from the government.
Mr. Smolinsky, that's okay with you too?
MR. SMOLINSKY: We have no problem, Your Honor.
THE COURT: Okay, good. So anybody who wants to just take a reservation of rights doesn't have to, unless they want to. You certainly have one, Mr. Quigley.
MR. QUIGLEY: Thank you, Judge.
THE COURT: Mr. Sullivan?
MR. SULLIVAN: Thank you, Your Honor. James Sullivan of Arent Fox, counsel for the Timken Company and Superior Industries International Inc. Two things, Your Honor. First, I had some communications with counsel for the debtor. We were able to get the debtor to agree to some language added to the sale order, and that's the reason why I didn't come up and actually argue anything. Assuming that the language of the sale order remains as has been represented to us, we would not be pursuing any objection. I just wanted to reserve our right to perhaps send -- or comment on the form of order that is finally submitted to Your Honor.
THE COURT: That's a big problem, Mr. Sullivan. You better get your comments in on the form of the order before the proposed form of order is sent to me, because I can't have hundreds of parties waiting for somebody to comment on the form of the order.
MR. SULLIVAN: Your Honor, as far as I know, I think

the changes have already been included, although I've not been able -- counsel for the debtor has not been willing to circulate the current form of order to all the parties.
THE COURT: I would agree upon the language, Mr. Sullivan, but I think I made my position on that clear.
MR. SULLIVAN: Okay, I'll discuss it with counsel for GM.
THE COURT: Okay.
MR. SULLIVAN: The second thing, I just wanted to correct something. I think Mr. Smolinsky made a comment on the record about the Timken Company, about the ADR procedure. I don't believe that they've opted out of that procedure. I believe that they are in fact -- agreed to that procedure. So I don't think that needs any further comment.
MR. SMOLINSKY: Your Honor, I think I said that the 3 parties that have not agreed to the ADR are subject to separate stipulations from the 120 that did.
THE COURT: Okay. All right. Thank you.
Next.
MR. BEELER: Good afternoon. Martin Beeler of Covington & Burling, on behalf of Union Pacific.
THE COURT: Okay, Mr. Beeler.
MR. BEELER: Union Pacific provides rail transportation services to the debtors under various executory contracts. We filed a limited objection to the sale, noncure

or adequate assurance-related limited objection, for the avoidance of doubt, simply seeking language in the sale order clarifying the setoff and recoupment rights of nondebtor executory contract parties for nonassumed and assigned contracts, similar to language that was included in the Chrysler order for the same purpose.
And our understanding of the MPA is that receivables related to those nonassigned contracts would stay with the debtors and, consequently, setoff and recoupment rights would be unimpaired. In discussion with debtors' counsel and in reviewing the MPA provisions with debtors' counsel, we are confirmed in that understanding and prepared to withdraw the objection.
THE COURT: Okay. Pause, please, Mr. Beeler.
Mr. Smolinsky?
MR. SMOLINSKY: Your Honor, I just wanted to be clear on this. I reviewed the language in the Chrysler order. Frankly, I really didn't understand it but -- on this point, but what the MPA says, and I'm only paraphrasing, is that receivables related to excluded assets, assets which aren't going to NewCo, are excluded assets themselves. And so I asked counsel to simply rely on that language. I didn't want to paraphrase it in the order or change the subject matter of the contract by adding language to the order.
But I think that he has reviewed the contract and is

now comfortable that the contract protects his client's rights.
THE COURT: All right.
Anything further, Mr. Beeler?
MR. BEELER: No, that's fair enough.
THE COURT: Okay, good.
MR. BEELER: Thank you.
THE COURT: Mr. Brozman?
MR. BROZMAN: Thank you, Your Honor, and good afternoon. Andrew Brozman, Clifford Chance, for the Royal Bank of Scotland, ABN AMRO and RBS Citizens. Your Honor, the agreement that I think we've arrived at with the debtors involves a structured lease transaction for the supply of energy to the Lordstown, Ohio plant. The record should note the exact contracts that the debtors have agreed to assume and assign, since the Web sites did not correctly list them and I'd like to be clear on that. There is a lease dated July 17, 2003 between ICX Corporation, which is an affiliate of RBS Citizens, as assignee of Kensington Capital Corp. and General Motors. There is a tripartite agreement of the same date among Lordstown Energy LLC, ICX, again as assignee of Kensington, and General Motors, together with the two sets of schedules pertinent thereto.
We have agreed to the assumption and the assignment. There is no dispute, to my knowledge, raised by the debtor with respect to cure amounts, if any. And the debtors, since this

is a structured lease transaction, have agreed with us to grant us further assurances in the filing of safe harbor documents in connection with the transfer of the assets.

And I think that accurately states our agreement, and I appreciate Your Honor's time.

THE COURT: Okay.

Mr. Smolinsky, do you need to be heard on what Mr. Brozman just said?

MR. SMOLINSKY: I agree, Your Honor.

THE COURT: Okay. Fair enough.

Who's next? Ms. Taylor?

MS. TAYLOR: Yes. Judge, I just wanted to report back -- Susan Taylor from the Attorney General's Office -- that we accept Your Honor's offer for a reservation of rights. And I want it to be clear that New York's objection had two parts: the part we discussed this morning, and it appears that acceptable language may be being inserted in the final order. But I don't currently have authority from my client to withdraw our objection to that portion.

And in addition, in our papers we submitted we have a successor liability -- part of our argument turns on successor liability. That part we didn't argue because it has been very competently argued. And I just wanted to be clear that we are not withdrawing the objection as to that portion either and it is now before the Court.

THE COURT: Okay.

MS. TAYLOR: Thank you very much.

THE COURT: Thank you.

Did I take care of everybody?

Mr. Bromley?

MR. BROMLEY: Your Honor, James Bromley of Cleary Gottlieb on behalf of the UAW. This is not with respect to an objection by any stretch; this is just a cleanup from earlier. I had not realized that when we were submitting our designations with respect to depositions that we also needed to submit marked copies separately to the Court. So I just have them here. We submitted them online before noon, but we have the marked ones here, so I'd like to just hand them up.

THE COURT: That's not a problem. You can give them to Charlie.

MR. BROMLEY: Thank you very much.

THE COURT: I appreciate that.

Okay, to what extent do we have anything else, folks? All right, I think -- I thought we were done but I see some folks have now come back into the courtroom.

MR. SMOLINSKY: Your Honor, just -- I'm not sure I said it, so I wanted to make clear on the record. There have been a number of objections that have been filed since we filed our last reply. We would propose to just carry those along with all the others until the holding date, July --

THE COURT: These are executory contract objections?

MR. SMOLINSKY: Cure objections, sorry.

THE COURT: Cure? Okay.

MR. SMOLINSKY: Thank you.

MR. KANZA: Good afternoon, Your Honor. Ken Kansa of Sidley Austin on behalf of the TPC lender group. We have agreed language for the order with the debtors and the purchaser that resolves the TPC lenders' objections. And so on reliance on that language, we withdraw the objection.

THE COURT: Okay.

Anybody else?

Going once. All right, I see no response.

MR. SMOLINSKY: Your Honor, we've been working on a term sheet for a resolution of the Michigan workers' compensation issues. I think everyone is agreed in principle. We just revised the term sheet over at Kinko's. And we would just need everyone to sign off, but we think that everyone is in agreement on the terms.

MS. PRZEKOP-SHAW: Good afternoon, Your Honor. My name is Susan Przekop-Shaw. I'm an assistant attorney general for the state of Michigan.

THE COURT: Forgive me again. You're last name, please?

MS. PRZEKOP-SHAW: Przekop-Shaw.

THE COURT: Okay.

MS. PRZEKOP-SHAW: It's spelled P as in Peter, R-Z-E-K-O-P, hyphen, S-H-A-W. On behalf of -- I'm here on behalf of the Attorney General of Michigan, Mike Cox, who represents the Michigan Workers' Compensation Agency and the Funds Administration. And we were compelled to file an objection in this matter to resolve the issue of New -- NGMCO's ongoing workers' compensation obligations in Michigan. And as promised by NGMCO's counsel yesterday, negotiations were held between the State of Michigan and, in fact, they were pursued by the Treasury in regards to resolving this workers' compensation issue. And these discussions culminated in the terms that were necessary for the Michigan Workers' Compensation Agency director to grant NGMCO self-insured status as an employer in Michigan when it begins its operations.

What's left is that there's -- as Mr. Smolinsky indicated, that there's ongoing steps being taken to incorporate those terms into a binding agreement that the appropriate parties, after they are identified, can sign on behalf of NGMCO.

The representation was made today that such an agreement will be finalized and signed at the end of today. And on that basis, we feel that that addresses a major concern for Michigan, who really wants to have a seamless transition for GMCO to come into there.

There were several other legal issues that were

presented based upon the proposed order that was filed. Paragraph 52 on the new one that Ms. Cordry worked with on behalf -- with counsel to culminate in has a paragraph that discusses NGMCO's assumption of these workers' compensation obligations. And we have been advised by Old GM's counsel that they will appropriately amend the master sale and purchase order to reflect that provision.

And we also observed that proposed order paragraph 41, which was dealing with preventing a state to essentially implement its statutory and regulatory system, that this provision will not apply if there's a stipulation on the record that it will not apply to the circumstances. And here, the Michigan Workers' Compensation Agency --

THE COURT: Time out. What do you mean by that, that if there's an individual stip it'll trump the moot stip?

MS. PRZEKOP-SHAW: From my understanding of paragraph 41, as provided, that effective upon the closing and except as may be otherwise provided by stipulation filed with or announced to the Court with respect to a specific matter, that that provision would -- and the following terms would not apply. And in regards to that provision, Michigan Workers' Compensation Agency and the Funds Administration, in order to operate its regulatory scheme and enforce the self-insured process in Michigan, will need to have that stipulation made on the record, and I understand counsel are prepared to do so

today.

MR. SMOLINSKY: Your Honor, I think the agreement, with respect to paragraph 41, and just to make sure that we're all clear, is that the stipulation that we're entering into allows the Workers' Compensation Board to do their business, to actually take the permit, the application that's proposed to them, to make sure they have all the documents available and to grant their license and then to regulate New GM going forward. And so the agreement that we reached is that that paragraph will not interfere with the Workers' Compensation Board exercising their regulatory duties.

Is that accurate?

MS. PRZEKOP-SHAW: In regard -- yes.

In that regards, to its ongoing regulatory obligations to meet the Workers' Compensation Agency's -- the acts requirements and the rules that apply to that.

THE COURT: Mr. Jones, you heading up?

MR. JONES: Yep. Yes, Your Honor. Thank you, Your Honor. I just need to note, the Treasury fully agrees to the agreement as -- with the agreement as described. I just do need to note for everyone that the signatory we need for the actual stipulation may not be available today, although we're trying to get that person. Failing that, we expect the person to sign tomorrow.

THE COURT: Okay.

MR. JONES: Thank you.

THE COURT: All right -- I'm sorry, go ahead.

MS. PRZEKOP-SHAW: No, thank you.

THE COURT: Thank you.

Mr. Schmidt?

MR. SCHMIDT: Yes, Your Honor. And I apologize, one point harking back to the TPC matter that you heard a few minutes ago. I just received a note from one of my colleagues that we hadn't seen that language in the order yet, and we'd just like to take a few minutes to look at it.

THE COURT: Okay. Can somebody get the creditors' committee the language they need to satisfy themselves?

MR. SCHMIDT: Thank you, Your Honor.

THE COURT: Sure.

All right, what else do we have, folks?

Mr. Karotkin?

MR. KAROTKIN: Your Honor, I think, as to the sale motion, there is nothing else, unless I'm mistaken.

THE COURT: I have one or two things. I'm not going to prejudge the motion. But I gather you have been, and may even now still be, doing a lot of work on the order that you would want me to enter, if I approved it, which, among other things, requires you to implement a lot of understandings that you have been working on even up to this minute. Am I correct in assuming that there is going to be a revised proposed order

that's going to be sent to my chambers sometime when you've been able to embody all of your deals, Mr. --

MR. KAROTKIN: Yes, sir.

THE COURT: Do you have some sense as to how long it's going to take you to -- believe me, you don't have to worry about it not getting here in time if it's going to take more than twenty-four hours, but -- or even more, but what's your sense as to how long it's going to take you to embody all of your stuff so that something comes to me?

MR. KAROTKIN: I think, actually, we've made a lot of progress. It's our intention to go back tonight, revise it, circulate it to the parties this evening and hopefully get their comments tomorrow morning, and hopefully get it to you either sometime tomorrow night or Saturday, if that's fine with you.

THE COURT: Yeah, that'll be fine.

Now, to what extent do parties have transcripts -- paper transcripts of the last three days?

MR. KAROTKIN: Excuse me, sir.

(Pause)

MR. KAROTKIN: We only have June 30 in the afternoon. There was the problem in the morning with the microphones. We don't have the other two days, but we're arranging to get those as soon as possible.

THE COURT: Those have been ordered?

MR. KAROTKIN: Yes.
Have they been ordered?
Yes.
THE COURT: On expedited --
MR. KAROTKIN: Yes, sir.
THE COURT: -- request? Okay. As soon as you or any of your colleagues -- by that I mean the Treasury, creditors' committee, other parties-in-interest, anybody gets them, I would like to have them e-mailed to the chambers e-mail address.
MR. KAROTKIN: Yes, sir.
THE COURT: All right. I think that takes care of the housekeeping matters I had, Mr. Karotkin. Do you have other stuff?
MR. KAROTKIN: There are two other items on the calendar for this afternoon.
THE COURT: Go ahead.
MR. KAROTKIN: I believe the first item, Your Honor, relates to a motion by the debtors seeking authority and approval of certain settlement with four different unions. This was noticed on shortened time pursuant to an order of your court.
This motion, Your Honor, involves a settlement with four of what, over the last few days, you've come to know as the splinter unions. They --

THE COURT: These are both non-UAW and --
MR. KAROTKIN: Non-I --
THE COURT: -- nonobjecting unions, or at least for not presently objecting unions, not the IUE steelworkers, and I forgot the third.
MR. KAROTKIN: Correct. That's correct. They encompass about 1,050 retirees and 150 active employees. There are four different settlement agreements annexed to the motion, each of which is substantially identical. And they basically provide, Your Honor, that the unions, as the 1114 representative of the covered groups, as defined in the settlement agreements, have agreed to the retiree -- the modified retiree benefits that, again, you heard about over the last few days, of the same nature that were offered to salaried employees and the same that were offered to the objecting parties as well.
But these four unions have agreed to that. Two of the unions have -- that have the active employees have also -- the debtor has also agreed to modify collective bargaining agreements with those two unions. And all of this is conditioned on approval and consummation of the sale.
And, again, like the UAW, in connection with each of these agreements, they've agreed to waive their claims for the retiree health and life benefits as against the debtor company.
THE COURT: Okay.

Any desire from the creditors' committee to be heard on this?
All right.
MR. KAROTKIN: Now, if I --
THE COURT: Normally -- I think the deadline for objections has passed, but considering the short notice, is there anybody who wants to be heard in the way of objection to that settlement?
Record will reflect no response.
MR. KAROTKIN: If I could interrupt for one second?
THE COURT: Yes.
MR. KAROTKIN: I'm sorry. If Your Honor's inclined to grant the relief in the motion, I would suggest that -- we don't have a proposed form of order with us. It was -- the form that we had was incorrect in a few respects, and we haven't had time to change it. My suggestion is if we could send it down to chambers over the next day or so.
THE COURT: I'm going to approve the motion, and your mechanics are okay with me, Mr. Karotkin. When you do that, I want your -- either your letter transmittal or your e-mail message accompanying any attached proposed order to be able to give me a representation of counsel for all of the objected unions and the creditors' committee and the U.S. government are satisfied with the form of the order as consistent with reflecting the deal as everybody understands it to be.

MR. KAROTKIN: Very well, sir.
THE COURT: Okay. Thank you.
What else do we have?
MR. KAROTKIN: The other item on the calendar is the approval of the wind-down facility. Now, I think that, based on the current state of play and all the negotiations that, again, you heard about earlier today with respect to that facility, I think the current state we're in right now is that the document is still in somewhat of a state of flux, although there is an agreement in principle as to the terms and provisions of the wind-down facility. Of course, the amount of the wind-down facility, as Your Honor heard this morning, would be 1.175 billion dollars.
I think all of the substantive terms have been agreed to. The document has not yet been finalized. We do have a proposed order that we will be in a position to submit later today or early tomorrow, which, as I understand it -- the terms of which have been substantially agreed to by both the debtors, the U.S. Treasury, the creditors' committee and the Paul Weiss firm representing the ad hoc committee of bondholders.
I don't -- there was some suggestion, Your Honor, that if we could take a short recess, perhaps we might even have a form of document down here. But --
THE COURT: That's not necessarily a problem, but before we get that far, I want to give Treasury and especially

the creditors' committee a chance to be heard if either of them wants to be.

Ms. Caton?

MS. CATON: Good afternoon, Your Honor. Amy Caton from Kramer Levin Naftalis & Frankel, on behalf of the creditors' committee. The wind-down credit facility has been a -- the product of a lot of negotiation by the creditors' committee. This is a very important document to us because it's going to govern how these estates run after the sale closes.

I believe we are satisfied largely with the resolution on the credit facility and the loan that Treasury is making. And there are a few nits that we still had to the credit agreement, but I think those will be worked out.

The one substantive comment that we have to the form of order that we're still trying to work out is corporate governance and how Old GM will be governed after the sale closes and the board leaves. I believe we have a proposal right now on the table, which is that two -- there will be a five-member board, two members of which will be proposed by the creditors' committee, nominated by the creditors' committee, and basically go through the same board approval.

THE COURT: Time out, Ms. Caton.

MS. CATON: Yes.

THE COURT: Is this an evolution since what I heard

this morning on that? I thought I heard of a three-person board, and now it sounds like it's up to five.

MS. CATON: Yes. Yes, Your Honor, it is.

MR. ECKSTEIN: There has been developments --

THE COURT: Evolution.

MR. ECKSTEIN: There has been evolution. A lot of parties have been put into this issue, and we have been trying to deal with changes as they've been evolving.

THE COURT: I understand. Okay.

MS. CATON: I apologize. I forgot about the representations that were made this morning.

THE COURT: No, that's fine. I am really trying to pay attention to what people tell me.

MS. CATON: That's good. That proves -- that definitely shows you're paying attention.

THE COURT: Is this like the guy who gets credit for having given another litigant an idea, or --

MS. CATON: Your Honor, I believe that the proposal on the table is acceptable to the creditors' committee and Weil, but we still need -- and the debtors, but we still need Treasury's acceptance of that, and that's what we're waiting on.

With that, I believe that we'll be prepared to have the order entered. And if Your Honor has any questions about the credit facility, we or Weil or anyone is happy to answer

them.

THE COURT: Well, I understand it in general terms. I'm sure I don't have the detailed understanding that the parties do, but certainly the concepts are fine with me.

Okay, anything else from your perspective, Ms. Caton?

MS. CATON: No, Your Honor.

THE COURT: Okay, Mr. Schwartz or Mr. Jones, either of you want to comment?

MR. SCHWARTZ: Not particularly. I think that was an accurate description in that we were comfortable with what was announced this morning. There have since been some proposals that we're working through, as well as the form of the order.

THE COURT: All right.

Mr. Karotkin, I'm not going anywhere this afternoon, but I'm not sure, from what I heard, whether you're going to have an order that's ready for me anytime that quickly.

MR. KAROTKIN: You read my mind. It's kind of like what you say. I suggest, Your Honor, since everyone pretty much has agreed on the substance, that rather than sticking around, we'd just submit an order to Your Honor after we've circulated it.

THE COURT: That's agreeable. And the drill is going to be the same. When I get it sent to me, I need a representation from whoever's sending it to me that it's been run past the people who are the principal ones who need to be

heard on it; I think that's Treasury and creditors' committee and the estate and Canada.

UNIDENTIFIED SPEAKER: Yes, Your Honor.

THE COURT: Right.

Okay. Mr. Schein, are your folks putting money in this deal too?

MR. SCHEIN: Your Honor, Canada is not actually funding this. But since it does change the rights of the existing DIP facility, it's conditioned upon certain provisions allowing the closing to happen. That's why we are concerned.

THE COURT: Sure.

Okay. Mr. Rosenberg?

MR. ROSENBERG: Good afternoon, Your Honor. Andrew Rosenberg, Paul, Weiss, Rifkind, Wharton & Garrison, on behalf of the ad hoc bondholders. I did -- actually, I think I was the second person or so to speak the first day. I didn't intend to be just the last person to speak on the last day, but I guess that's the way -- I just wanted to mention that when Your Honor was mentioning who needed to be served or passed by in terms of the documents, the Paul Weiss firm obviously has also been involved in looking at the sale order and the DIP order and the credit agreement. We just want to make sure also that we're staying in the loop and are going to see all drafts of those documents.

THE COURT: By all means.

Okay, Mr. Karotkin, I'm going to look to you to focus more than I focused on who needs to look at the paper you send me.

MR. KAROTKIN: Yes, sir.

THE COURT: And if you can give me a representation both that you've gotten the okays and that you've consulted everybody who has expressed the interest or need to be consulted, that'll be good enough for me.

MR. SMOLINSKY: Thank you, sir.

THE COURT: Okay.

And to what extent do we have anything else?

All right, I think we're done.

And you can get me your proposed orders by e-mail. I'm going to ask Mr. Pollack, Charlie, to hang around in case anybody needs details of e-mail addresses and things of that sort.

We're adjourned. Thank you.

MR. SMOLINSKY: Thank you, sir.

(Proceedings concluded at 3:57 PM)

I N D E X

R U L I N G S

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C E R T I F I C A T I O N

I, Lisa Bar-Leib, certify that the foregoing transcript is a true and accurate record of the proceedings.

_____

LISA BAR-LEIB
AAERT Certified Electronic Transcriber (CET**D-486)

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Date: July 6, 2009

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Exhibit 7

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:	::	CHAPTER 11
	::	CASE NO. 09-50026 (REG)
GENERAL MOTORS CORPORATION, *ET AL.*,	::	
	::	(JOINTLY
DEBTORS.	::	ADMINISTERED)

ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a), 361, 362, 363, 364 AND 507 AND BANKRUPTCY RULES 2002, 4001 AND 6004 (A) APPROVING AMENDMENT TO DIP CREDIT FACILITY TO PROVIDE FOR DEBTORS' POST-PETITION WIND-DOWN FINANCING

THIS MATTER having come before this Court by the motion dated June 29, 2009 (the "**Motion**") of General Motors Corporation ("**GM**") and its affiliated debtors in the above-captioned cases, as debtors and debtors-in-possession (collectively with GM, the "**Debtors**"),[1] seeking, among other things, entry of an order (the "**Order**") authorizing the Debtors,[2] pursuant to sections 105, 362, 363 and 364 of title 11 of the United States Code, as amended (the "**Bankruptcy Code**"), Rules 2002, 4001 and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Rule 4001 of the Local Bankruptcy Rules for the Southern District of New York (the "**Local Bankruptcy Rules**"), on or substantially contemporaneously with the closing of the Related Section 363 Transactions, to enter into that certain Amended and Restated Superpriority Debtor-in-Possession Credit Facility providing for

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[1] The Debtors in these cases include: GM, Saturn, LLC, Saturn Distribution Corporation, and Chevrolet-Saturn of Harlem, Inc.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Final DIP Order (as defined below).

the amendment and restatement of the terms applicable to the Tranche C Term Loan (as such term is defined in the DIP Credit Facility (as defined below)) funding the wind-down of the Debtors in an amount of $1,175,000,000 pursuant to and in accordance with section 2.14 of the DIP Credit Facility (as so amended and restated, the "**Amended DIP Facility**")[3]; and this Court previously having entered an order (the "**Final DIP Order**"), dated June 25, 2009 (Docket No. 2529), authorizing the Debtors, pursuant to sections 105, 362, 363 and 364 of the Bankruptcy Code and Rules 2002, 4001 and 6004 of the Bankruptcy Rules, and Rule 4001 of the Local Bankruptcy Rules, to enter into the Secured Superpriority Debtor-in-Possession Credit Agreement, by and among GM, as borrower, and The United States Department of the Treasury ("**U.S. Treasury**") and Export Development Canada ("**EDC**"), as lenders (together, and including any successors-in-interest, assigns or transferees thereof, the "**DIP Lenders**"), in substantially the form annexed as Exhibit 1 to the Final DIP Order (as the same may be amended, supplemented, restated or otherwise modified from time to time, including, without limitation, by the Amended DIP Facility, and together with all related agreements and documents, the "**DIP Credit Facility**"), and to obtain post-petition financing on a secured and super-priority basis pursuant to the terms and conditions thereof, up to a maximum aggregate amount of $33.3 billion (the "**Commitment**"); and the Final DIP Order having provided that the Amended DIP Facility, acceptable to the Debtors and the DIP Lenders, shall be subject to approval by this Court on three days notice after the filing of a motion seeking approval of the Amended DIP Facility; and this Court having considered the Motion, the Amended DIP Facility, and any pleadings in support thereof or in response thereto; and due and proper notice of the Motion having been provided in accordance with the Final DIP Order; and a hearing having been

[3] A copy of the Amended DIP Facility is annexed hereto as Exhibit 1.

held and concluded on July 2, 2009 (the "**Hearing**") to consider the relief requested in the Motion; and it appearing that granting the relief requested in the Motion is appropriate, fair and reasonable and in the best interests of the Debtors, their estates, creditors and other parties in interest, and is essential for the Debtors' continued operations; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York of Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Official Committee of Unsecured Creditors (the "**Committee**") having been actively engaged in substantive negotiations of the Amended DIP Facility and the Wind-Down Budget (as defined in the DIP Credit Facility); and all objections, if any, to the relief requested in the Motion having been withdrawn, resolved or overruled on the merits by this Court; and after due deliberation and consideration and good and sufficient cause appearing therefor; it is hereby

ORDERED that the Findings of Fact and Conclusions of Law set forth in the Final DIP Order are herein incorporated by reference and shall have the same force and effect as though fully set forth in this Order; and it is further

ORDERED that the Motion is granted, and all objections, if any, to the Motion heretofore not withdrawn or resolved are overruled on the merits in all respects; and it is further

ORDERED that the Amended DIP Facility, substantially in the form annexed hereto as Exhibit 1, is approved in all respects such that the Debtors are authorized to obtain post-petition financing in accordance with the Amended DIP Facility of

$1,175,000,000, on a super-priority and secured basis, pursuant and subject to the terms and conditions of the Amended DIP Facility, the Final DIP Order and this Order; and it is further

ORDERED that upon the execution of the Amended DIP Facility, the defined term "DIP Credit Facility" as used in the Final DIP Order and this Order is deemed to mean and refer to such credit facility, as amended by the Amended DIP Facility; and it is further

ORDERED that, except as modified by the Amended DIP Facility or this Order, the Final DIP Order shall remain in full force and effect; and it is further

ORDERED that the claims and liens granted to the DIP Lenders under the Final DIP Order shall apply as set forth therein to the Amended DIP Facility except as explicitly modified by the following upon the Effective Date (as defined in the Amended DIP Facility):

> (a) the claims of the DIP Lenders arising from the Amended DIP Facility, pursuant to sections 364(c)(1) and 507(b) of the Bankruptcy Code, and all other obligations owing to the DIP Lenders under the DIP Credit Facility shall be and are accorded a super-priority administrative expense status in each of these cases, and, subject only to the Carve-Out, shall have priority over any and all other administrative expenses and unsecured claims arising in these cases; provided, however, that subsequent to the closing of the Related Section 363 Transactions, claims against the Debtors' estates that have priority under Sections 503(b) or 507(a) of the Bankruptcy Code, including costs and expenses of administration that are attendant to the formulation and confirmation of a liquidating chapter 11 plan, whether incurred prior or subsequent to the consummation of the Related Section 363 Transactions shall have priority over such obligations (up to the aggregate amount of $1,175,000,000; provided, however, that any greater amount shall be subject to approval by the DIP Lenders) owing to the DIP Lenders under the Amended DIP Facility; and

(b) the DIP Liens granted under the Final DIP Order (i) shall continue under the Amended DIP Facility on the Property in the same force, effect and priority as set forth in the Final DIP Order to the extent any such Property remains Property of the Debtors (but, for the avoidance of doubt, shall not extend to any Property that has been transferred to a non-Debtor pursuant to the Related Section 363 Transaction), (ii) shall continue to be subject to the Carve-Out, and (iii) shall include the proceeds of the Amended DIP Facility; provided, however, notwithstanding anything to the contrary in this Order, the Final DIP Order, DIP Credit Facility or the Amended DIP Facility, the DIP Liens shall not include security interests in or liens on avoidance actions arising under chapter 5 of the Bankruptcy Code against the Prepetition Senior Facilities Secured Parties (as defined in the DIP Credit Facility) or any stock, warrants, options or other equity interests in New CarCo (as defined in the Amended DIP Facility) issued to or held by any Debtor (or any of its subsidiaries) pursuant to the Related Section 363 Transactions including any dividends, payments or other distributions thereon and any proceeds or securities received or receivable upon any disposition or exercise thereof (the "**New GM Equity Interests**").

ORDERED that substantially contemporaneously with the execution of the Amended DIP Facility, the amount of $1,175,000,000 in immediately available federal funds shall be deposited into a segregated bank account at a nationally recognized financial institution acceptable to the DIP Lenders; and it is further

ORDERED that, except as expressly permitted by this Order or the Amended DIP Facility or as otherwise permitted by the Wind-Down Budget, the proceeds of the Amended DIP Facility shall be used solely to finance the working capital needs and other general corporate purposes of the Debtors incurred in connection with the Wind-Down (as defined in the Amended DIP Facility), including the payment of expenses associated with the post-petition administration of the Debtors' cases; provided, however, that any allowed secured claims against the Debtors' estates may be paid or otherwise satisfied (including pursuant to a plan of liquidation) from the proceeds of the Amended DIP

Facility (other than the "TPC Excess Secured Claim" as defined in the Section 363 Sale Order (as defined in the Amended DIP Facility)); and provided, further, however, that any unused proceeds of the Amended DIP Facility shall be repaid to the Lender on the Maturity Date (as defined in the Amended DIP Facility); and it is further

ORDERED that, except as otherwise provided in the immediately preceding decretal paragraph of this Order, the proceeds of the Amended DIP Facility shall be unavailable to pay or otherwise satisfy any prepetition, general unsecured claims against the Debtors' estates; and it is further

ORDERED that the Loans (as defined in the Amended DIP Facility) shall be non-recourse to the Borrower and the Guarantors, such that the DIP Lenders' recourse under the Amended DIP Facility shall be only to the Collateral (as defined in the Amended DIP Facility) securing the DIP Loans, and nothing in this Order, the Final DIP Order, the DIP Credit Facility or the Amended DIP Facility shall, or shall be construed in any way, to authorize or permit the DIP Lenders to seek recourse against the New GM Equity Interests at any time; and it is further

ORDERED that the Debtors are authorized to take such other and further action as is necessary to implement the decretal provisions of this Order with respect to the Amended DIP Facility, subject only to the consent of the DIP Lenders as provided under the Amended DIP Facility or this Order; and it is further

ORDERED that Section 5.26 of the Amended DIP Facility shall not be amended without the prior written consent of the Required Lenders, the Creditors' Committee and New CarCo; and it is further

ORDERED that prior to the making of any optional prepayments by the Debtors under the Amended DIP Facility, the Committee shall have received prior written notice of such prepayment at least fourteen (14) days prior to the date such prepayment is to be made; and it is further

ORDERED that the Committee shall receive the same reports and financial statements provided by the Debtors to the DIP Lenders under sections 5.1 and 5.2 of the Amended DIP Facility in the same manner and at the same time provided to the DIP Lenders; and it is further

ORDERED that the Debtors have provided adequate and sufficient notice of the this Order as required under the Final DIP Order; and it is further

ORDERED that this Court shall retain exclusive jurisdiction to interpret and enforce the provisions of the Amended DIP Facility, the DIP Credit Facility, the Final DIP Order and this Order in all respects; provided, however, that in the event this Court abstains from exercising or declines to exercise jurisdiction with respect to any matter provided for in this paragraph or is without jurisdiction, such abstention, refusal, or lack of jurisdiction shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter.

Dated: New York, New York
July **5**, 2009

s/ Robert E. Gerber
HON. ROBERT E. GERBER
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

[Amended DIP Facility]

$1,175,000,000
AMENDED AND RESTATED SECURED SUPERPRIORITY
DEBTOR-IN-POSSESSION CREDIT AGREEMENT

among

MOTORS LIQUIDATION COMPANY
(f/k/a GENERAL MOTORS CORPORATION)
a Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code,
as the Borrower,

THE GUARANTORS

and

THE LENDERS PARTIES HERETO FROM TIME TO TIME

Dated as of July __, 2009

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ANNEXES:

SCHEDULES:

EXHIBITS:

AMENDED AND RESTATED SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT (this "Agreement"), dated as of July __, 2009, by and among MOTORS LIQUIDATION COMPANY (f/k/a General Motors Corporation), a Delaware corporation and a debtor and debtor-in-possession in a case pending under Chapter 11 of the Bankruptcy Code (as defined below) (the "Borrower"), the Guarantors (as defined below), and the several lenders from time to time parties to this Agreement (the "Lenders").

W I T N E S S E T H:

WHEREAS, on June 1, 2009 (the "Petition Date"), the Borrower, Saturn, LLC, a Delaware limited liability company, Saturn Distribution Corporation, a Delaware corporation, and Chevrolet-Saturn of Harlem, Inc., a Delaware corporation (each an "Initial Debtor" and collectively, the "Initial Debtors") filed voluntary petitions in the Bankruptcy Court (as defined below) for relief, and commenced cases (each an "Initial Case" and collectively, the "Initial Cases") under the Bankruptcy Code and have continued in the possession of their assets and in the management of their businesses pursuant to sections 1107 and 1108 of the Bankruptcy Code;

WHEREAS, on June 3, 2009, the Borrower entered into the Secured Superpriority Debtor-In-Possession Credit Agreement, among the Borrower, the guarantors party thereto and the Lenders (the "Existing Credit Agreement");

WHEREAS, pursuant to the Existing Credit Agreement, the Lenders provided the Borrower with (i) term loans in an aggregate amount equal to $_____ (the "Tranche B Term Loans") and (ii) term loans in an aggregate amount equal to $1,175,000,000 (the "Tranche C Term Loans");

WHEREAS, on June 25, 2009, the Bankruptcy Court entered the Final Order pursuant to the Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (the "Final Order") approving the terms and conditions of the Existing Credit Agreement and the Loan Documents (as defined in the Existing Credit Agreement);

WHEREAS, on July __, 2009, the Bankruptcy Court entered the Wind-Down Order pursuant to the Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (the "Wind-Down Order") approving the amendment to the Existing Credit Agreement to provide for Debtors' with post-petition, wind-down financing;

WHEREAS, pursuant to the Master Transaction Agreement (as defined below), on [July __, 2009] [the date hereof] the Treasury (as defined below) exchanged a portion of its Tranche B Term Loans in an amount equal to $_____ together with its Additional Notes (as defined in the Existing Credit Agreement) and its rights under the Existing UST Term Loan Agreement including the Warrant Note (as defined in the Existing UST Loan Agreement as defined below) and the Additional Notes (as defined in the Existing UST Loan Agreement) to

New CarCo (as defined below) in exchange for common and preferred Capital Stock (as defined below) of New CarCo;

WHEREAS, pursuant to the Master Transaction Agreement, on [July __, 2009] [the date hereof] the Canadian Lender exchanged a portion of its Tranche B Term Loans in an amount equal to $_____ together with its Additional Notes to New CarCo in exchange for common and preferred Capital Stock of New CarCo;

WHEREAS, pursuant to the Master Transaction Agreement and in accordance with the Section 363 Sale Order (as defined below), the Borrower sold to New CarCo certain of its assets and property, and New CarCo assumed certain liabilities of the Borrower and its Subsidiaries (as defined below), including a portion of the Treasury's Tranche B Term Loans in an aggregate amount equal to $7,072,488,605 pursuant to the Assignment and Assumption Agreement, dated as of the date hereof (the "New CarCo Assignment and Assumption"), between the Borrower and New CarCo (collectively, and together with the other transactions contemplated by the Transaction Documents, the "Related Section 363 Transactions");

WHEREAS, after giving effect to the Related Section 363 Transactions, the remaining obligations of the Borrower to the Lenders are comprised solely of the Tranche C Term Loans; and

WHEREAS, the Borrower has requested, and the Lenders have agreed, to amend and restate the portion of the Existing Credit Agreement relating to the Tranche C Term Loans on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and mutual agreements contained herein, the parties hereto agree that on the Effective Date, as provided in Section 8.19, the Existing Credit Agreement shall be amended and restated in its entirety as follows:

SECTION 1

DEFINITIONS

1.1. Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABR": for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greater of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the three month Eurodollar Rate (for the avoidance of doubt after giving effect to the provisos in the definition thereof) plus 1.00%; provided that, in the event the Required Lenders shall have determined that adequate and reasonable means do not exist for ascertaining the calculation of clause (c), such calculation shall be replaced with the last available calculation of the three month Eurodollar Rate plus 1.00%. Any change in the ABR due to a change in the Prime Rate, the Federal Funds Effective Rate or the three month Eurodollar Rate shall be effective as of the opening of business on the effective

day of such change in the Prime Rate, the Federal Funds Effective Rate or the three month Eurodollar Rate, respectively.

"ABR Loans": Loans the rate of interest applicable to which is based upon the ABR.

"Additional Guarantor": as defined in Section 5.23.

"Administrative/Priority Claim Payment Amount": any positive amount equal to the difference between $200,000,000 and the aggregate amount paid or payable (or specifically reserved for payment as such) to satisfy all of the administrative and priority claims comprising the Administrative/ Priority Claim Tranche.

"Administrative/ Priority Claim Payment Date": the first Business Day after which the administrative and priority claims that comprise the Administrative/ Priority Claim Tranche are satisfied in full or otherwise finalized so that no such claims remain outstanding and unsatisfied, but in no case later than the date on which a liquidation plan with respect to the Debtors is approved by the Bankruptcy Court and declared effective.

"Administrative/Priority Claim Tranche": an amount under the Wind-Down Budget up to $200,000,000 that was allocated as of the Effective Date to cover anticipated (i) administrative claims related to contract rejections by the Debtors and (ii) priority claims against the Debtors, each as further described in the Wind-Down Budget. The description of the administrative and priority claims that are to be set forth in the Wind-Down Budget shall reflect such categories, provisions and assumptions such that a good faith estimate, as of the Effective Date, of the sum of the obligations arising from the claims referenced in clauses (i) and (ii) above shall be at least equal to $200,000,000.

"Affiliate": with respect to any Person, any other Person which, directly or indirectly, controls, is controlled by, or is under common control with, such Person. For purposes of this Agreement, "control" (together with the correlative meanings of "controlled by" and "under common control with") means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by contract, or otherwise. For the avoidance of doubt, pension plans of a Person and entities holdings the assets of such plans, shall not be deemed to be Affiliates of such Person.

"Aggregate Exposure Percentage": with respect to any Lender at any time, the ratio (expressed as a percentage) of such Lender's aggregate but unpaid principal amount of such Lender's Loans at such time to the sum of the aggregate but unpaid principal amount of all Lenders' Loans at such time.

"Agreement": as defined in the preamble hereto.

"Anti-Money Laundering Laws": as defined in Section 3.18(d).

"Applicable Law": as to any Person, all laws (including common law), statutes, regulations, ordinances, treaties, judgments, decrees, injunctions, writs and orders of any court,

governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any Governmental Authority applicable to such Person or its property or in respect of its operations.

"Applicable Margin": (A) 2.0% per annum in the case of ABR Loans and (B) 3.0% per annum in the case of Eurodollar Loans.

"Assignee": as defined in Section 8.6(b).

"Assignment and Assumption": an Assignment and Assumption, substantially in the form of Exhibit C.

"Bankruptcy Code": the United States Bankruptcy Code, 11 U.S.C. Section 101 *et seq.*

"Bankruptcy Court": the United States Bankruptcy Court for the Southern District of New York (together with the District Court for the Southern District of New York, where applicable).

"Bankruptcy Exceptions": limitations on, or exceptions to, the enforceability of an agreement against a Person due to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally or the application of general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity.

"Bankruptcy Rules": the Federal Rules of Bankruptcy Procedure and local rules of the Bankruptcy Court, each as amended, and applicable to the Cases.

"Benefitted Lender": as defined in Section 8.7(a).

"Board": the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower": as defined in the recitals.

"Business Day": any day other than a Saturday, Sunday or other day on which banks in New York City or Ottawa, Ontario, Canada are permitted to close; provided, however, that when used in connection with a Eurodollar Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in Dollar deposits in the London Interbank market.

"Canadian Lender": Export Development Canada, a corporation established pursuant to the laws of Canada, and its successors and assigns.

"Canadian Lender Consortium Members": each of the Export Development Canada, the Government of Canada and the Government of Ontario.

"Canadian Post-Sale Facility": the Amended and Restated Loan Agreement, dated as of the [Effective Date], by and among General Motors of Canada Limited, as borrower, the other loan parties thereto, and the Canadian Lender.

"Canadian PV Loan Agreement": the Loan Agreement, dated as of the [Effective Date], by and among New CarCo, as borrower, the other loan parties thereto, and the Canadian Lender.

"Capital Lease Obligations": for any Person, all obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) Property to the extent such obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under GAAP, and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP.

"Capital Stock": any and all equity interests, including any shares of stock, membership or partnership interests, participations or other equivalents whether certificated or uncertificated (however designated) of a corporation, limited liability company, partnership or any other entity, and any and all similar ownership interests in a Person and any and all warrants or options to purchase any of the foregoing.

"Carve-Out": as defined in the Orders.

"Cases": the Initial Cases and each other case of a Debtor filed with the Bankruptcy Court and joined with the Initial Cases.

"Cash Equivalents": shall mean (a) Dollars, or money in other currencies received in the ordinary course of business, (b) securities with maturities of one (1) year or less from the date of acquisition issued or fully guaranteed or insured by the United States or Canadian government or any agency thereof, (c) securities with maturities of one (1) year or less from the date of acquisition issued or fully guaranteed by any state, province, commonwealth or territory of the United States or Canada, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least "A" by S&P or "A" by Moody's or equivalent rating, (d) demand deposit, certificates of deposit and time deposits with maturities of one (1) year or less from the date of acquisition and overnight bank deposits of any commercial bank, supranational bank or trust company having capital and surplus in excess of $500,000,000, (e) repurchase obligations with respect to securities of the types (but not necessarily maturity) described in clauses (b) and (c) above, having a term of not more than 90 days, of banks (or bank holding companies) or subsidiaries of such banks (or bank holding companies) and non-bank broker-dealers listed on the Federal Reserve Bank of New York's list of primary and other reporting dealers ("Repo Counterparties"), which Repo Counterparties have capital, surplus and undivided profits aggregating in excess of $500,000,000 (or the foreign equivalent thereof) and which Repo Counterparties or their parents (if the Repo Counterparties are not rated) will at the time of the transaction be rated "A-1" by S&P (or such similar equivalent rating) or higher by at least one nationally recognized statistical rating organization, (f) commercial paper rated at least A-1 or the equivalent thereof by S&P or P-1 or the equivalent thereof by Moody's and in either

case maturing within one (1) year after the day of acquisition, (g) short-term marketable securities of comparable credit quality, (h) shares of money market mutual or similar funds which invest at least 95% in assets satisfying the requirements of clauses (a) through (g) of this definition, and (i) in the case of a Foreign Subsidiary, substantially similar investments, of comparable credit quality, denominated in the currency of any jurisdiction in which such Person conducts business.

"Change of Control": with respect to the Borrower, the acquisition, after the Closing Date, by any other Person, or two or more other Persons acting in concert other than the Permitted Holders, the Lenders or any Affiliate of the Lenders, of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of outstanding shares of voting stock of the Borrower at any time if after giving effect to such acquisition such Person or Persons owns twenty percent (20%) or more of such outstanding voting stock.

"Closing Date": June 3, 2009.

"Code": the Internal Revenue Code of 1986, as amended from time to time.

"Collateral": all property and assets of the Loan Parties of every kind or type whatsoever, including tangible, intangible, real, personal or mixed, whether now owned or hereafter acquired or arising, wherever located, all property of the estates of each Debtor within the meaning of section 541 of the Bankruptcy Code (including avoidance actions arising under Chapter 5 of the Bankruptcy Code and applicable state law except avoidance actions against the Prepetition Senior Facilities Secured Parties (as defined in the Final Order)), all property pledged to secure the Obligations under each Collateral Document (other than the Orders) and all proceeds, rents and products of the foregoing other than Excluded Collateral. For the avoidance of doubt, the proceeds of the Tranche C Term Loans constitute Collateral.

"Collateral Documents": means, collectively, the Orders, the Guaranty, the Equity Pledge Agreement, each Mortgage, collateral assignment, security agreement, pledge agreement or similar agreements delivered to the Lenders to secure the Obligations. The Collateral Documents (other than the Orders) shall supplement, and shall not limit, the grant of Collateral pursuant to the Orders.

"Committee": any statutory committee appointed in the Cases.

"Compensation Regulations": as defined in Section 5.16(a)(i).

"Compliance Certificate": a certificate duly executed by a Responsible Officer, substantially in the form of Exhibit F, for the immediately prior calendar month and on a cumulative basis from the Petition Date.

"Contractual Obligation": as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control": as defined in the definition of "Affiliate".

"Controlled Affiliate": as defined in Section 3.18(a).

"Convention": as defined in Section 2.12(d).

"Debtor": each of the Initial Debtors and, subject to the written consent of the Required Lenders, each other Subsidiary of the Initial Debtors to the extent that (i) such Subsidiary files with the Bankruptcy Court, (ii) such case is joined with the Cases and (iii) such Subsidiary is subject, by order of the Bankruptcy Court, to the previously issued orders relating to the Cases (including the Orders).

"Debtor Successor": with respect to any Debtor, (i) a "liquidating trust," within the meaning of Treas. Reg. § 301.7701-4, to which such Debtor's assets are distributed, or (ii) any other entity established for the sole purpose of liquidating the assets of such Debtor.

"Default": any event, that with the giving of notice, the lapse of time, or both, would become an Event of Default.

"Disposition": with respect to any Property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof; and the terms "Dispose" and "Disposed of" shall have correlative meanings.

"Dollar Equivalent": on any date of determination, (a) with respect to any amount denominated in Dollars, such amount and (b) with respect to an amount denominated in any other currency, the equivalent in Dollars of such amount as determined by the Treasury in accordance with normal banking industry practice using the Exchange Rate on the date of determination of such equivalent. In making any determination of the Dollar Equivalent, the Treasury shall use the relevant Exchange Rate in effect on the date on which a Dollar Equivalent is required to be determined pursuant to the provisions of this Agreement. As appropriate, amounts specified herein as amounts in Dollars shall include any relevant Dollar Equivalent amount.

"Dollars" and "$": the lawful money of the United States.

"Domestic 956 Subsidiary": any U.S. Subsidiary substantially all of the value of whose assets consist of equity of one or more Foreign 956 Subsidiaries for U.S. federal income tax purposes.

"Domestic Subsidiary": any Subsidiary that is organized or existing under the laws of the United States or Canada or any state, province, commonwealth or territory of the United States or Canada.

"EAWA": the Employ American Workers Act (Section 1611 of Division A, Title XVI of the American Recovery and Reinvestment Act of 2009), Public Law No. 111-5, effective as of February 17, 2009, as may be amended and in effect from time to time.

"EESA": the Emergency Economic Stabilization Act of 2008, Public Law No. 110-343, effective as of October 3, 2008, as amended by Section 7000 *et al.* of Division A,

Title VII of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, effective as of February 17, 2009, as may be further amended and in effect from time to time.

"Effective Date": the date on which the conditions precedent set forth in Section 4.1 shall have been satisfied, which date shall not be later than the date on which the Related Section 363 Transactions are consummated.

"EISA": the Energy Independence and Security Act of 2007, Public Law No. 110-140, effective as of January 1, 2009, as may be amended and in effect from time to time.

"Embargoed Person": as defined in Section 3.19.

"Environmental Agreement": the Environmental Agreement dated as of the date hereof, executed by the Loan Parties for the benefit of the Lenders, substantially in the form of Exhibit I.

"Environmental Laws": any and all foreign, Federal, state, provincial, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of the environment or natural resources, as now or may at any time hereafter be in effect.

"Environmental Permits": any and all permits, licenses, approvals, registrations, notifications, exemptions and other authorizations required under any Environmental Law.

"Environmental Tranche" an amount under the Wind-Down Budget up to $500,000,000 that was allocated as of the Effective Date to cover anticipated environmental related expenses and claims.

"Equity Pledge Agreement": the Amended and Restated Equity Pledge Agreement dated as of the date hereof, made by each Pledgor in favor of the Lenders, substantially in the form of Exhibit L.

"ERISA": the Employee Retirement Income Security Act of 1974, as amended from time to time.

"Eurocurrency Reserve Requirements": for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board) maintained by a member bank of the Federal Reserve System; provided that the Eurocurrency Reserve Requirements shall be $0 with respect to the Canadian Lender.

"Eurodollar Base Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate per annum determined on the basis of the rate for deposits in Dollars for a period equal to such Interest Period commencing on the first day of such

Interest Period appearing on page LIBOR01 of the Reuters screen as of 11:00 a.m. (London time) two Business Days prior to the beginning of such Interest Period. In the event that such rate does not appear on such page of the Reuters screen (or otherwise on such screen), the Eurodollar Base Rate shall be determined by reference to such other comparable publicly available service for displaying eurodollar rates as may be selected by the Treasury or, in the absence of such availability, by reference to the rate at which a reference institution selected by the Treasury is offered Dollar deposits at or about 11:00 a.m. (New York City time) two Business Days prior to the beginning of such Interest Period in the interbank eurodollar market where its eurodollar and foreign currency and exchange operations are then being conducted for delivery on the first day of such Interest Period for the number of days comprised therein.

"Eurodollar Loans": Loans the rate of interest applicable to which is based upon the Eurodollar Rate.

"Eurodollar Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum determined for such day in accordance with the following formula (rounded upward to the nearest 1/100th of 1%):

$$\frac{\text{Eurodollar Base Rate}}{1.00 - \text{Eurocurrency Reserve Requirements}}$$

; provided that, in no event shall the Eurodollar Rate be less than 2.00%.

"Event of Default": as defined in Section 7.

"Exchange Act": the Securities and Exchange Act of 1934, as amended.

"Exchange Rate": for any day with respect to any currency (other than Dollars), the rate at which such currency may be exchanged into Dollars, as set forth at 11:00 a.m. (New York time) on such day on the applicable Bloomberg currency page with respect to such currency. In the event that such rate does not appear on the applicable Bloomberg currency page, the Exchange Rate with respect to such currency shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Treasury and the Borrower or, in the absence of such agreement, such Exchange Rate shall instead be the spot rate of exchange of a reference institution selected by the Treasury in the London Interbank market or other market where such reference institution's foreign currency exchange operations in respect of such currency are then being conducted, at or about 11:00 a.m. (New York time) on such day for the purchase of Dollars with such currency, for delivery two Business Days later; provided, however, that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Treasury may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

"Excluded Collateral": as defined in Schedule 3.28. For the avoidance of doubt, Excluded Collateral shall at all times include the New GM Equity Interests and tax refunds due to Canadian subsidiaries.

"Excluded Subsidiary": (i) any JV Subsidiary in which any Loan Party owns less than 80% of the voting or economic interest, (ii) any U.S. Subsidiary of the Borrower listed as one of the "Domestic Entities" on Annex 1 to Schedule 3.28 other than the Loan Parties listed therein, (iii) any Subsidiary of the Borrower existing on the Closing Date that the Borrower does not Control as of the Closing Date (including, without limitation, dealerships wholly owned by the Borrower that are operated by a third party pursuant to an agreement in effect on the Petition Date), (iv) [intentionally omitted] and (v) any Subsidiary set forth on Schedule 1.1G as such Schedule 1.1G may be amended from time to time with the consent of the Required Lenders.

"Executive Order": as defined in Section 3.19.

"Existing Agreements": the agreements of the Loan Parties and their Subsidiaries in effect on the Closing Date and any extensions, renewals and replacements thereof so long as any such extension, renewal and replacement could not reasonably be expected to have a material adverse effect on the rights and remedies of the Lenders under any of the Loan Documents.

"Existing Credit Agreement": as defined in the recitals.

"Existing UST Term Loan Agreement": the Loan and Security Agreement, dated as of December 31, 2008, between the Borrower and the Treasury.

"Expense Policy": the Borrower's comprehensive written policy on corporate expenses maintained and implemented in accordance with the Treasury regulations contained in 31 C.F.R. Part 30.

"Federal Funds Effective Rate": for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by JPMorgan Chase Bank, N.A. from three federal funds brokers of recognized standing selected by it.

"Final Order": as defined in the recitals.

"Foreign Assets Control Regulations": as defined in Section 3.19.

"Foreign 956 Subsidiary": any Non-U.S. Subsidiary of the Borrower that is a "controlled foreign corporation" as defined in Code Section 957.

"Foreign Subsidiary": any Subsidiary that is not a Domestic Subsidiary.

"Funding Office": the office of each Lender specified in Schedule 1.1A or such other office as may be specified from time to time by such Lender as its funding office by written notice to the Borrower.

"GAAP": generally accepted accounting principles as in effect from time to time in the United States.

"Governmental Authority": any federal, state, provincial, municipal or other governmental department, commission, board, bureau, agency or instrumentality, or any federal, state or municipal court, in each case whether of the United States or a foreign jurisdiction.

"Group Members": the collective reference to the Borrower and its Subsidiaries.

"Guarantee Obligation": as to any Person, any obligation of such Person directly or indirectly guaranteeing any Indebtedness of any other Person or in any manner providing for the payment of any Indebtedness of any other Person or otherwise protecting the holder of such Indebtedness against loss (whether by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, or to take-or-pay or otherwise), provided that the term "Guarantee Obligation" shall not include (i) endorsements for collection or deposit in the ordinary course of business, or (ii) obligations to make servicing advances for delinquent taxes and insurance, or other obligations in respect of a Mortgaged Property, to the extent required by the Lenders. The amount of any Guarantee Obligation of a Person shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith. The terms "Guarantee" and "Guaranteed" used as verbs shall have correlative meanings.

"Guarantor": each Person listed on Schedule 1.1B and each other Person that becomes an Additional Guarantor.

"Guaranty": the Amended and Restated Guaranty and Security Agreement dated as of the date hereof, executed and delivered by the Borrower and each Guarantor, substantially in the form of Exhibit A.

"Indebtedness": for any Person: (a) obligations created, issued or incurred by such Person for borrowed money (whether by loan, the issuance and sale of debt securities or the sale of Property to another Person subject to an understanding or agreement, contingent or otherwise, to repurchase such Property from such Person); (b) obligations of such Person to pay the deferred purchase or acquisition price of Property or services; (c) indebtedness of others of the type referred to in clauses (a), (b), (d), (e), (f), (g) and (i) of this definition secured by a Lien on the Property of such Person, whether or not the respective indebtedness so secured has been assumed by such Person; (d) obligations (contingent or otherwise) of such Person in respect of letters of credit or similar instruments issued or accepted by banks and other financial institutions for the account of such Person; (e) Capital Lease Obligations of such Person; (f) obligations of such Person under repurchase agreements or like arrangements; (g) indebtedness of others of the type referred to in clauses (a), (b), (d), (e), (f), (h) and (i) of this definition guaranteed by such Person; (h) all obligations of such Person incurred in connection with the acquisition or carrying of fixed assets by such Person; (i) indebtedness of general partnerships of which such Person is a general partner unless the terms of such indebtedness expressly provide that such Person is not liable therefor; (j) the liquidation value of all redeemable preferred Capital Stock of such Person; and (k) any other indebtedness of such Person evidenced by a note, bond, debenture or similar instrument.

"Indemnified Liabilities": as defined in Section 8.5.

"Indemnitee": as defined in Section 8.5.

"Initial Case": as defined in the recitals.

"Initial Debtors": as defined in the recitals.

"Interest Payment Date": (a) as to any ABR Loan, the first day of each March, June, September and December to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any Eurodollar Loan, the last day of such Interest Period, and (c) as to any Loan, the date of any repayment or prepayment made in respect thereof.

"Interest Period": as to any Eurodollar Loan, (i) initially, the period commencing on the Borrowing Date (as defined in the Existing Credit Agreement) with respect to such Loan and ending three months thereafter; and (ii) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Loan and ending three months thereafter; provided that all of the foregoing provisions relating to Interest Periods are subject to the following:

(A) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(B) any Interest Period that would otherwise extend beyond the Maturity Date shall end on the Maturity Date; and

(C) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period.

"Interim Order": the Interim Order entered June 2, 2009 by the Bankruptcy Court pursuant to Bankruptcy Code sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (a) approving this Agreement and authorizing the Loan Parties to obtain Postpetition financing pursuant thereto, (b) granting related Liens and Superpriority Claims, (c) granting adequate protection to certain Prepetition secured parties, and (d) scheduling a final hearing.

"Investments": as defined in Section 6.10.

"JV Agreement": each partnership or limited liability company agreement (or similar agreement) between a North American Group Member or one of its Subsidiaries and the relevant JV Partner as the same may be amended, restated, supplemented or otherwise modified from time to time, in accordance with the terms hereof.

"JV Partner": each Person party to a JV Agreement that is not a Loan Party or one of its Subsidiaries.

"JV Subsidiary": any Subsidiary of a Group Member which is not a Wholly Owned Subsidiary and as to which the business and management thereof is jointly controlled by the holders of the Capital Stock therein pursuant to customary joint venture arrangements.

"Lenders": as defined in the preamble hereto.

"Lien": any mortgage, pledge, security interest, lien or other charge or encumbrance (in the nature of a security interest), including the lien or retained security title of a conditional vendor, upon or with respect to any property or assets.

"Loan Documents": this Agreement, the Notes, the Environmental Indemnity Agreement, the Collateral Documents and each post-closing letter or agreement now and hereafter entered into among the parties hereto.

"Loan Parties": the Borrower, each Guarantor and the Pledgors.

"Loans": as defined in Section 2.1.

"Master Transaction Agreement": that certain Amended and Restated Master Sale and Purchase Agreement, dated as of June 26, 2009, among New CarCo and the sellers party thereto.

"Material Adverse Effect": a material adverse effect on (a) the business, operations, property, condition (financial or otherwise) or prospects of the Borrower and its Subsidiaries (taken as a whole), (b) the ability of the Loan Parties (taken as a whole) to perform any of their obligations under any of the Loan Documents to which they are a party, (c) the validity or enforceability in any material respect of any of the Loan Documents to which the Loan Parties are a party, (d) the rights and remedies of the Lenders under any of the Loan Documents, or (e) the Collateral (taken as a whole); provided that, (w) the taking of any action by the Borrower and its Subsidiaries, including the cessation of production, pursuant to and in accordance with the Wind-Down Budget, (x) the filing of the Cases, and (y) any sale pursuant to any Related Section 363 Transaction or any other action taken pursuant to the Orders, shall not be taken into consideration.

"Material Environmental Amount": $50,000,000.

"Maturity Date": the first date on which each of the following shall have occurred (which date may be extended by the Lenders in their sole discretion in accordance with Section 8.1): (i) all claims against the Debtors have been resolved such that there are no remaining disputed claims, (ii) all assets of the Debtors (other than remaining cash) have been liquidated and (iii) all distributions on account of allowed claims have been made, and all other actions that are required under the plan of liquidation (other than the dissolution of the last remaining Debtor) have been completed. On the Maturity Date, the plan administrator or other individual or entity charged with administering the liquidation plan shall be entitled to retain a de minimis amount of funds to complete the dissolution of the last remaining Debtor. As used in this definition, references to a Debtor includes its Debtor Successor.

"Moody's": Moody's Investors Service, Inc. and its successors.

"Mortgage": each of the mortgages and deeds of trust made by the Borrower or any Guarantor in favor of, or for the benefit of, the Lenders, substantially in the form of Exhibit J, taking into consideration the law and jurisdiction in which such mortgage or deed of trust is to be recorded or filed, to the extent applicable.

"Mortgaged Property": each property listed on Schedule 1.1C, as to which the Lenders shall be granted a Lien pursuant to the Orders or the Mortgages.

"New CarCo": General Motors Company (formerly known as NGMCO, Inc.), a Delaware corporation and successor-in-interest to Vehicle Acquisition Holdings, LLC.

"New CarCo Assignment and Assumption": as defined in the recitals.

"New GM Equity Interests": any stock, warrants, options or other equity interests of New CarCo or any of its Subsidiaries issued to or held by any Debtor (or any of its Subsidiaries) pursuant to the Related Section 363 Transactions, including any (i) subsequent dividends, payment or other distribution thereon, and (ii) proceeds received or receivable upon any disposition thereof.

"Non-Debtor": each Subsidiary of the Borrower that is not a Debtor.

"Non-Excluded Taxes": as defined in Section 2.12(a).

"Non-U.S. Lender": as defined in Section 2.12(d).

"Non-U.S. Subsidiary": any Subsidiary of any Loan Party that is not a U.S. Subsidiary.

"North American Group Members": collectively, the Loan Parties and each Domestic Subsidiary that is not an Excluded Subsidiary.

"Notes": as defined in Section 4.1(a)(vi) and any promissory notes issued in connection with an assignment contemplated by Section 2.3(b).

"Obligations": the unpaid principal of and interest on (including, without limitation, interest accruing after the maturity of the Loans and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Loan Party, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of any Loan Party to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including, without limitation, all fees, charges and disbursements of counsel to any Lender that are required to be paid by any Loan Party pursuant hereto) or otherwise.

"OFAC": the Office of Foreign Assets Control of the Treasury.

"Orders": the Interim Order, the Final Order and the Wind-Down Order.

"Other Foreign 956 Subsidiary": any Non-U.S. Subsidiary substantially all of the value of whose assets consist of equity of one or more Foreign 956 Subsidiaries for U.S. federal income tax purposes.

"Other Taxes": any and all present or future stamp or documentary taxes and any other excise or property taxes, intangible or mortgage recording taxes, charges or similar levies imposed by the United States or any taxing authority thereof or therein arising from any payment made, or from the execution, delivery or enforcement of, or otherwise with respect to this Agreement or any other Loan Document.

"Participant": as defined in Section 8.6(c).

"Permitted Holders": any holder of any Capital Stock of the Borrower as of the Closing Date.

"Permitted Indebtedness":

(a) Indebtedness created under any Loan Document;

(b) [intentionally omitted];

(c) trade payables, if any, in the ordinary course of its business;

(d) Indebtedness existing on the Petition Date and any refinancings, refundings, renewals or extensions thereof (without any increase, or any shortening of the maturity, of any principal amount thereof);

(e) intercompany Indebtedness of a North American Group Member in the ordinary course of business; provided that, the right to receive any repayment of such Indebtedness (other than Indebtedness meeting the criteria of clause (d) above, or any extensions, renewals, exchanges or replacements thereof) shall be subordinated to the Lenders' rights to receive repayment of the Obligations;

(f) [intentionally omitted];

(g) [intentionally omitted];

(h) Swap Agreements permitted pursuant to Section 6.15 that are not entered into for speculative purposes;

(i) Indebtedness with respect to (x) letters of credit, bankers' acceptances and similar instruments issued in the ordinary course of business, including letters of credit, bankers' acceptances and similar instruments in respect of the financing of insurance premiums, customs, stay, performance, bid, surety or appeal bonds and similar obligations, completion guaranties, "take or pay" obligations in supply agreements, reimbursement obligations regarding workers' compensation claims, indemnification,

adjustment of purchase price and similar obligations incurred in connection with the acquisition or Disposition of any business or assets, and sales contracts, coverage of long-term counterparty risk in respect of insurance companies, purchasing and supply agreements, rental deposits, judicial appeals and service contracts and (y) appeal, bid, performance, surety, customs or similar bonds issued for the account of any Loan Party in the ordinary course of business;

(j) Indebtedness incurred in the ordinary course of business in connection with cash management and deposit accounts and operations, netting services, employee credit card programs and similar arrangements and Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five Business Days of its incurrence;

(k) any guarantee by any Loan Party of Permitted Indebtedness; and

(l) Indebtedness entered into under Section 136 of EISA.

"Permitted Investments":

(a) any Investment in Cash Equivalents;

(b) any Investment by a Loan Party in the Borrower, another Loan Party, or a Pledged Entity that is a Domestic Subsidiary;

(c) [intentionally omitted];

(d) any Investment (i) existing on the Effective Date, or (ii) consisting of any extension, modification or renewal of any Investment existing on the Closing Date; provided that the amount of any such Investment is not increased through such extension, modification or renewal;

(e) [intentionally omitted];

(f) [intentionally omitted];

(g) [intentionally omitted];

(h) any Investment otherwise permitted under this Agreement;

(i) Investments in Indebtedness of, or Investments guaranteed by, Governmental Authorities, in connection with industrial revenue, municipal, pollution control, development or other bonds or similar financing arrangements;

(j) [intentionally omitted];

(k) Trade Credit;

(l) [intentionally omitted];

(m) Investments (i) received in satisfaction or partial satisfaction of delinquent accounts and disputes with customers or suppliers in the ordinary course of business, or (ii) acquired as a result of foreclosure of a Lien securing an Investment or the transfer of the assets subject to such Lien in lieu of foreclosure;

(n) commercial transactions in the ordinary course of business with the Borrower or any of its Subsidiaries to the extent such transactions would constitute an Investment;

(o) conveyance of Collateral in an arm's-length transaction to a Subsidiary that is not a Loan Party or an Affiliate of the Borrower for non-cash consideration consisting of Trade Credit or other Property to become Collateral having a fair market value equal to or greater than the fair market value of the conveyed Collateral; and

(p) Investments after the Effective Date in (i) dealerships of the Borrower and its Subsidiaries in the United States in an aggregate amount not exceeding $2,500,000 and (ii) General Motors Strasbourg, S.A. in an aggregate amount not exceeding $7,500,000.

"Permitted Liens": with respect to any Property of any North American Group Member:

(a) Liens created under the Loan Documents;

(b) Liens on Property of a North American Group Member existing on the date hereof (including Liens on Property of a North American Group Member pursuant to Existing Agreements; provided that such Liens shall secure only those obligations and any permitted refinancing that they secure on the date hereof);

(c) [intentionally omitted];

(d) Liens for taxes and utility charges not yet due or that are being contested in good faith, by proper proceedings diligently pursued, and as to which adequate reserves have been provided;

(e) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business and securing obligations that are not due and payable or that are being contested in compliance with Section 5.8;

(f) Liens securing reimbursement obligations with respect to letters of credit that encumber documents and other property relating to such letters of credit and the proceeds thereof;

(g) Liens securing Swap Agreements permitted pursuant to Section 6.15;

(h) Liens created in the ordinary course of business in favor of banks and other financial institutions over balances of any accounts held at such banks or financial institutions or over investment property held in a securities account, as the case may be,

to facilitate the operation of cash pooling, cash management or interest set-off arrangements;

(i) customary Liens in favor of trustees and escrow agents, and netting and set-off rights, banker's liens and the like in favor of counterparties to financial obligations and instruments, including, without limitation, Swap Agreements permitted pursuant to Section 6.15;

(j) Liens securing Indebtedness incurred under Section 136 of EISA;

(k) pledges and deposits made in the ordinary course of business in compliance with workmen's compensation, unemployment or other insurance and other social security laws or regulations;

(l) deposits to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capital Lease Obligations), statutory obligations, surety, customs and appeal bonds, performance bonds and other obligations of a like nature, or to secure the payment of import or customs duties, in each case incurred in the ordinary course of business;

(m) zoning and environmental restrictions, easements, licenses, encroachments, covenants and servitudes, rights-of-way, restrictions on use of real property or groundwater, institutional controls and other similar encumbrances or deed restrictions incurred in the ordinary course of business that, in the aggregate, are not substantial in amount and do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of any North American Group Member;

(n) [intentionally omitted];

(o) judgment Liens securing judgments;

(p) any Lien consisting of rights reserved to or vested in any Governmental Authority by statutory provision;

(q) Liens securing Indebtedness described in clauses (d) and (e) of the definition of Permitted Indebtedness;

(r) pledges or deposits made to secure reimbursement obligations in respect of letters of credit issued to support any obligations or liabilities described in clauses (k) or (l) of this definition;

(s) [intentionally omitted];

(t) [intentionally omitted]; and

(u) other Liens created or assumed in the ordinary course of business of the North American Group Member; provided that the obligations secured by all such Liens shall not exceed the principal amount of $10,000,000.

"Person": any individual, corporation, company, voluntary association, partnership, joint venture, limited liability company, trust, unincorporated association or government (or any agency, instrumentality or political subdivision thereof).

"Petition Date": as defined in the recitals hereto.

"Pledged Entity": a Subsidiary of a Loan Party whose Capital Stock is subject to a security interest in favor of the Lenders pursuant to the Orders or the Collateral Documents.

"Pledgors": the parties set forth on Schedule 1.1D and each other Person that makes a pledge in favor of the Lenders under the Equity Pledge Agreement.

"Postpetition": when used with respect to any agreement or instrument, any claim or proceeding or any other matter, shall refer to an agreement or instrument that was entered into or became effective, a claim or proceeding that first arose or was first instituted, or another matter that first occurred, after the commencement of the Cases.

"Prepetition": when used with respect to any agreement or instrument, any claim or proceeding or any other matter, shall refer to an agreement or instrument that was entered into or became effective, a claim or proceeding that arose or was instituted, or another matter that occurred, prior to the Petition Date.

"Prepetition Payment": a payment (by way of adequate protection or otherwise) of principal or interest or otherwise on account of any Prepetition Indebtedness or trade payables or other Prepetition claims against any Debtor.

"Prime Rate": the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its principal office in New York City (the Prime Rate not being intended to be the lowest rate of interest charged by JPMorgan Chase Bank, N.A. in connection with extensions of credit to borrowers).

"Prohibited Jurisdiction": any country or jurisdiction, from time to time, that is the subject of a prohibition order (or any similar order or directive), sanctions or restrictions promulgated or administered by any Governmental Authority of the United States.

"Prohibited Person": any Person:

(a) subject to the provisions of the Executive Order;

(b) that is owned or controlled by, or acting for or on behalf of, any person or entity that is subject to the provisions of the Executive Order;

(c) with whom a Lender is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering law, including the Executive Order;

(d) who commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order;

(e) that is named as a "specially designated national and blocked person" on the most current list published by the OFAC at its official website, http://www.treas.goofac/t11sdn.pdf or at any replacement website or other replacement official publication of such list; or

(f) who is an Affiliate or affiliated with a Person listed above.

"Property": any right or interest in or to property (other than tax refunds due to Canadian subsidiaries) of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

"Quarterly Report": as defined in Section 5.1(f).

"Records": all books, instruments, agreements, customer lists, credit files, computer files, storage media, tapes, disks, cards, software, data, computer programs, printouts and other computer materials and records generated by other media for the storage of information maintained by any Person with respect to the business and operations of the Loan Parties and the Collateral.

"Register": as defined in Section 8.6(b).

"Regulation D": Regulation D of the Board as in effect from time to time.

"Related Section 363 Transactions": as defined in the recitals.

"Required Lenders": at any time, Lenders with Loans constituting a majority of the Loans of all Lenders.

"Requirements of Law": as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court of competent jurisdiction or other Governmental Authority, in each case applicable to and binding upon such Person and any of its property, and to which such Person and any of its property is subject.

"Responsible Officer": as to any Person, the chief executive officer or, with respect to financial matters (including without limitation those matters set forth in Sections 5.1(f) and 5.2(h)), the chief financial officer, treasurer or assistant treasurer of such Person, an individual so designated from time to time by such Person's board of directors or, for the purposes of Section 5.2 only (other than Sections 5.1(f) and 5.2(h)), to include the secretary or an assistant secretary of the Borrower, or, in the event any such officer is unavailable at any time he or she is required to take any action hereunder, Responsible Officer shall mean any officer

authorized to act on such officer's behalf as demonstrated by a certificate of corporate resolution (or equivalent); provided that the Lenders are notified in writing of the identity of such Responsible Officer.

"Restricted Payments": as defined in Section 6.5.

"S&P": Standard & Poor's Ratings Services and its successors.

"Sale/Leaseback Transaction": as defined in Section 6.17.

"SEC": the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

"Section 363 Sale Order": an order of the Bankruptcy Court approving the Related Section 363 Transactions in form and substance substantially in the form attached to the Transaction Documents or otherwise satisfactory to the Required Lenders.

"Senior Employee": any of the 25 most highly compensated employees (including the SEOs) of the Loan Parties, as determined pursuant to the rules set forth in 31 C.F.R. Part 30.

"SEO": a Senior Executive Officer as defined in the EESA and any interpretation of such term by the Treasury thereunder, including the rules set forth in 31 C.F.R. Part 30.

"Special Inspector General of the Troubled Asset Relief Program": The Special Inspector General of the Troubled Asset Relief Program, as contemplated by Section 121 of the EESA.

"Specified Benefit Plan": any employee benefit plan within the meaning of section 3(3) of ERISA and any other plan, arrangement or agreement which provides for compensation, benefits, fringe benefits or other remuneration to any employee, former employee, individual independent contractor or director, including any bonus, incentive, supplemental retirement plan, golden parachute, employment, individual consulting, change of control, bonus or retention agreement, whether provided directly or indirectly by any Group Member or otherwise.

"Subsidiary": with respect to any Person, any corporation, partnership or other entity of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or shall have the right to have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person. Unless otherwise qualified, all references to a "Subsidiary" or "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Superpriority Claim": a claim against the Borrower or any other Debtor in any of the Cases pursuant to section 364(c)(1) of the Bankruptcy Code having priority over any or all administrative expenses including administrative expenses specified in sections 503 and 507 of the Bankruptcy Code, whether or not such claim or expenses may become secured by a judgment lien or other non-consensual lien, levy or attachment.

"Swap Agreement": any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or any of its Subsidiaries shall be a "Swap Agreement."

"Taxes": as defined in Section 2.12(a).

"Trade Credit": accounts receivable, trade credit or other advances extended to, or investment made in, customers, suppliers, including intercompany, in the ordinary course of business.

"Trading With the Enemy Act": as defined in Section 3.19.

"Tranche B Term Loan": as defined in the recitals.

"Tranche C Term Loan": as defined in the recitals.

"Transaction Documents": each of, and collectively, (i) the Master Transaction Agreement, (ii) the Section 363 Sale Order, (iii) the Transition Services Agreement and (iv) the related manufacturing agreements, asset purchase agreements, organizational documents, finance support agreements and all other related documentation, each as amended, supplemented or modified from time to time in accordance with Section 6.6.

"Transferee": any Assignee or Participant.

"Transition Services Agreement": the Transition Services Agreement, dated as of the date hereof, among the Borrower, the other Initial Debtors, and New CarCo, substantially in the form of Exhibit T to the Master Transaction Agreement.

"Treasury": The United States Department of the Treasury.

"Uniform Commercial Code": the Uniform Commercial Code as in effect from time to time in the State of New York.

"United States": the United States of America.

"USA PATRIOT Act": as defined in Section 3.18(d).

"U.S. Subsidiary": any Subsidiary of any Loan Party that is organized or existing under the laws of the United States or any state thereof or the District of Columbia.

"Wholly Owned Subsidiary": as to any Person, any other Person all of the Capital Stock of which (other than directors' qualifying shares required by law) is owned by such Person directly and/or through other Wholly Owned Subsidiaries.

"Wind-Down": the sale or shutdown of certain businesses and properties of the Debtors and the Subsidiaries thereof.

"Wind-Down Budget": the budget, attached as Annex I hereto, setting forth in reasonable detail all anticipated receipts and disbursements of the Borrower and certain of its U.S. Subsidiaries on a calendar year basis from the Effective Date through and including December 30, 2011, as amended by each Quarterly Report delivered pursuant to Section 5.1(f).

"Wind-Down Order": as defined in the recitals.

1.2. Other Definitional Provisions. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to Group Members not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP, (ii) the words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation," (iii) the word "incur" shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words "incurred" and "incurrence" shall have correlative meanings), (iv) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, (v) references to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified from time to time and (vi) references to any Person shall include its successors and assigns.

(c) The words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole (including the Schedules and Exhibits hereto) and not to any particular provision of this Agreement (or the Schedules and Exhibits hereto), and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

1.3. Conversion of Foreign Currencies. (a) For purposes of this Agreement and the other Loan Documents, with respect to any monetary amounts in a currency other than

Dollars, the Dollar Equivalent thereof shall be determined based on the Exchange Rate in effect at the time of such determination (unless otherwise explicitly provided herein).

(b) The Treasury may set up appropriate rounding off mechanisms or otherwise round-off amounts hereunder to the nearest higher or lower amount in whole Dollar or cent to ensure amounts owing by any party hereunder or that otherwise need to be calculated or converted hereunder are expressed in whole Dollars or in whole cents, as may be necessary or appropriate.

SECTION 2

AMOUNT AND TERMS OF THE LOANS

2.1. Loans. On the Effective Date, the Lenders made the Tranche C Term Loans in Dollars to the Borrower in the aggregate principal amount of $1,175,000,000 (the "Loans"). The Loans shall be non-recourse to the Borrower and the Guarantors and recourse only to the Collateral. The Loans may from time to time be Eurodollar Loans or, solely in the circumstances specified in Section 2.8, ABR Loans. Loans repaid or prepaid may not be reborrowed.

2.2. [Intentionally Omitted].

2.3. Repayment of Loans; Evidence of Debt. (a) The Loans shall be payable on the Maturity Date; provided that, upon the Administrative/ Priority Claim Payment Date, the portion of the Loans equal to the Administrative/ Priority Claim Payment Amount as of such date shall be due. Except as otherwise expressly provided herein, the repayment of the Loans shall, subsequent to the closing of the Related Section 363 Transactions, be subject to claims against the Debtors' estates that have priority under Sections 503(b) or 507(a) of the Bankruptcy Code, including costs and expenses of administration that are attendant to the formulation and confirmation of a liquidating chapter 11 plan, whether incurred prior or subsequent to the consummation of the Related Section 363 Transactions, in an aggregate amount up to $1,175,000,000, or such larger amount as approved by the Lenders.

(b) Pursuant to Section 4.1(a), the Borrower shall execute and deliver the Notes on the Effective Date. Following any assignment of the Loans pursuant to Section 8.6, the Borrower agrees that, upon the request of any Lender, the Borrower shall promptly execute and deliver to such Lender Notes reflecting the Loans assigned and the Loans retained by such Lender, if any.

2.4. Optional Prepayments. (a) The Borrower may at any time and from time to time prepay the Loans, in whole or in part, without premium or penalty, upon irrevocable notice delivered to each Lender no later than 12:00 noon (New York City time) three Business Days prior to the date such prepayment is requested to be made, which notice shall specify the date of such prepayment, the aggregate amount of such prepayment and such Lender's Aggregate Exposure Percentage of such payment; provided that, if a Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.10. If any such notice is given, the amount specified in

such notice shall be due and payable on the date specified therein, together with accrued interest to such date on the amount prepaid and shall be applied as provided in Section (b). Partial prepayments of Loans shall be in an aggregate principal amount of $20,000,000 or a whole multiple thereof or, if less, the entire principal amount thereof then outstanding.

(b) Unless the Required Lenders shall otherwise agree, amounts to be applied in connection with prepayments made pursuant to Section 2.4 shall be applied, (i) first, to pay accrued and unpaid interest on, and expenses in respect of, the Loans, and (ii) second, to repay the Loans. Any such prepayment shall be accompanied by a notice to each Lender specifying the aggregate amount of such prepayment and such Lender's Aggregate Exposure Percentage of such prepayment.

2.5. [Intentionally Omitted].

2.6. Interest Rates and Payment Dates/Fee Payment Dates/Fees. (a) Each Eurodollar Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the Eurodollar Rate determined for such Interest Period plus the Applicable Margin.

(b) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(c) [Intentionally Omitted].

(d) (i) At any time any Event of Default shall have occurred and be continuing, (i) all outstanding Loans shall bear interest at a rate per annum equal to the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section 2.6 plus 5% per annum, which, in the sole discretion of the Treasury, may be the rate of interest then applicable to ABR Loans, and (ii) all other outstanding Obligations shall bear interest at 5% above the rate per annum equal to the rate of interest then applicable to ABR Loans.

(e) [Intentionally Omitted].

(f) Interest shall be payable in arrears on each Interest Payment Date, provided that, interest on the Loans shall not be payable in cash on each Interest Payment Date but shall instead be added to the principal of the Loans on each Interest Payment Date and shall be payable in cash on the Maturity Date.

2.7. Computation of Interest and Fees. (a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that with respect to ABR Loans the rate of interest on which is calculated on the basis of the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-) day year for the actual days elapsed. The Treasury shall, as soon as practicable, and promptly, notify the Borrower and the other Lenders of each determination of a Eurodollar Rate. Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Treasury shall, as soon as practicable, and promptly, notify the

Borrower and the other Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Treasury pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Treasury shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Treasury in determining any interest rate pursuant to Section 2.7(a).

2.8. Inability to Determine Interest Rate; Illegality. (a) If prior to the first day of any Interest Period:

(i) any Lender shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period, or

(ii) any Lender shall have determined that the Eurodollar Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lender (as conclusively certified by such Lender) of making or maintaining their affected Loans during such Interest Period;

such Lender shall give telecopy or telephonic notice thereof to the Borrower and the other Lenders as soon as practicable thereafter. If such notice is given pursuant to clause (i) or (ii) of this Section 2.8(a) in respect of Eurodollar Loans, then (1) any Eurodollar Loans requested to be made on the first day of such Interest Period shall be made by the affected Lenders as ABR Loans, and (2) any outstanding Eurodollar Loans of the affected Lender, shall be converted, on the last day of the then-current Interest Period, to ABR Loans. Until such relevant notice has been withdrawn by such Lender, no further Eurodollar Loans by the affected Lenders shall be made or continued as such, nor shall the Borrower have the right to convert ABR Loans to Eurodollar Loans.

(b) If the adoption of or any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for any Lender to make or maintain Eurodollar Loans as contemplated by this Agreement, such Lender shall give notice thereof to the Borrower describing the relevant provisions of such Requirement of Law, following which, (i) in the case of Eurodollar Loans, (A) the commitment of such Lender hereunder to make Eurodollar Loans and continue such Eurodollar Loans as such and (B) such Lender's outstanding Eurodollar Loans shall be converted automatically on the last day of the then current Interest Periods with respect to such Loans (or within such earlier period as shall be required by law) to ABR Loans. If any such conversion or prepayment of a Eurodollar Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 2.10.

2.9. Treatment of Borrowings and Payments; Evidence of Debt. (a) [Intentionally Omitted].

(b) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Loans shall be made *pro rata* according to the respective outstanding principal amounts of the Loans then held by the Lenders. Amounts paid on account of the Loans may not be reborrowed.

(c) [Intentionally Omitted].

(d) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 3:00 p.m. (New York City time) on the due date thereof to the Lenders at their respective Funding Offices, in Dollars and in immediately available funds. If any payment hereunder (other than payments on the Eurodollar Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

2.10. Indemnity. The Borrower agrees to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense that such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of Eurodollar Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment after the Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment of Eurodollar Loans on a day that is not the last day of an Interest Period with respect thereto. Such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest that would have accrued on the amount so prepaid, or not so borrowed, for the period from the date of such prepayment or of such failure to borrow to the last day of such Interest Period (or, in the case of a failure to borrow the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such Lender) that would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank Eurodollar market. A certificate as to any amounts payable pursuant to this Section 2.10 submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error and shall be payable within 30 days of receipt of any such notice. The agreements in this Section 2.10 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.11. Superpriority Nature of Obligations and Lenders' Liens. The priority of Lenders' Liens on the Collateral owned by the Loan Parties shall be set forth in the Final Order entered with respect to the Cases.

2.12. Taxes. (a) All payments made by the Borrower under this Agreement or any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereinafter imposed, levied, collected, withheld or assessed by any Governmental Authority (collectively, "Taxes"), except for any deduction or withholding required by law. If the Borrower is required to withhold any Non-Excluded Taxes from any amounts payable to any Lender (i) the Borrower shall make such deductions and shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable laws and (ii) the amounts so payable to such Lender shall be increased to the extent necessary to pay to such Lender such additional amounts as may be necessary so that the Lender receives, free and clear of all such Non-Excluded Taxes, a net amount equal to the amount it would have received from the Borrower under this Agreement or any other Loan Document if no such deduction or withholding had been made. For purposes of this Agreement or any other Loan Document, "Non-Excluded Taxes" are withholding Taxes imposed by the United States or any taxing authority thereof or therein on payments made by the Borrower under this Agreement or any other Loan Document other than (a) withholding Taxes imposed on any Lender as a result of a present or former connection between such Lender and the jurisdiction of the United States or any taxing authority thereof or therein imposing such Tax (other than any such connection arising solely from such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document), (b) any branch profits taxes imposed by the United States, (c) any withholding Taxes that exist on the date the Lender becomes a Lender or that arise as a result of a change in status of the Lender as a Governmental Authority which is an agency of the Canadian federal government that is exempt from withholding under the Convention as in effect on the date the Lender becomes a Lender, and (d) withholding Taxes that could be eliminated or reduced by the Lender providing tax forms, certifications, or other documentation.

(b) In addition, the Borrower shall pay any Other Taxes over to the relevant Governmental Authority in accordance with Applicable Law.

(c) Whenever any Non-Excluded Taxes or Other Taxes are payable by the Borrower, as promptly as possible thereafter, the Borrower shall send to the Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing payment thereof (or if an official receipt is not available, such other evidence of payment as shall be reasonably satisfactory to such Lender). If the Borrower fails to pay any Non-Excluded Taxes or Other Taxes required to be paid by the Borrower when due to the appropriate taxing authority or fails to remit to the Lender the required receipts or other required documentary evidence, in each case after receiving at least five days' advance written notice from the Lender, the Borrower shall indemnify the Lender, as the case may be, for any incremental taxes, Non-Excluded Taxes or Other Taxes, interest, additions to tax, expenses or penalties that may become payable by any Lender, as the case may be, as a result of such failure. The indemnification payments under this Section 2.12(c) shall be made within 30 days after the date such Lender, as the case may be, makes a written demand therefor (together with a reasonably detailed calculation of such amounts).

(d) Each Lender (or any Transferee) (other than the United States government (including the Treasury)) that either (i) is not incorporated under the laws of the United States,

any state thereof, or the District of Columbia or (ii) whose name does not include "Incorporated," "Inc.," "Corporation," "Corp.," "P.C.," "insurance company," or "assurance company" (a "Non-U.S. Lender") shall deliver to the Borrower, so long as such Lender is legally entitled to do so, two originals of either U.S. Internal Revenue Service Form W-9, Form W-8BEN, Form W-8EXP, Form W-8ECI, or in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payment of "portfolio interest", a Form W-8BEN (along with a statement as to certain requirements in order to claim an exemption for "portfolio interest" reasonably acceptable to the Borrower), or Form W-8IMY (with applicable attachments), or any subsequent versions thereof or successors thereto, properly completed and duly executed by such Non-U.S. Lender claiming a complete exemption from (or reduced rate of) United States federal withholding tax on all payments by the Borrower under this Agreement or any other Loan Document. In addition, each Lender shall provide any other U.S. tax forms (with applicable attachments) as will reduce or eliminate United States federal withholding tax on payments by the Borrower under this Agreement or any other Loan Document. For the avoidance of doubt, the Canadian Lender shall provide a Form W-8BEN claiming exemption from withholding under the Convention between the United States of America and Canada with respect to Taxes on Income and on Capital (the "Convention") on the Closing Date. Each Lender (other than the United States government (including the Treasury)) shall provide the appropriate documentation under this clause (d) at the following times (i) prior to the first payment date after becoming a party to this Agreement, (ii) upon a change in circumstances or upon a change in law, in each case, requiring or making appropriate a new or additional form, certificate or documentation, (iii) upon or before the expiration, obsolescence or invalidity of any documentation previously provided to the Borrower and (iv) upon reasonable request by the Borrower. If a Lender is entitled to an exemption from or a reduction of any non-U.S. withholding Tax under the laws of any jurisdiction imposing such Tax on any payments made by the Borrower under this Agreement, then the Lender shall deliver to the Borrower, at the time or times prescribed by Applicable Law and as reasonably requested by the Borrower, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate, provided that the Lender is legally entitled to complete, execute and deliver such documentation and without material adverse consequences to the Lender.

(e) If any Lender determines, in its sole good faith discretion, that it has received a refund, credit or other tax benefit in respect of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.12, it shall pay over such refund to the Borrower (but only to the extent of Non-Excluded Taxes or Other Taxes paid by the Borrower plus any interest thereon paid by the relevant Governmental Authority with respect to such refund), net of all out of pocket third-party expenses of the Lender related to claiming such refund or credit, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund) within 30 days of the date of such receipt. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, upon the request of the Lender, as the case may be, the Borrower agrees to repay any amount paid over to the Borrower by such Lender pursuant to the immediately preceding sentence if such Lender, as the case may be, is required to repay such amount to such Governmental Authority. This paragraph shall not be construed to (i) interfere with the rights of any Lender to arrange its tax affairs in whatever manner it sees fit, (ii) obligate any Lender to

claim any tax refund, (iii) require any Lender to make available its tax returns (or any other information relating to its taxes or any computation with respect thereof which it deems in its sole discretion to be confidential) to the Borrower or any other Person, or (iv) require any Lender to do anything that would in its sole discretion prejudice its ability to benefit from any other refunds, credits, reliefs, remissions or repayments to which it may be entitled.

(f) Each Lender that is an Assignee shall be bound by this Section 2.12.

(g) The agreements contained in this Section 2.12 shall survive the termination of this Agreement or any other Loan Document and the payments contemplated hereunder or thereunder.

SECTION 3

REPRESENTATIONS AND WARRANTIES

To induce the Lenders to enter into this Agreement, each Loan Party represents to the Lenders, with respect to itself and each of its Subsidiaries that is a North American Group Member, in each case subject to the Wind-Down, the Orders, the Related Section 363 Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court issued in connection with the Cases, that as of the Effective Date:

3.1. Existence. Each North American Group Member (a) is a corporation, limited partnership or limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has all requisite corporate or other power, and has all governmental licenses, authorizations, consents and approvals, necessary to own its assets and carry on its business as now being or as proposed to be conducted, except where the lack of such licenses, authorizations, consents and approvals would not be reasonably likely to have a Material Adverse Effect, (c) is qualified to do business and is in good standing in all other jurisdictions in which the nature of the business conducted by it makes such qualification necessary, except where failure so to qualify would not be reasonably likely (either individually or in the aggregate) to have a Material Adverse Effect, and (d) is in compliance in all material respects with all Requirements of Law.

3.2. [Intentionally Omitted].

3.3. [Intentionally Omitted].

3.4. [Intentionally Omitted].

3.5. Action, Binding Obligations. (i) Each North American Group Member has all necessary corporate or other power, authority and legal right to execute, deliver and perform its obligations under each of the Loan Documents to which it is a party; (ii) the execution, delivery and performance by each North American Group Member of each of the Loan Documents to which it is a party has been duly authorized by all necessary corporate or other action on its part; and (iii) each Loan Document has been duly and validly executed and delivered by each North American Group Member party thereto and constitutes a legal, valid and

binding obligation of all of the North American Group Members party thereto, enforceable against such North American Group Members in accordance with its terms, subject to the Bankruptcy Exceptions.

3.6. Approvals. Except as required under applicable state and federal bankruptcy rules, no authorizations, approvals or consents of, and no filings or registrations with, any Governmental Authority, or any other Person, are necessary for the execution, delivery or performance by each North American Group Member of the Loan Documents to which it is a party for the legality, validity or enforceability thereof, except with respect to North American Group Members other than the Debtors for filings and recordings or other actions in respect of the Liens pursuant to the Collateral Documents, unless the same has already been obtained and provided to the Lenders.

3.7. [Intentionally Omitted].

3.8. Investment Company Act. None of the Loan Parties is required to register as an "investment company", or is a company "controlled" by a Person required to register as an "investment company", within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to any Federal or state statute or regulation which limits its ability to incur Indebtedness.

3.9. [Intentionally Omitted].

3.10. Chief Executive Office; Chief Operating Office. The chief executive office and the chief operating office on the Closing Date for each North American Group Member is located at the location set forth on Schedule 3.10 hereto.

3.11. Location of Books and Records. The location where the North American Group Members keep their books and records including all Records relating to their business and operations and the Collateral are located in the locations set forth in Schedule 3.11.

3.12. [Intentionally Omitted].

3.13. [Intentionally Omitted].

3.14. Expense Policy. The Borrower has taken steps necessary to ensure that (a) the Expense Policy conforms to the requirements set forth herein and (b) the Borrower and its Subsidiaries are in compliance with the Expense Policy.

3.15. Subsidiaries. All of the Subsidiaries of each Loan Party at the date hereof are listed on Schedule 3.15, which schedule sets forth the name and jurisdiction of formation of each of their Subsidiaries and, as to each such Subsidiary, the percentage of each class of Capital Stock owned by each Loan Party or any of their Subsidiaries except as set forth on Schedule 3.15.

3.16. Capitalization. One hundred percent (100%) of the issued and outstanding Capital Stock of each North American Group Member (other than Borrower) is owned by the Persons listed on Schedule 3.16 and, to the knowledge of each Loan Party, such Capital Stock

are owned by such Persons, free and clear of all Liens other than Permitted Liens. No Loan Party has issued or granted any options or rights with respect to the issuance of its respective Capital Stock which is presently outstanding except as set forth on Schedule 3.16 hereto.

3.17. Fraudulent Conveyance. Each North American Group Member acknowledges that it will benefit from the Loans contemplated by this Agreement. No North American Group Member is incurring Indebtedness or transferring any Collateral with any intent to hinder, delay or defraud any of its creditors.

3.18. USA PATRIOT Act. (a) Each North American Group Member represents and warrants that neither it nor any of its respective Affiliates over which it exercises management control (a "Controlled Affiliate") is a Prohibited Person, and such Controlled Affiliates are in compliance with all applicable orders, rules, regulations and recommendations of OFAC.

(b) Each North American Group Member represents and warrants that neither it nor any of its members, directors, officers, employees, parents, Subsidiaries or Affiliates: (1) are subject to U.S. or multilateral economic or trade sanctions currently in force; (2) are owned or controlled by, or act on behalf of, any governments, corporations, entities or individuals that are subject to U.S. or multilateral economic or trade sanctions currently in force; (3) is a Prohibited Person or is otherwise named, identified or described on any blocked persons list, designated nationals list, denied persons list, entity list, debarred party list, unverified list, sanctions list or other list of individuals or entities with whom U.S. persons may not conduct business, including but not limited to lists published or maintained by OFAC, lists published or maintained by the U.S. Department of Commerce, and lists published or maintained by the U.S. Department of State.

(c) None of the Collateral are traded or used, directly or indirectly by a Prohibited Person or organized in a Prohibited Jurisdiction.

(d) Each North American Group Member has established an anti-money laundering compliance program as required by all applicable anti-money laundering laws and regulations, including without limitation the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (the "USA PATRIOT Act") (collectively, the "Anti-Money Laundering Laws").

3.19. Embargoed Person. As of the date hereof and at all times throughout the term of any Loan, (a) none of any North American Group Member's funds or other assets constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 *et seq.*, The Trading with the Enemy Act, 50 U.S.C. App. 1 *et seq.* (the "Trading With the Enemy Act"), any of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended) (the "Foreign Assets Control Regulations") or any enabling legislation or regulations promulgated thereunder or executive order relating thereto (which for the avoidance of doubt shall include but shall not be limited to (i) Executive Order No. 13224, effective as of September 24, 2001 and relating to Blocking Property and Prohibiting

Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the "Executive Order") and (ii) the USA PATRIOT Act), with the result that the investment in the Borrower (whether directly or indirectly), is prohibited by law or any Loan made by the Lenders is in violation of law ("Embargoed Person"); (b) no Embargoed Person has any interest of any nature whatsoever in it with the result that the investment in it (whether directly or indirectly), is prohibited by law or any Loan is in violation of law; (c) none of its funds have been derived from any unlawful activity with the result that the investment in it (whether directly or indirectly), is prohibited by law or any Loans is in violation of law; and (d) neither it nor any of its Affiliates (i) is or will become a "blocked person" as described in the Executive Order, the Trading With the Enemy Act or the Foreign Assets Control Regulations or (ii) engages or will engage in any dealings or transactions, or be otherwise associated, with any such "blocked person". For purposes of determining whether or not a representation with respect to any indirect ownership is true or a covenant is being complied with under this Section 3.19, no North American Group Member shall be required to make any investigation into (i) the ownership of publicly traded stock or other publicly traded securities or (ii) the ownership of assets by a collective investment fund that holds assets for employee benefit plans or retirement arrangements.

3.20. Use of Proceeds. (a) The proceeds of the Loans shall be used (i) as permitted in the Wind-Down Order or (ii) to finance working capital needs and other general corporate purposes incurred in connection with the Wind-Down, including the payment of expenses associated with the administration of the Cases; provided that, the North American Group Members may not prepay Indebtedness without the prior written consent of the Required Lenders.

(b) Notwithstanding anything to the contrary herein, none of the proceeds of the Loans shall be used in connection with (i) any investigation (including discovery proceedings), initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against any Lender, (ii) the initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against any Lender, any of their respective affiliates or other Canadian Lender Consortium Member with respect to any loans or other financial accommodations made to any North American Group Member prior to the Petition Date, or (iii) any loans, advances, extensions of credit, dividends or other investments to any person not a North American Group Member; provided, however, that the limitations set forth in this Section 3.20(b) shall not preclude the use of the proceeds of the Loans in connection with any claims, causes of action, adversary proceedings or other litigations against any Governmental Authority (excluding the Canadian Lender Consortium Members) with respect to the imposition or administration of any Tax laws or Environmental Laws. For the avoidance of doubt, the limitations set forth in Section 3.20(b)(i) and (ii) above, shall not limit the use of proceeds with respect to any of the actions and claims described in such clauses against any Governmental Authority that is not (x) a Lender or (y) a Canadian Lender Consortium Member.

(c) The North American Group Members are the ultimate beneficiaries of this Agreement and the proceeds of Loans to be received hereunder. The use of the Loans will comply with all Applicable Laws, including Anti-Money Laundering Laws. No portion of any Loan is to be used, for the "purpose of purchasing or carrying" any "margin stock" as such terms

are used in Regulations U and X of the Board, as amended, and the Borrower is not engaged in the business of extending credit to others for such purpose.

3.21. Representations Concerning the Collateral. Each Loan Party represents and warrants to the Lenders:

(a) No Loan Party has assigned, pledged, conveyed, or encumbered any Collateral to any other Person (other than Permitted Liens) and immediately prior to the pledge of any such Collateral, a Loan Party was the sole owner of such Collateral and had good and marketable title thereto, free and clear of all Liens (other than Permitted Liens), and no Person, other than the Lenders has any Lien (other than Permitted Liens) on any Collateral. No security agreement, financing statement, equivalent security or lien instrument or continuation statement covering all or any part of the Collateral which has been signed by any Loan Party or which any Loan Party has authorized any other Person to sign or file or record, is on file or of record with any public office, except such as may have been filed by or on behalf of a Loan Party in favor of the Lenders pursuant to the Loan Documents or in respect of applicable Permitted Liens.

(b) The provisions of the Loan Documents are effective to create in favor of the Lenders a valid security interest in all right, title, and interest of each Loan Party in, to and under the Collateral, subject only to applicable Permitted Liens.

(c) Upon the entry and effectiveness of the Orders and the filing of financing statements on Form UCC-1 naming the Lenders as "Secured Parties" and each Loan Party as "Debtor", and describing the Collateral, in the jurisdictions and recording offices listed on Schedule 3.21 attached hereto, the security interests granted in the Collateral pursuant to the Collateral Documents will constitute perfected first priority security interests under the Uniform Commercial Code in all right, title and interest of the applicable Loan Party in, to and under such Collateral, which can be perfected by filing under the Uniform Commercial Code, in each case, subject to applicable Permitted Liens and as provided in Section 3.24.

(d) Each Loan Party has and will continue to have the full right, power and authority, to pledge the Collateral, subject to Permitted Liens, and the pledge of the Collateral may be further assigned without any requirement.

3.22. [Intentionally Omitted].

3.23. [Intentionally Omitted].

3.24. Lien Priority. (a) On and after the Closing Date, and the entry of the Orders and after giving effect thereto and the filing of financing statements on Form UCC-1 naming the Lenders as "Secured Parties" and each Loan Party as "Debtor", and describing the Collateral, in the jurisdictions and recording offices listed on Schedule 3.21 attached hereto subject to the Permitted Liens, the provisions of the Loan Documents are effective to create in favor of the Lenders, legal, valid and perfected Liens on and security interests (having the priority provided for herein and in the Orders) in all right, title and interest in the Collateral, enforceable against each Loan Party that owns an interest in such Collateral and any other Person.

(b) On and after the entry of the Orders and after giving effect thereto and the filing of financing statements on Form UCC-1 naming the Lenders as "Secured Parties" and each Loan Party as "Debtor", and describing the Collateral, in the jurisdictions and recording offices listed on Schedule 3.21 attached hereto, all Obligations owing by the Loan Parties will be secured by:

(i) valid, perfected, first-priority security interests in and liens (i) with respect to the Debtors, pursuant to section 364(c)(2) of the Bankruptcy Code and (ii) with respect to the Non-Debtor Loan Parties, pursuant to the Collateral Documents (other than the Orders), in each case, on the Collateral that is not subject to non avoidable, valid and perfected liens in existence as of the Petition Date (or to non avoidable valid liens in existence as of the Petition Date that are subsequently perfected as permitted by section 546(b) of the Bankruptcy Code), subject only to Permitted Liens (other than Liens permitted under clause (a) thereof) and the Carve-Out; and

(ii) valid, perfected, security, junior interests in and liens pursuant to (i) with respect to the Debtors, section 364(c)(3) of the Bankruptcy Code and (ii) with respect to the Non-Debtor Loan Parties, pursuant to the Collateral Documents (other than the Orders), in each case, on the Collateral that is subject to non avoidable, valid and perfected liens in existence as of the Petition Date, or to non avoidable valid liens in existence as of the Petition Date that are subsequently perfected as permitted by section 546(b) of the Bankruptcy Code, subject only to the Carve-Out.

(c) On and after the entry of the Orders and after giving effect thereto, all Obligations owing by the Debtors will be an allowed administrative expense claim pursuant to section 364(c)(1) of the Bankruptcy Code in each of the Cases having priority over all administrative expenses of the kind specified in sections 503 and 507 of the Bankruptcy Code and any and all expenses and claims of the Borrower and the other Debtors, whether heretofore or hereafter incurred, including, but not limited to, the kind specified in sections 105, 326, 328, 506(c), 507(a) or 1114 of the Bankruptcy Code, subject only to the Carve-Out.

3.25. [Intentionally Omitted].

3.26. [Intentionally Omitted].

3.27. [Intentionally Omitted].

3.28. Excluded Collateral. Set forth on Annex I to Schedule 3.28 is a complete and accurate list as of the Effective Date of all Excluded Collateral that is Capital Stock of domestic joint ventures, Domestic Subsidiaries, "first-tier" foreign joint ventures, and Foreign 956 Subsidiaries.

3.29. Mortgaged Real Property. After giving effect to the recording of the Mortgages, real property identified on Schedule 1.1C shall be subject to a recorded first lien mortgage, deed of trust or similar security instrument (subject to Permitted Liens).

3.30. [Intentionally Omitted].

3.31. The Final Order. Upon the maturity (whether by the acceleration or otherwise) of any of the Obligations, the Lenders shall, subject to the provisions of Section 7 and the applicable provisions of the Final Order, be entitled to immediate payment of such Obligations, and to enforce the remedies provided for hereunder, without further application to or order by the Bankruptcy Court.

3.32. Wind-Down Budget. All material facts in the Wind-Down Budget are accurate and the Borrower has disclosed to each Lender all assumptions in the Wind-Down Budget, it being understood that in the case of projections, such projections are based on reasonable estimates, on the date as of which such information is stated or certified.

SECTION 4

CONDITIONS PRECEDENT

4.1. Conditions to Effectiveness. The effectiveness of this Agreement is subject to the satisfaction of the following conditions precedent, satisfaction of such conditions precedent to be determined by the Required Lenders in their reasonable discretion, except as otherwise set forth below:

(a) Loan Documents. The Lenders shall have received the following documents, which shall be in form satisfactory to each Lender:

(i) this Agreement executed and delivered by the Borrower;

(ii) the Guaranty, executed and delivered by each Guarantor;

(iii) the Equity Pledge Agreement, executed and delivered by each Pledgor;

(iv) [intentionally omitted];

(v) the Environmental Indemnity Agreement, executed and delivered by each Loan Party party thereto; and

(vi) a promissory note of the Borrower evidencing the Loans of such Lender, substantially in the form of Exhibit G (the "Note"), with appropriate insertions as to date and principal amount.

(b) Related Section 363 Transactions. The Required Lenders and their counsel shall be reasonably satisfied that the terms of the Related Section 363 Transactions and of the Transaction Documents are consistent in all material respects with the information provided to the Lenders in advance of the date hereof or are otherwise reasonably satisfactory to the Required Lenders (the Required Lenders acknowledge that the form of Transaction Documents provided to them on or prior to the date hereof are satisfactory). The Transaction Documents shall have been duly executed and delivered by the parties thereto, all conditions precedent to the Related Section 363 Transactions set forth in the Transaction Documents shall have been satisfied, and the Related Section 363 Transactions shall have been consummated

pursuant to such Transaction Documents substantially contemporaneously with the conditions precedent set forth in this Section 4.1, and no provision thereof shall have been waived, amended, supplemented or otherwise modified, in each case in a manner adverse to the Lenders, without the Required Lender's consent.

(c) Final Order. (i) The Final Order shall have been entered by the Bankruptcy Court and shall have been in full force and effect.

(ii) The Final Order shall not have been reversed, modified, amended, stayed or vacated, in the case of any modification or amendment, in a manner, or relating to a matter, without the consent of the Lenders.

(iii) The Debtors and their respective Subsidiaries shall be in compliance in all respects with the Final Order.

(iv) [Intentionally Omitted].

(v) [Intentionally Omitted].

(d) New CarCo Assignment and Assumption. The Borrower and New CarCo shall have executed and delivered the New CarCo Assignment and Assumption, and all conditions precedent to New CarCo's $7,072,488,605 First Lien Credit Agreement between New CarCo and Treasury shall have been satisfied or waived by the Treasury in accordance with the terms therewith substantially contemporaneously with the conditions precedent set forth in this Section 4.1.

(e) Canadian Post-Sale Facility. The Canadian Post-Sale Facility, in form and substance satisfactory to the Lenders, shall have become effective and the Lenders shall have received all documents, instruments and related agreements in connection with the Canadian Post-Sale Facility.

(f) Canadian PV Loan Agreement. The Canadian PV Loan Agreement, in form and substance satisfactory to the Lenders, shall have become effective and the Lenders shall have received all documents, instruments and related agreements in connection with the Canadian PV Loan Agreement.

(g) [Intentionally Omitted].

(h) [Intentionally Omitted].

(i) Wind-Down Budget. The Borrower shall have delivered to the Lenders the Wind-Down Budget in form and substance satisfactory to the Required Lenders.

(j) [Intentionally Omitted].

(k) Litigation. There shall not exist any action, suit, investigation, litigation or proceeding pending (other than the Cases) or threatened in any court or before any arbitrator or Governmental Authority that, in the sole discretion of the Required Lenders, materially or

adversely affects any of the transactions contemplated hereby, or that has or could be reasonably likely to have a Material Adverse Effect.

(l) [Intentionally Omitted].

(m) Consents. The Lenders shall have received all necessary third party and governmental waivers and consents, and each Loan Party shall have complied with all applicable laws, decrees and material agreements.

(n) No Default. No Default or Event of Default shall exist on the Effective Date or after giving effect to the transactions contemplated to be consummated on the Effective Date pursuant to the Transaction Documents and the Loan Documents.

(o) Accuracy of Representations and Warranties. All representations and warranties made by the North American Group Members in or pursuant to the Loan Documents shall be true and correct in all material respects.

(p) Closing Certificate; Certified Certificate of Incorporation; Good Standing Certificates. The Lenders shall have received (i) a certificate of the secretary or assistant secretary of each Loan Party, dated the Effective Date, substantially in the form of Exhibit B-1, with appropriate insertions and attachments, including the certificate of incorporation (or equivalent organizational document) of each Loan Party, certified by the relevant authority of the jurisdiction of organization of such Loan Party (provided that, to the extent applicable, in lieu of delivering the certificate of incorporation and other organizational documents, such certificate may include a certification that such documents not have been amended, supplemented or otherwise modified since the Closing Date), (ii) bring down good standing certifications for each Loan Party from its jurisdiction of organization and (iii) a certificate of the Borrower and each Guarantor, dated the Effective Date, to the effect that the conditions set forth in this Section 4.1 have been satisfied, substantially in the form of Exhibit B-2.

(q) Legal Opinions. The Lenders shall have received the executed legal opinion of Weil, Gotshal and Manges LLP, New York counsel to the Loan Parties, substantially in the form of Exhibit E, as to New York law, United States federal law and the Delaware General Corporation Law.

SECTION 5

AFFIRMATIVE COVENANTS

Each Loan Party covenants and agrees to, and to cause each of its Subsidiaries that is a North American Group Member to, so long as any Loan is outstanding and until payment in full of all Obligations, in each case except as shall be required in connection with the Wind-Down, and subject to the Orders, the Related Section 363 Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court issued in connection with the Cases:

5.1. Financial Statements. The Borrower shall deliver to the Lenders:

(a) as soon as reasonably possible after receipt by the subject North American Group Member, a copy of any material report that may be prepared and submitted by such North American Group Member's independent certified public accountants at any time or any other material report with respect to the North American Group Members provided to the Borrower and its Subsidiaries pursuant to the Transition Services Agreement;

(b) from time to time such other information regarding the financial condition, operations, or business of any North American Group Member as any Lender may reasonably request;

(c) promptly upon their becoming available, copies of such other financial statements and reports, if any, as any North American Group Member may be required to publicly file with the SEC or any similar or corresponding governmental commission, department or agency substituted therefor, or any similar or corresponding governmental commission, department, board, bureau, or agency, federal or state;

(d) [intentionally omitted];

(e) notice of and copies of each Debtors' pleadings filed in the Cases in connection with any material contested matter or adversary proceeding in the Cases (but the foregoing may be satisfied by including each of the Lenders and their counsel in a "core service group," to receive copies of all pleadings under any order establishing notice and service requirements in the Cases), and such additional information with respect to such matters as either of the Lenders may reasonably request, and which notice shall also include sending copies of any pleadings or other documents that the Borrower or other Debtors seek to file under seal to each of the lenders and their counsel, provided, however, that if (in addition to the confidentiality provisions of this Agreement) additional confidentiality provisions are needed (i.e. if required by third parties), the Lenders and the Borrower shall endeavor to work out reasonable additional confidentiality terms;

(f) no later than the twentieth Business Day following the last day of each fiscal quarter, a report (a "Quarterly Report") setting forth in reasonable detail the anticipated receipts and disbursements of the North American Group Members for the immediately succeeding twelve-month period (on a calendar month basis) and the aggregate amount of cash and Cash Equivalents of the North American Group Members as of the last day of the immediately preceding fiscal quarter, in form and substance reasonably satisfactory to the

Required Lenders. Each Quarterly Report shall be accompanied by a certificate of a Responsible Officer certifying that such Quarterly Report was prepared in good faith and are based on reasonable estimates on the date as of which such information is certified; and

(g) on the first Business Day of February to occur each year from the Effective Date until the Maturity Date, a report setting forth in reasonable detail the three-year business plan of the Borrower.

5.2. Notices; Reporting Requirements. The relevant Loan Party shall deliver written notice to the Lenders of the following:

(a) Defaults. Promptly after a Responsible Officer or any officer of a North American Group Member with a title of at least executive vice president becomes aware of the occurrence of any Default or Event of Default, or any event of default under any publicly filed material Contractual Obligation of any Group Member;

(b) Litigation. Promptly after a Responsible Officer or an attorney in the general counsel's office of a North American Group Member obtains knowledge of any action, suit or proceeding instituted by or against such North American Group Member or any of its Subsidiaries in any federal or state court or before any commission, regulatory body or Governmental Authority (i) in which the amount in controversy, in each case, is an amount equal to $25,000,000 or more, (ii) in which injunctive or similar relief is sought, or (iii) which relates to any Loan Document, the relevant Loan Party shall furnish to the Lenders notice of such action, suit or proceeding;

(c) Material Adverse Effect on Collateral. Promptly upon any North American Group Member becoming aware of any default or any event or change in circumstances related to any Collateral which, in each case, could reasonably be expected to have a Material Adverse Effect;

(d) Judgments. Promptly upon the entry of a judgment or decree against any Loan Party or any of its Subsidiaries in an amount in excess of $15,000,000;

(e) Environmental Events. As soon as possible and in any event within seven Business Days of obtaining knowledge thereof: (i) any development, event, or condition occurring after the date hereof that, individually or in the aggregate with other developments, events or conditions occurring after the date hereof, could reasonably be expected to result in the payment by the Group Members, in the aggregate, of a Material Environmental Amount; and (ii) any notice that any Governmental Authority may deny any application for an Environmental Permit sought by, or revoke or refuse to renew any Environmental Permit held by, any Group Member; to the extent such Environmental Permit is material to the continued operations or business of the Group Members or of any manufacturing related facility;

(f) Material Adverse Effect. Any development or event that has had or could reasonably be expected to have a Material Adverse Effect;

(g) Insurance. Promptly upon any material change in the insurance coverage required of any Loan Party or any other Person pursuant to any Loan Document, with copy of evidence of same attached;

(h) Compliance Certificate. On the tenth Business Day of each calendar month, beginning with the first month to occur after the Effective Date, a Compliance Certificate, executed by a Responsible Officer of the Borrower, stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate;

(i) Investment Reports. With respect to any Investment made pursuant to clause (p)(i) or (ii) of the definition of Permitted Investments, on the tenth Business Day of each calendar month, beginning with the month immediately following the calendar month in which the first such Investment is made, a report executed by a Responsible Officer of the Borrower, setting forth (x) the amount of each Investment made pursuant to each of clause (p)(i) and/or (p)(ii), if any, in the immediately proceeding calendar month, (y) a description of each such Investment, if any, and (z) the aggregate amount of Investments made pursuant to each of clause (p)(i) and (p)(ii) since the Effective Date, if any, as of the end of the immediately preceding calendar month;

(j) [Intentionally Omitted];

(k) [Intentionally Omitted];

(l) Expense Policy. Within 15 days after the conclusion of each calendar month, beginning with the month in which the Effective Date occurs, the Borrower shall deliver to the Lenders a certification signed by a Responsible Officer of the Borrower and its Subsidiaries that (i) the Expense Policy conforms to the requirements set forth herein; (ii) the Borrower and its Subsidiaries are in compliance with the Expense Policy; and (iii) there have been no material amendments to the Expense Policy or deviations from the Expense Policy other than those that have been disclosed to and approved by the Lenders; provided that the requirement to deliver the certification referenced in this Section 5.2(l) may be qualified as to the best of such Responsible Officer's knowledge after due inquiry and investigation;

(m) Executive Privileges and Compensation. The Borrower shall submit a certification on the [last] day of each month beginning July 2009, certifying that the Borrower has complied with and is in compliance with the provisions set forth in Section 5.16. Such certification shall be made to the Lenders by an SEO of the Borrower, subject to the requirements and penalties set forth in Title 18, United States Code, Section 1001; and

(n) Organizational Documents. Subject to Section 6.6, each North American Group Member shall furnish prompt written notice to the Lenders of any material amendment to such entity's organizational documents and copies of such amendments.

Each notice required to be provided pursuant to this Section 5.2(a)-(f) above shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Borrower proposes to take with respect thereto.

5.3. Existence. (a) Preserve and maintain its legal existence and all of its material rights, privileges, licenses and franchises;

(b) pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all their Postpetition obligations of whatever nature, except (i) where such payment, discharge or satisfaction is prohibited by the Orders, the Bankruptcy Code, the Bankruptcy Rules or an order of the Bankruptcy Court or by this Agreement or the Wind-Down Budget, or (ii) where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with GAAP with respect thereto have been provided on the books of the Borrower or its Subsidiaries, as the case may be;

(c) comply with the requirements of all Applicable Laws, rules, regulations and orders of Governmental Authorities if failure to comply with such requirements could be reasonably likely (either individually or in the aggregate) to have a Material Adverse Effect on any Loan Party or the Collateral;

(d) keep adequate records and books of account, in which complete entries will be made in accordance with GAAP consistently applied, and maintain adequate accounts and reserves for all taxes (including income taxes), all depreciation, depletion, obsolescence and amortization of its properties, all contingencies, and all other reserves;

(e) (i) change the location of its chief executive office/chief place of business from that specified in Section 3.10, (ii) change its name, identity or corporate structure (or the equivalent) or change the location where it maintains records with respect to the Collateral, or (iii) reincorporate or reorganize under the laws of another jurisdiction, it shall give the Lenders written notice thereof not later than ten (10) days after such event occurs, and shall deliver to the Lenders all Uniform Commercial Code financing statements and amendments as the Lenders shall request and take all other actions deemed reasonably necessary by the Lenders to continue its perfected status in the Collateral with the same or better priority;

(f) keep in full force and effect the provisions of its charter documents, certificate of incorporation, by-laws, operating agreements or similar organizational documents; and

(g) comply (i) in the case of each North American Group Member that is not a Debtor, with all Contractual Obligations in a manner such that a Material Adverse Effect could not reasonably be expected to result and (ii) in the case of each Debtor, with all material Postpetition Contractual Obligations (including the Transition Services Agreement).

5.4. Payments of Taxes. Except as prohibited by the Bankruptcy Code, the Borrower will and will cause each Group Member (i) to timely file or cause to be filed all federal and material state and other Tax returns that are required to be filed and all such Tax returns shall be true and correct and (ii) to timely pay and discharge or cause to be paid and discharged promptly all Taxes, assessments and governmental charges or levies arising Postpetition and imposed upon the Borrower or any of the other Group Members or upon any of their respective incomes or receipts or upon any of their respective properties before the same shall become in

default or past due, as well as all lawful claims for labor, materials and supplies or otherwise which, if unpaid, might result in the imposition of a Lien or charge upon such properties or any part thereof; provided that it shall not constitute a violation of the provisions of this Section 5.4 if the Borrower or any of the other Group Members shall fail to pay any such Tax, assessment, government charge or levy or claim for labor, materials or supplies which is being contested in good faith, by proper proceedings diligently pursued, and as to which adequate reserves have been provided.

5.5. Use of Proceeds. The Loan Parties and their Subsidiaries shall use the Loan proceeds only for the purposes set forth in Section 3.20 and in a manner generally consistent with the Wind-Down Budget, except as otherwise permitted in Section 3.20(a)(i)).

5.6. Maintenance of Existence; Payment of Obligations; Compliance with Law. Subject to the Orders, the Related Section 363 Transactions and the Cases, each Loan Party shall:

(a) keep all property useful and necessary in its business in good working order and condition; and

(b) maintain errors and omissions insurance and blanket bond coverage in such amounts as are in effect on the Closing Date (as disclosed to the Lenders in writing except in the event of self-insurance) and shall not reduce such coverage without the written consent of the Lenders, and shall also maintain such other insurance with financially sound and reputable insurance companies, and with respect to property and risks of a character usually maintained by entities engaged in the same or similar business similarly situated, against loss, damage and liability of the kinds and in the amounts customarily maintained by such entities. Notwithstanding anything to the contrary in this Section 5.6, to the extent that any North American Group Member is engaged in self-insurance with respect to any of its property as of the Closing Date, such Loan Party may, if consistent with past practices, continue to engage in such self-insurance throughout the term of this Agreement; provided, that the North American Group Members shall promptly obtain third party insurance that conforms to the criteria in this Section 5.6 at the request of the Lenders.

5.7. Further Identification of Collateral. Each Loan Party will furnish to the Lenders from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as any Lender may reasonably request, all in reasonable detail.

5.8. Defense of Title. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court, each Loan Party warrants and will defend the right, title and interest of the Lenders in and to all Collateral against all adverse claims and demands of all Persons whomsoever, subject to (x) the restrictions imposed by the Existing Agreements to the extent that such restrictions are valid and enforceable under the applicable Uniform Commercial Code and other Requirements of Law and (y) the rights of holders of any Permitted Lien.

5.9. Preservation of Collateral. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court, each Loan Party shall do all things necessary to preserve the Collateral so that the Collateral remains subject to a perfected security interest with the priority provided for such security interest under the Loan Documents. Without limiting the foregoing, each Loan Party will comply with all Applicable Laws, rules and regulations of any Governmental Authority applicable to such Loan Party or relating to the Collateral and will cause the Collateral to comply, with all Applicable Laws, rules and regulations of any such Governmental Authority, except where failure to so comply would not reasonably be expected to have a Material Adverse Effect. No Loan Party will allow any default to occur for which any Loan Party is responsible under any Loan Documents and each Loan Party shall fully perform or cause to be performed when due all of its obligations under the Loan Documents.

5.10. Maintenance of Papers, Records and Files. (a) each North American Group Member will maintain all Records in good and complete condition and preserve them against loss or destruction, all in accordance with industry and customary practices;

(b) each North American Group Member shall collect and maintain or cause to be collected and maintained all Records relating to its business and operations and the Collateral in accordance with industry custom and practice, including those maintained pursuant to the preceding subsection, and all such Records shall be in the possession of the North American Group Members or reasonably obtainable upon the request of any Lender unless the Lenders otherwise approve; and

(c) for so long as any Lender has an interest in or Lien on any Collateral, each North American Group Member will hold or cause to be held all related Records in trust for such Lender. Each North American Group Member shall notify, or cause to be notified, every other party holding any such Records of the interests and Liens granted hereby.

5.11. Maintenance of Licenses. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions and the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court, except where the failure to do so could not reasonably be likely to have a Material Adverse Effect, each Loan Party shall (i) maintain all licenses, permits, authorizations or other approvals necessary for such Loan Party to conduct its business and to perform its obligations under the Loan Documents, (ii) remain in good standing under the laws of the jurisdiction of its organization, and in each other jurisdiction where such qualification and good standing are necessary for the successful operation of such Loan Party's business, and (iii) shall conduct its business in accordance with Applicable Law in all material respects.

5.12. Payment of Obligations. The Borrower will duly and punctually pay or cause to be paid the principal and interest on the Loans and each North American Group Member will duly and punctually pay or cause to be paid all fees and other amounts from time to time owing by it hereunder or under the other Loan Documents, all in accordance with the terms of this Agreement and the other Loan Documents. Each North American Group Member will, and will cause each of its Subsidiaries to, pay (i) with respect to each Debtor its Postpetition obligations; and (ii) with respect to each other Group Member its obligations, in each case including tax liabilities, assessments and governmental charges or levies imposed upon such

Person or upon its income and profits or upon any of its property, real, personal or mixed (including without limitation, the Collateral) or upon any part thereof, as well as any other lawful claims which, if unpaid, could reasonably be expected to become a Lien upon such properties or any part thereof, that, if not paid, could reasonably be expected to result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the relevant Loan Party, or such Subsidiary, has set aside on its books adequate reserves with respect thereto and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

5.13. OFAC. At all times throughout the term of this Agreement, each Loan Party and its Controlled Affiliates (a) shall be in full compliance with all applicable orders, rules, regulations and recommendations of OFAC and (b) shall not permit any Collateral to be maintained, insured, traded, or used (directly or indirectly) in violation of any United States statutes, rules or regulations, in a Prohibited Jurisdiction or by a Prohibited Person, and no lessee or sublessee shall be a Prohibited Person or a Person organized in a Prohibited Jurisdiction.

5.14. Investment Company. Each North American Group Member will conduct its operations in a manner which will not subject it to registration as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended from time to time.

5.15. Further Assurances. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions and the Cases, the Borrower shall, and shall cause each North American Group Member to, from time to time execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take such actions, as the Lenders may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, or of more fully perfecting or renewing the rights of the Lenders with respect to the Collateral (or with respect to any additions thereto or replacements or proceeds thereof or with respect to any other property or assets hereafter acquired by any Group Member which may be deemed to be part of the Collateral) pursuant hereto or thereto. Upon the exercise by any Lender of any power, right, privilege or remedy pursuant to this Agreement or the other Loan Documents that requires any consent, approval, recording, qualification or authorization of any Governmental Authority, the Borrower will execute and deliver, or will cause the execution and delivery of, all applications, certifications, instruments and other documents and papers that such Lender may be required to obtain from the Borrower or any Group Member such governmental consent, approval, recording, qualification or authorization.

5.16. Executive Privileges and Compensation. (a) Subject to the Wind-Down, the Orders, the Related Section 363 Transactions and the Cases, the Borrower shall comply with the following restrictions on executive privileges and compensation:

(i) the Borrower shall take all necessary action to ensure that its Specified Benefit Plans comply in all respects with the EESA, including, without limitation, the provisions of the Capital Purchase Program and the TARP Standards for Compensation and Corporate Governance, as implemented by any guidance or regulation thereunder, including the rules set forth in 31 C.F.R. Part 30, or any other guidance or regulations

promulgated under the EESA, as the same shall be in effect from time to time (collectively, the "Compensation Regulations"), and shall not adopt any new Specified Benefit Plan (x) that does not comply therewith or (y) that does not expressly state and require that such Specified Benefit Plan and any compensation thereunder shall be subject to all relevant Compensation Regulations adopted, issued or released on or after the date any such Specified Benefit Plan is adopted. To the extent that the Compensation Regulations change, or are implemented in a manner that requires changes to then-existing Specified Benefit Plans, the Borrower shall effect such changes to its Specified Benefit Plans as promptly as practicable after it has actual knowledge of such changes in order to be in compliance with this Section 5.16(a)(i) (and shall be deemed to be in compliance for a reasonable period within which to effect such changes);

(ii) the Borrower shall be subject to the limits on the deductibility of executive compensation imposed by section 162(m)(5) of the Code, as applicable;

(iii) the Borrower shall not pay or accrue any bonus or incentive compensation to the Senior Employees, except as may be permitted under the EESA or the Compensation Regulations;

(iv) the Borrower shall not adopt or maintain any compensation plan that would encourage manipulation of its reported earnings to enhance the compensation of any of its employees;

(v) the Borrower shall maintain all suspensions and other restrictions of contributions to Specified Benefit Plans that are in place or initiated as of the Closing Date; and

(vi) the Borrower shall otherwise comply with the provisions of the Capital Purchase Program and the TARP Standards for Compensation and Corporate Governance, as implemented by any guidance or regulation thereunder, including the rules set forth in 31 C.F.R. Part 30, including without limitation the prohibition on golden parachute and tax "gross up" payments, the requirement with respect to the establishment of a compensation committee of the board of directors, and the requirement that the Borrower provide certain disclosures to Treasury and the Borrower's primary regulator.

At all times throughout the term of this Agreement, the Required Lenders shall have the right to require any Group Member to claw back any bonuses or other compensation, including golden parachutes, paid to any Senior Employees in violation of any of the foregoing.

(b) On or prior to September 15, 2009, the Borrower shall cause (i) its principal executive officer and principal financial officer (or, in each case, a person acting in a similar capacity) and (ii) its compensation committee, as applicable, to provide the certifications to the Treasury and the Borrower's primary regulator required by the rules set forth in 31 C.F.R. Part 30. The Borrower shall preserve appropriate documentation and records to substantiate such certification in an easily accessible place for a period not less than three years following the Maturity Date.

From the Closing Date until the repayment of all Obligations, the Borrower shall comply with the provisions of this Section 5.16.

5.17. Aircraft. With respect to any private passenger aircraft or interest in such aircraft that is owned or held by the Borrower or any of its respective Subsidiaries immediately prior to the Closing Date, such party shall demonstrate to the satisfaction of the Treasury that it is taking all reasonable steps to divest itself of such aircraft or interest. In addition, the Borrower shall not acquire or lease any private passenger aircraft or interest in private passenger aircraft after the Closing Date.

5.18. Restrictions on Expenses. (a) The Borrower shall maintain and implement an Expense Policy, provide the Expense Policy to Treasury and the Borrower's primary regulatory agency, and post the text of the Expense Policy on its Internet website, if the Borrower maintains a company website, and distribute the Expense Policy to all employees covered under the Expense Policy. Any material amendments to the Expense Policy shall require the prior written consent of the Treasury, and any material deviations from the Expense Policy, whether in contravention thereof or pursuant to waivers provided for thereunder, shall promptly be reported to the Treasury.

(b) The Expense Policy shall, at a minimum: (i) require compliance with all Requirements of Law, (ii) apply to the Borrower and all of its Subsidiaries, (iii) govern (A) the hosting, sponsorship or other payment for conferences and events, (B) travel accommodations and expenditures, (C) consulting arrangements with outside service providers, (D) any new lease or acquisition of real estate, (E) expenses relating to office or facility renovations or relocations, and (F) expenses relating to entertainment or holiday parties, (iv) provide for (A) internal reporting and oversight, and (B) mechanisms for addressing non-compliance with the Expense Policy and (v) comply in all respects with the provisions of the Capital Purchase Program and the TARP Standards for Compensation and Corporate Governance, as implemented by any guidance or regulation thereunder, including the rules set forth in 31 C.F.R. Part 30.

5.19. Employ American Workers Act. The Borrower shall comply, and the Borrower shall take all necessary action to ensure that its Subsidiaries comply, in all respects with the provisions of the EAWA in all respects.

5.20. Internal Controls; Recordkeeping; Additional Reporting. (a) The Borrower shall promptly establish internal controls to provide reasonable assurance of compliance in all material respects with each of the Borrower's covenants and agreements set forth in Sections 5.16, 5.17, 5.18, 5.19 and 5.20(b) hereof and shall collect, maintain and preserve reasonable records evidencing such internal controls and compliance therewith, a copy of which records shall be provided to the Lenders promptly upon request. On the 15th day after the last day of each calendar quarter (or, if such day is not a Business Day, on the first Business Day after such day) commencing with September 30, 2009, the Borrower shall deliver to the Treasury (at its address set forth in Section 8.2) a report setting forth in reasonable detail (x) the status of implementing such internal controls and (y) the Borrower's compliance (including any instances of material non-compliance) with such covenants and agreements. Such report shall be accompanied by a certification duly executed by an SEO of the Borrower stating that such quarterly report is accurate in all material respects to the best of such SEO's knowledge, which

certification shall be made subject to the requirements and penalties set forth in Title 18, United States Code, Section 1001.

(b) The Borrower shall use its reasonable best efforts to account for the use and expected use of the proceeds from the Loans. On the 30th day after the last day of each month (or, if such day is not a Business Day, on the first Business Day after such day) commencing with July 31, 2009, the Borrower shall deliver to the Lenders (at their respective addresses set forth in Section 8.2) a report setting forth in reasonable detail the actual results of the operations of the Borrower and its Subsidiaries for such month, which shall include (without limitation) a budget-to-actual variance analysis. Such report shall be accompanied by a certification duly executed by an SEO of the Borrower that such monthly report is accurate in all material respects to the best of such SEO's knowledge, which certification shall be made subject to the requirements and penalties set forth in Title 18, United States Code, section 1001.

(c) The Borrower shall collect, maintain and preserve reasonable records relating to the implementation of all Federal support programs provided to the Borrower or any of its Subsidiaries pursuant to the EESA, the use of the proceeds thereunder and the compliance with the terms and provisions of such programs; provided that the Borrower shall have no obligation to comply with the foregoing in connection with any such program to the extent that such program independently requires, by its express terms, the Borrower to collect, maintain and preserve any records in connection therewith. The Borrower shall provide the Treasury with copy of all such reasonable records promptly upon request.

5.21. Waivers. (a) For any Person who is a Loan Party as of the Closing Date and any Person that becomes a Loan Party after the Closing Date, the Borrower shall cause a waiver, in substantially the form attached hereto as Exhibit D-1, to be duly executed by such North American Group Member and promptly delivered to the Treasury.

(b) For any Person who is an SEO as of the Closing Date and any Person that becomes an SEO after the Closing Date, the Borrower shall cause a waiver, in substantially the form attached hereto as Exhibit D-2, to be duly executed by such SEO, and promptly delivered to the Treasury.

(c) For any Person who is an SEO as of the Closing Date and any Person that becomes an SEO after the Closing Date, the Borrower shall cause a consent and waiver, in substantially the form attached hereto as Exhibit D-3, to be duly executed by such SEO, and promptly delivered to the Borrower (with a copy to the Treasury).

(d) For any Person who is a Senior Employee as of the Closing Date and any Person that becomes an Senior Employee after the Closing Date, the Borrower shall cause a waiver, in substantially the form attached hereto as Exhibit D-4, to be duly executed by such Senior Employee, and promptly delivered to the Treasury.

(e) For any Person who is a Senior Employee as of the Closing Date and any Person that becomes an Senior Employee after the Closing Date, the Borrower shall cause a consent and waiver, in substantially the form attached hereto as Exhibit D-5, to be duly executed by such Senior Employee, and promptly delivered to the Borrower (with a copy to the Treasury).

(f) For the avoidance of doubt, this requirement will be deemed satisfied for the United States with respect to Loan Parties that are party to the Existing UST Term Loan Agreement and any SEO or Senior Employee, to the extent such Loan Party, SEO or Senior Employee has previously provided such a waiver to the Treasury.

5.22. [Intentionally Omitted].

5.23. Additional Guarantors. Except as otherwise agreed to by the Required Lenders, the Borrower shall cause each Domestic Subsidiary of a North American Group Member who becomes a Debtor after the Closing Date to become a Guarantor (each, an "Additional Guarantor") in accordance with Section 4.24 of the Guaranty, other than (i) [intentionally omitted], (ii) any Foreign 956 Subsidiary, (iii) any Other Foreign 956 Subsidiary and (iv) any Non-U.S. Subsidiary owned in whole or in part by a Foreign 956 Subsidiary, except in the case of clauses (i) through (iv), any Subsidiaries that were guarantors under the Existing UST Term Loan Agreement.

5.24. Provide Additional Information. Each North American Group Member shall, promptly, from time to time and upon request of any Lender, furnish to such Lender such information, documents, records or reports with respect to the Collateral, the Indebtedness of the North American Group Members or any Subsidiary thereof or the corporate affairs, conditions or operations, financial or otherwise, of such North American Group Member as any Lender may reasonably request, including without limitation, providing to such Lender reasonably detailed information with respect to each inquiry of such Lender raised with the North American Group Members prior to the Closing Date.

5.25. Inspection of Property; Books and Records; Discussions. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions and the Cases, the Borrower shall, and shall cause each Group Member to, (a) keep proper books of records and account in which full, true and correct entries in conformity with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its business and activities, and (b) permit representatives of any Lender, the Special Inspector General of the Troubled Asset Relief Program or the Comptroller General of the United States to visit and inspect any of its properties and examine and make abstracts from any of its books and records and other data delivered to them pursuant to the Loan Documents at any reasonable time and as often as may reasonably be desired and to discuss the business, operations, properties and financial and other condition of the Group Members with officers and employees of the Group Members and with its independent certified public accountants.

5.26. [Governance of Borrower]. [The Borrower shall, at all times (subject to turnover thereof), maintain a Board of Directors comprised of five (5) members, three (3) of which shall be chosen by New CarCo and two (2) of which shall be chosen by the Official Committee of Unsecured Creditors in the Borrower's Case (the "Creditors' Committee"). All members of the Board of Directors shall be subject to the prior review by and shall be found to be reasonably acceptable to the Required Lenders, New CarCo, and such Creditors' Committee.]

SECTION 6

NEGATIVE COVENANTS

Each Loan Party hereby covenants and agrees to, and to cause itself and each of its Subsidiaries that is a North American Group Member to, so long as any Loan or any interest or fee payable hereunder is owing to any Lender, each North American Group Member will abide by the following negative covenants, in each case except as shall be required in connection with the Wind-Down and subject to the Orders, the Related Section 363 Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court issued in connection with the Cases:

6.1. Prohibition on Fundamental Changes. No North American Group Member shall, at any time, directly or indirectly, (i) enter into any transaction of merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation, winding up or dissolution) or Dispose of all or substantially all of its Property without the Lender's prior consent, provided, any Guarantor may merge, consolidate, amalgamate into, or Dispose of all or substantially all of its Property to another North American Group Member; or (ii) form or enter into any partnership, syndicate or other combination (other than joint ventures permitted by Section 6.14) that could reasonably be expected to have a Material Adverse Effect.

6.2. Lines of Business. No North American Group Member will engage to any substantial extent in any line or lines of business activity other than the businesses generally carried on by the North American Group Members as of the Closing Date or businesses reasonably related thereto.

6.3. Transactions with Affiliates. No North American Group Member will (a) enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of Property (including Collateral) or the rendering of any service, with any Affiliate unless such transaction is (i) in the ordinary course of such North American Group Member's business, and (ii) generally upon fair and reasonable terms and, with respect to any transaction with an Affiliate that is not a Group Member, no less favorable to such North American Group Member than it would obtain in an arm's length transaction with a Person which is not an Affiliate (other than any transaction that occurs pursuant to an agreement in effect as of the Petition Date), and in either case, is otherwise permitted under this Agreement, or (b) make a payment that is not otherwise permitted by this Section 6.3 to any Affiliate. Irrespective of whether such transactions comply with the provisions of this Section 6.3, but subject to the other restrictions set forth elsewhere in this Agreement, the Loan Parties shall be permitted to (x) transact business in the ordinary course with (i) the joint ventures in which the Loan Parties or their Subsidiaries participate and (ii) [intentionally omitted], and (y) make Restricted Payments permitted under Section 6.5.

6.4. Limitation on Liens. No North American Group Member will, create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except Permitted Liens.

6.5. Restricted Payments. Without the Lenders' consent, no North American Group Member shall, (i) declare or pay any dividend (other than dividends payable solely in

common Capital Stock of the Person making such dividend) on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of any Capital Stock of any North American Group Member, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of any North American Group Member and (ii) optionally prepay, repurchase, redeem or otherwise optionally satisfy or defease with cash or Cash Equivalents any Indebtedness (any such payment referred to in clauses (i) and (ii), a "Restricted Payment"), other than:

(a) redemptions, acquisitions or the retirement for value or repurchases (or loans, distributions or advances to effect the same) of shares of Capital Stock from current or former officers, directors, consultants and employees, including upon the exercise of stock options or warrants for such Capital Stock, or any executive or employee savings or compensation plans, or, in each case to the extent applicable, their respective estates, spouses, former spouses or family members or other permitted transferees;

(b) any Subsidiary (including an Excluded Subsidiary) may make Restricted Payments to its direct parent or to the Borrower or any Guarantor that is a Wholly Owned Subsidiary;

(c) any JV Subsidiary may make Restricted Payments required or permitted to be made pursuant to the terms of the joint venture arrangements in effect on the Closing Date (or otherwise as approved by the Required Lenders) of holders of its Capital Stock, provided that, the Borrower and its Subsidiaries have received their *pro rata* portion of such Restricted Payments; and

(d) any Subsidiary that is not a North American Group Member may make Restricted Payments to any other Subsidiary or Subsidiaries that are not North American Group Members.

For the avoidance of doubt this Section 6.5 shall not restrict in any manner any North American Group Member from Disposing of any New GM Equity Interests.

6.6. Amendments to Transaction Documents. (a) No North American Group Member will amend, supplement or otherwise modify (pursuant to a waiver or otherwise) the terms and conditions of the indemnities and licenses furnished to New CarCo and its successors or any of its Subsidiaries pursuant to the Transaction Documents such that after giving effect thereto such indemnities or licenses, taken as a whole, shall be materially less favorable to the interests of the Lenders with respect thereto or (b) otherwise amend, supplement or otherwise modify the terms and conditions of the Transaction Documents.

6.7. Changes in Fiscal Periods. No North American Group Member will permit its fiscal year to end on a day other than December 31 or change its method of determining fiscal quarters, in each case, unless otherwise agreed by the Required Lenders.

6.8. Negative Pledge. No North American Group Member will, enter into or suffer to exist or become effective any agreement that prohibits or limits the ability of any North American Group Member to create, incur, assume or permit to exist any Lien upon any of the

Collateral, whether now owned or hereafter acquired, other than this Agreement, the other Loan Documents, the Existing Agreements, and Permitted Liens; provided that the agreements excepted from the restrictions of this Section shall include customary negative pledge clauses in agreements providing refinancing Indebtedness or permitted unsecured Indebtedness.

6.9. Indebtedness. No North American Group Member will, create, incur, assume or suffer to exist any Indebtedness except Permitted Indebtedness.

6.10. Investments. No North American Group Member will make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any assets constituting a business unit of, or make any other investment in, any Person (all of the foregoing, "Investments"), except Permitted Investments.

6.11. Action Adverse to the Collateral. Except as permitted under any provision of this Agreement, no Loan Party shall or shall permit any Pledged Entity that is a Subsidiary to take any action that would directly or indirectly materially impair or materially adversely affect such North American Group Member's title to, or the value of, the Collateral, or materially increase the duties, responsibilities or obligation of any North American Group Member.

6.12. Limitation on Sale of Assets. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions and the Cases and any other applicable provision of any Loan Document, each North American Group Member shall have the right to Dispose freely of any of its Property (including, without limitation, receivables and leasehold interests) whether now owned or hereafter acquired.

6.13. [Intentionally Omitted].

6.14. JV Agreements. No North American Group Member or Pledged Entity shall allow any modification or amendment to any JV Agreement, except that any such party that is not a Debtor may modify or amend any JV Agreement; provided that such amendment or modification could not reasonably be expected to have a Material Adverse Effect.

6.15. Swap Agreements. The North American Group Members will not itself, and will not permit any of their respective Subsidiaries to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Borrower or any Subsidiary has actual or anticipated exposure (other than those in respect of Capital Stock) and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates with respect to any interest-bearing liability or investment of the Borrower or any Subsidiary.

6.16. Clauses Restricting Subsidiary Distributions. The Borrower will not, and will not permit any Guarantor to, enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any such Guarantor to (a) make Restricted Payments in respect of any Capital Stock of such Guarantor held by, or pay any Indebtedness owed to, the Borrower or any other Guarantor, (b) make loans or advances to, or other Investments in, the Borrower or any other Guarantor or (c) transfer any of its assets to the Borrower or any other Guarantor, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) any restrictions with respect to a Guarantor

imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Guarantor, (iii) any agreement or instrument governing Indebtedness assumed in connection with the acquisition of assets by the Borrower or any Guarantor permitted hereunder or secured by a Lien encumbering assets acquired in connection therewith, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person or the properties or assets of the Person so acquired, (iv) restrictions on the transfer of assets subject to any Lien permitted by Section 6.4 imposed by the holder of such Lien or on the transfer of assets subject to a Disposition permitted by Section 6.12 imposed by the acquirer of such assets, (v) provisions in joint venture agreements and other similar agreements (in each case relating solely to the respective joint venture or similar entity or the Capital Stock therein) entered into in the ordinary course of business, (vi) restrictions contained in the terms of any agreements governing purchase money obligations, Capital Lease Obligations or attributable obligations not incurred in violation of this Agreement; provided that, such restrictions relate only to the property financed with such Indebtedness, (vii) restrictions on cash or other deposits imposed by customers under contracts or other arrangements entered into or agreed to in the ordinary course of business, or (viii) customary non-assignment provisions in leases, contracts, licenses and other agreements entered into in the ordinary course of business and consistent with past practices.

6.17. Sale/Leaseback Transactions. No North American Group Member will enter into any arrangement with any Person providing for the leasing by any such North American Group Member of real or personal property that has been or is to be sold or transferred by any such North American Group Member to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of any such North American Group Member (a "Sale/Leaseback Transaction") other than any Sale/Leaseback Transaction in effect on the Closing Date.

6.18. [Intentionally Omitted].

6.19. Modification of Organizational Documents. No North American Group Member will modify any organizational documents, except (i) as required by the Bankruptcy Code or (ii) in connection with a Disposition permitted by Section 6.12.

SECTION 7

EVENTS OF DEFAULT

7.1. Events of Default. Notwithstanding the provisions of section 362(c) of the Bankruptcy Code, and without notice, application or motion to, hearing before, or order of the Bankruptcy Court, or any notice to any of the North American Group Members, and subject to the provisions of this Section 7, each of the following events shall constitute an "Event of Default", provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied:

(a) the Borrower shall default in the payment of any principal of or interest on any Loan when due (whether at stated maturity or upon acceleration), including the failure to pay

the Administrative Priority Claim Payment Amount on or before the Administrative/Priority Claim Payment Date; or

(b) any Guarantor shall default in its payment obligations under the Guaranty; or

(c) any Loan Party shall default in the payment of any other amount payable by it hereunder or under any other Loan Document after notification by the Lenders of such default, and such default shall have continued unremedied for three (3) Business Days; or

(d) any North American Group Member shall breach any covenant contained in Section 5.16 (Executive Privileges and Compensation), Section 5.17 (Aircraft), Section 5.18 (Restrictions on Expenses), Section 5.19 (Employ American Workers Act), Section 5.20 (Internal Controls; Recordkeeping; Additional Reporting), Section 5.21 (Waivers) or Section 6 hereof; or

(e) any North American Group Member shall default in performance of or otherwise breach non-payment obligations or covenants under any of the Loan Documents not covered by another clause in this Section 7, and such default has not been remedied within the applicable grace period provided therein, or if no grace period, within ten (10) Business Days; or

(f) any representation, warranty or certification made or deemed made herein or in any other Loan Document by any North American Group Member or any certificate furnished to the Lenders pursuant to the provisions hereof or thereof, shall prove to have been false or misleading in any material respect as of the time made or furnished; or

(g) [intentionally omitted]; or

(h) [intentionally omitted]; or

(i) [intentionally omitted]; or

(j) [intentionally omitted]; or

(k) any of the Cases shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code; a trustee or interim trustee under chapter 7 or chapter 11 of the Bankruptcy Code, a receiver and manager, or an examiner with enlarged powers relating to the operation of the business (powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code) under section 1106(b) of the Bankruptcy Code shall be appointed in any of the Cases; or an application shall be filed by the Borrower or any of its Subsidiaries for the approval of any other Superpriority Claim (other than the Carve-Out) in any of the Cases which is *pari passu* with or senior to the claims of the Lenders against any Borrower or any other Loan Party hereunder or under any of the other Loan Documents, or there shall arise or be granted any such *pari passu* or senior Superpriority Claim; or

(l) except as expressly agreed in writing by the Required Lenders, any Debtor shall make any Prepetition Payment to any general unsecured creditor other than any such

Prepetition Payments that are (i) payable pursuant to an order by the Bankruptcy Court or (ii) permitted by the Wind-Down Budget; or

(m) [intentionally omitted]; or

(n) [intentionally omitted]; or

(o) [intentionally omitted]; or

(p) any Loan Document shall for whatever reason be terminated, any default or event of default shall have occurred under any Loan Document, the Loan Documents shall for any reason cease to create a valid, security interest in any of the Collateral purported to be covered hereby or thereby, or any North American Group Member's material obligations (including the Borrower's Obligations hereunder) shall cease to be in full force and effect, or the enforceability thereof shall be contested by any North American Group Member; or

(q) the filing of a motion, pleading or proceeding by any of the other Loan Parties which could reasonably be expected to result in a material impairment of the rights or interests of any Lender under any Loan Document, or a determination by a court with respect to a motion, pleading or proceeding brought by another party which results in a material impairment of the rights or interests of any Lender under any Loan Document; or

(r) (i) any order shall be entered reversing, amending, supplementing, staying for a period in excess of five days, vacating or otherwise modifying in any material respect the Final Order without the prior written consent of the Lenders, (ii) the Final Order shall cease to create a valid and perfected Lien or to be otherwise in full force and effect or (iii) any Debtor shall fail to, or fail to cause any North American Group Member to, comply with the Orders; or

(s) the North American Group Members or any other material Subsidiaries of the Borrower shall take any action in support of any of the events set forth in clauses (k), (l), (m), (q) or (s) or any person other than the North American Group Members or any other material Subsidiaries of the Borrower shall do so, and such application is not contested in good faith by the North American Group Members or any other material Subsidiaries of the Borrower and the relief requested is granted in an order that is not stayed pending appeal; or

(t) [intentionally omitted]; or

(u) any Change of Control shall have occurred without the prior consent of the Lenders other than pursuant to the Related Section 363 Transaction; or

(v) any North American Group Member shall grant, or suffer to exist, any Lien on any Collateral other than Permitted Liens; or the Liens contemplated under the Loan Documents shall cease to be perfected Liens on the Collateral in favor of the Lenders of the requisite priority hereunder with respect to such Collateral (subject to the Permitted Liens); or

(w) [intentionally omitted]; or

(x) [intentionally omitted]; or

(y) [intentionally omitted]; or

(z) [intentionally omitted]; or

(aa) [intentionally omitted]; or

(bb) any North American Group Member (other than a Debtor) shall admit its inability to, or intention not to, perform any of such party's material Obligations hereunder; or

(cc) a plan shall be confirmed in any of the Cases that does not, or any order shall be entered which dismisses any of the Cases and which order does not comply with the repayment provisions of this Agreement; or any of the Debtors shall seek support, or fail to contest in good faith the filing or confirmation of such a plan or the entry of such an order.

7.2. Remedies upon Event of Default. (a) If any Event of Default occurs and is continuing under Section 7.1(l), the Required Lenders may, by written notice to the Borrower, take any action set forth in Section 7.2(c).

(b) After the Maturity Date, if any Obligations remain outstanding, the Required Lenders may, by written notice to the Borrower, take any action set forth in Section 7.2(c).

(c) Upon (but only upon) the occurrence of an event set forth in Section 7.2(a) and (b), the Required Lenders may take any or all of the following actions, at the same or different times, in each case without further order of or application to the Bankruptcy Court (provided that (x) with respect to clause (iii) below and the enforcement of Liens or other remedies with respect to the Collateral under clause (v) below, the Lenders shall provide the Borrower (with a copy to counsel for each Committee and to the United States Trustee for the Southern District of New York) with five Business Days' written notice prior to taking the action contemplated thereby, (y) upon receipt of any such notice, the Borrower may only make disbursements in the ordinary course of business and with respect to the Carve-Out, but may not disburse any other amounts, and (z) in any hearing after the giving of the aforementioned notice, the only issue that may be raised by any party in opposition thereto shall be whether, in fact, the specific Event of Default giving rise to the enforcement has occurred and is continuing):

(i) declare the principal of and accrued interest on the outstanding Loans to be immediately due and payable;

(ii) [intentionally omitted]

(iii) set-off any amounts (other than Excluded Collateral) held in any accounts maintained by any Loan Party with respect to which any Lender is a party to a control agreement;

(iv) compel any Debtor to or to cause any North American Group Member to sell any or all of its assets (other than the Excluded Collateral) that comprise collateral consistent with Section 363(b) of the Bankruptcy Code or any other applicable law, and

credit bid the Loans in any such sale pursuant to Section 363(k) of the Bankruptcy Code or other Applicable Law; or

(v) take any other action or exercise any other right or remedy (including, without limitation, with respect to the Liens in favor of the Lenders) permitted under and consistent with the Loan Documents or by applicable law.

(d) Notwithstanding any other provision in this Agreement or the other Loan Documents, the Lenders' rights and remedies set forth in Section 7.2(a), (b) and (c) shall for all purposes be the sole and exclusive remedy of the Lenders and their respective Affiliates under this Agreement and the other Loan Documents, at law or in equity, for all purposes against the Borrower, any of its direct or indirect Subsidiaries (including, the Guarantors), the Pledgors, and any of their respective former, current and future direct or indirect equity holders, controlling persons, stockholders, directors, officers, employees, agents, members, managers, general or limited partners or assignees upon any Event of Default or for any loss or damage suffered as a result of the breach of any representation, warranty, covenant or agreement contained in this Agreement, the other Loan Documents or otherwise by the Borrower or any of its direct or indirect Subsidiaries, any Pledgor or any Guarantor.

SECTION 8

MISCELLANEOUS

8.1. Amendments and Waivers. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 8.1 or as otherwise expressly provided herein. The Required Lenders and the Borrower (on its own behalf and as agent on behalf of any other Loan Party party to the relevant Loan Document) may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights or obligations of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Lenders may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; except that (x) the consent of each Lender directly affected thereby shall be required with respect to (i) reductions in the amount or extensions of the Maturity Date of any Loan or any change to the definition of "Maturity Date", (ii) reductions in the rate of interest or any fee or extensions of any due date thereof, (iii) [intentionally omitted], (iv) imposition of any additional restrictions on assignments and participations, (v) [intentionally omitted] and (vi) modifications to the *pro rata* treatment and sharing provisions of the Loan Documents, and (y) the consent of 100% of the Lenders shall be required with respect to (i) modifications to this Section of any of the voting percentages, the definition of "Required Lenders", or the minimum requirement necessary for all Lenders or Required Lenders to take action hereunder, (ii) prior to the consummation of the Related Section 363 Transactions, the release or subordination of any of the Guarantors or a material portion of the Collateral other than in connection with the Related Section 363 Transactions, (iii) after the consummation of the Related Section 363 Transactions, the release or subordination of all or substantially all of the Guarantors or all or substantially all of the Collateral, (iv) the

assignment, delegation or other transfer by any Loan Party of any of its rights and obligations under this Agreement and (v) amendments, supplements, modifications or waivers of Sections 2.12 (or the rights and obligations contained therein), 4.1(a), 4.1(c)(ii), 4.1(e), 4.1(f), 4.1(m) or 7.1(r), the definition of "ABR" or the minimum notice requirements contained in Section 2.4.

Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders and all future holders of the Loans. In the case of any waiver, the Loan Parties and the Lenders shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon. Any such waiver, amendment, supplement or modification shall be effected by a written instrument signed by the parties required to sign pursuant to the foregoing provisions of this Section 8.1; provided that, delivery of an executed signature page of any such instrument by facsimile transmission shall be effective as delivery of a manually executed counterpart thereof.

8.2. Notices. (a) All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy or electronic transmission), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy notice or electronic transmission or overnight or hand delivery, when received, addressed as follows in the case of the Borrower and the Lenders, or to such other address as may be hereafter notified by the respective parties hereto:

Borrower:

GM Global Headquarters
Att. Mail Code 482-C37-A99
300 Renaissance Center
Detroit, MI 48265-3000
Telecopy: 248-262-8491

with a copy to:

Motors Liquidation Company
767 Fifth Avenue, 14th Floor
New York, NY 10153
Attention: Treasurer
Telecopy: 212-418-3630

and

Motors Liquidation Company
300 Renaissance Center
Detroit, MI 48265-3000
Attention: General Counsel
Telecopy: 248-267-4584

and:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153-0119
Attention: Stephen Karotkin
Richard Ginsburg
Soo-Jin Shim
Telecopy: 212-310-8007

Treasury:

The United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220
Attention: Chief Counsel Office of Financial Stability
Telecopy: 202-927-9225
Email: OFSChiefCounselNotices@do.treas.gov

with a copy to:

Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, NY 10281
Attention: John J. Rapisardi
Telecopy: 212-504-6666
Telephone: 212-504-6000

Canadian Lender:

Export Development Canada
151 O'Connor Street
Ottawa, Ontario
Canada K1A 1K3
Attention: Loans Services
Telecopy: 613-598-2514

with a copy to:

Export Development Canada
151 O'Connor Street
Ottawa, Ontario
Canada K1A 1K3
Attention: Asset Management/Covenants Officer
Telecopy: 613-598-3186

provided that any notice, request or demand to or upon the Lenders shall not be effective until received.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by each Lender in its sole discretion. The Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

8.3. No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

8.4. Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

8.5. Payment of Expenses. The Borrower agrees (a) to pay or reimburse the Lenders and any other Canadian Lender Consortium Member for all their (i) reasonable out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby (including the reasonable out-of-pocket costs and expenses of the advisors and counsel to each Lender and each other Canadian Lender Consortium Member, but excluding the professional fees of such advisors and counsel to each Lender and each other Canadian Lender Consortium Member), and (ii) costs and expenses incurred in connection with the enforcement or preservation of any rights or exercise of remedies under this Agreement, the other Loan Documents and any other documents prepared in connection herewith or therewith in respect of any Event of Default or otherwise, including the fees and disbursements of counsel (including the allocated fees and disbursements and other charges of in-house counsel) to each Lender and each other Canadian Lender Consortium Member, (b) to pay, indemnify, or reimburse each

Lender and each other Canadian Lender Consortium Member for, and hold each Lender and each other Canadian Lender Consortium Member harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying such fees, if any, which may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (c) to pay, indemnify or reimburse each Lender and each other Canadian Lender Consortium Member, their respective affiliates, and their respective officers, directors, partners, employees, advisors, agents, controlling persons and trustees (each, an "Indemnitee") for, and hold each Indemnitee harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever incurred by an Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of, the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, including any of the foregoing relating to the use or proposed use of proceeds of the Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations or assets of any Group Member, including any of the Mortgaged Properties, and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnitee against any Loan Party under any Loan Document or any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by any third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto (all the foregoing in this clause (c), collectively, the "Indemnified Liabilities"), provided that the Borrower shall have no obligation hereunder to any Indemnitee (x) for Taxes (it being understood that the Borrower's obligations with respect to Taxes are set forth in Section 2.12) or (y) with respect to Indemnified Liabilities to the extent such Indemnified Liabilities resulted from the gross negligence or willful misconduct of, in each case as determined by a final and nonappealable decision of a court of competent jurisdiction, such Indemnitee, any of its affiliates or its or their respective officers, directors, partners, employees, agents or controlling persons. No Indemnitee shall be liable for any damages arising from the use by unauthorized persons of information or other materials sent through electronic, telecommunications or other information transmission systems that are intercepted by such persons or for any special, indirect, consequential or punitive damages in connection with the Loans. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnitee. All amounts due under this Section 8.5 shall be payable not later than 30 days after written demand therefor. Statements payable by the Borrower pursuant to this Section 8.5 shall be submitted to the Treasurer of the Borrower as set forth in Section 8.2, or to such other Person or address as may be hereafter

designated by the Borrower in a written notice to the Lenders. The agreements in this Section 8.5 shall survive repayment of the Loans and all other amounts payable hereunder.

8.6. Successors and Assigns; Participations and Assignments. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, all future holders of the Loans and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder (except to its Debtor Successor) without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 8.6.

(b) Any Lender may, without the consent of the Borrower, assign to one or more assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Loans at the time owing to it) pursuant to an Assignment and Assumption, executed by such Assignee and such Lender and delivered to the Borrower for its records, to any other branch, division or agency of the United States or Canadian governments or any government of any state, province, commonwealth or territory of the United States or Canada or to New CarCo, together with any related rights and obligations thereunder, without the consent of the Borrower. The Borrower or its agent will maintain a register ("Register") of each Lender and Assignee. The Register shall contain the names and addresses of the Lenders and Assignees and the principal amount of the loans (and stated interest thereon) held by each such Lender and Assignee from time to time. The entries in the Register shall be conclusive and binding, absent manifest error.

(c) Any Lender may, without the consent of the Borrower, sell participations to any other branch, division or agency of the United States or Canadian governments or any government of any state, province, commonwealth or territory of the United States or Canada (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrower and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 8.1 and (2) directly affects such Participant. Subject to paragraph (c) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Section 2.10 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section 8.6. To the extent permitted by law, and subject to paragraph (c) of this Section, each Participant also shall be entitled to the benefits of Section 8.7 as though it were a Lender. Notwithstanding anything to the contrary in this Section 8.6, each Lender shall have the right to sell one or more participations in all or any part of its Loans or other Obligations to one or more lenders or other Persons that provide financing to such Lender in the form of sales

and repurchases of participations without having to satisfy the foregoing requirements. In the event that a Lender sells a participation in such Lender's rights and obligations under this Agreement, the Lender, on behalf of Borrower, shall maintain a register on which it enters the name, address and interest in this Agreement of all Participants.

8.7. Adjustments; Set-off. (a) Except to the extent that this Agreement expressly provides for payments to be allocated to a particular Lender or to the Lenders, if any Lender (a "Benefitted Lender") shall, at any time after the Loans and other amounts payable hereunder shall immediately become due and payable pursuant to Section 7, receive any payment of all or part of the Obligations owing to it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such other Lender, such Benefitted Lender shall purchase for cash in Dollars from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral or the proceeds thereof, as shall be necessary to cause such Benefitted Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) In addition to any rights and remedies of the Lenders provided by law, subject to any notice or other requirement contained in the Orders, each Lender shall have the right, without (i) further order of or application to the Bankruptcy Court, or (ii) prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon all amounts owing hereunder becoming due and payable (whether at the stated maturity, by acceleration or otherwise) to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Borrower. Each Lender agrees promptly to notify the Borrower and the other Lenders after any such set-off and application made by such Lender; provided that, the failure to give such notice shall not affect the validity of such set off and application.

8.8. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Lenders.

8.9. Severability. Any provision of this Agreement that is held to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8.10. Integration. This Agreement and the other Loan Documents represent the entire agreement of the Borrower and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents. Subject to Section 8.18, in the event of any conflict between this Agreement or any other Loan Document and the Orders, the Orders shall control.

8.11. Governing Law. **THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK AND, TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.**

8.12. Submission to Jurisdiction; Waivers. All judicial proceedings brought against any Loan Party hereto arising out of or relating to this Agreement or any other Loan Document, or any Obligations hereunder and thereunder, may be brought in the Bankruptcy Court and, if the Bankruptcy Court does not have (or abstains from) jurisdiction, the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof. Each Loan Party hereto hereby irrevocably and unconditionally:

(a) submits for itself and its property in any such legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such party at its address set forth in Section 8.2 or at such other address of which the Lenders shall have been notified pursuant thereto; and

(d) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

8.13. Acknowledgments. The Loan Party hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) no Lender has any fiduciary relationship with or duty to any Group Member arising out of or in connection with this Agreement or any of the other Loan

Documents, and the relationship between the Lenders, on one hand, and any Group Member, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower or any Subsidiary and the Lenders.

8.14. Release of Guaranties. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Lenders hereby agree to take promptly, any action requested by the Borrower having the effect of releasing, or evidencing the release of, any guarantee by any Loan Party of the Obligations to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to in accordance with Section 8.1.

8.15. Confidentiality. Each of the Lenders agrees to keep confidential all non-public information provided to it by any Loan Party or any other Lender pursuant to this Agreement that is designated by such Loan Party as confidential; provided that nothing herein shall prevent any Lender from disclosing any such information (a) to any other Lender or any affiliate of any thereof, (b) subject to an agreement to comply with the provisions of this Section 8.15 (or other provisions at least as restrictive as this Section), to any actual or prospective Transferee or any pledgee of Loans or any direct or indirect contractual counterparty (or the professional advisors thereto) to any swap or derivative transaction relating to the Loan Party and its obligations, (c) to its affiliates, employees, directors, trustees, agents, attorneys, accountants and other professional advisors, or those of any of its affiliates for performing the purposes of a Loan Document, subject to such Lender, as the case may be, advising such Person of the confidentiality provisions contained herein, (d) upon the request or demand of any Governmental Authority or regulatory agency (including self-regulated agencies) having jurisdiction (or purporting to have jurisdiction) over it upon notice (other than in connection with routine examinations or inspections by regulators) to the Borrower thereof unless such notice is prohibited or the Governmental Authority or regulatory agency shall require otherwise, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, after notice to the Borrower if reasonably feasible, and, if applicable, after exhaustion of the Group Members' rights and remedies under Section 1.6 of the Department of the Treasury Regulations, 31 C.F.R. Part 1, Subpart A; Sections 27-29 inclusive and 44 of the Access to Information Act, R.S.C., ch A-1 (1985) and Section 28 and Part IV (Sections 50-56 inclusive) of the Freedom of Information and Protection of Privacy Act, R.S.O., ch. F.31 (1990), after notice to the Borrower if reasonably feasible, (f) if requested or required to do so in connection with any litigation or similar proceeding, after notice to the Borrower if reasonably feasible, (g) that has been publicly disclosed, other than in breach of this Section, (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender or (i) in connection with the exercise of any remedy hereunder or under any other Loan Document.

8.16. Waivers of Jury Trial. **THE BORROWER AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN**

ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

8.17. USA PATRIOT Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender to identify each Loan Party in accordance with the USA PATRIOT Act.

8.18. Orders. The terms and conditions hereunder shall be subject to the terms and conditions of the Final Order. In the event of any inconsistency between the terms or conditions of this Agreement and the terms and conditions of the Orders, the terms and conditions of the Orders shall control. Notwithstanding the foregoing, in the event of any inconsistency between the terms or conditions of Section 8.1 and the terms and conditions of the Orders, the terms and conditions of Section 8.1 shall control.

8.19. Effect of Amendment and Restatement of the Existing Credit Agreement. On the Effective Date, the Existing Credit Agreement shall be amended, restated and superseded in its entirety. The parties hereto acknowledge and agree that (a) this Agreement and the other Loan Documents, whether executed and delivered in connection herewith or otherwise, do not constitute a novation, payment and reborrowing, or termination of the "Obligations" (as defined in the Existing Credit Agreement) under the Existing Credit Agreement as in effect prior to the Effective Date and (b) such "Obligations" are in all respects continuing (as amended and restated hereby) with only the terms thereof being modified as provided in this Agreement.

8.20. New GM Equity Interests. Each Lender hereby acknowledges and agrees that it, and each Affiliate of any Lender, (a) shall have no right, in any manner whatsoever, to the New GM Equity Interests or any proceeds received from the sale or distribution thereof in satisfaction or repayment of the Loans and (b) will not initiate or prosecute any claims, causes of action, adversary proceedings or other litigation seeking recourse against the New GM Equity Interests or any proceeds received from the sale or distribution thereof in satisfaction or repayment of the Loans or otherwise.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

MOTORS LIQUIDATION COMPANY

By:_____
Name:
Title:

[GUARANTOR]

By:_____
Name:
Title:

UNITED STATES DEPARTMENT OF THE TREASURY, as a Lender

By:_____

Title: Interim Assistant Secretary of the Treasury for Financial Stability

EXPORT DEVELOPMENT CANADA, as a Lender

By: _____
Name:
Title:

By: _____
Name:
Title:

Exhibit 8

EXECUTION VERSION

$1,175,000,000
AMENDED AND RESTATED SECURED SUPERPRIORITY
DEBTOR-IN-POSSESSION CREDIT AGREEMENT

among

MOTORS LIQUIDATION COMPANY
(f/k/a GENERAL MOTORS CORPORATION)
a Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code,
as the Borrower,

THE GUARANTORS

and

THE LENDERS PARTIES HERETO FROM TIME TO TIME

Dated as of July 10, 2009

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SCHEDULES:

EXHIBITS:

AMENDED AND RESTATED SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT (this "Agreement"), dated as of July 10, 2009, by and among MOTORS LIQUIDATION COMPANY (f/k/a General Motors Corporation), a Delaware corporation and a debtor and debtor-in-possession in a case pending under Chapter 11 of the Bankruptcy Code (as defined below) (the "Borrower"), the Guarantors (as defined below), and the several lenders from time to time parties to this Agreement (the "Lenders").

W I T N E S S E T H:

WHEREAS, on June 1, 2009 (the "Petition Date"), the Borrower, Saturn, LLC, a Delaware limited liability company, Saturn Distribution Corporation, a Delaware corporation, and Chevrolet-Saturn of Harlem, Inc., a Delaware corporation (each an "Initial Debtor" and collectively, the "Initial Debtors") filed voluntary petitions in the Bankruptcy Court (as defined below) for relief, and commenced cases (each an "Initial Case" and collectively, the "Initial Cases") under the Bankruptcy Code and have continued in the possession of their assets and in the management of their businesses pursuant to sections 1107 and 1108 of the Bankruptcy Code;

WHEREAS, on June 3, 2009, the Borrower entered into the Secured Superpriority Debtor-In-Possession Credit Agreement, among the Borrower, the guarantors party thereto and the Lenders (the "Existing Credit Agreement");

WHEREAS, pursuant to the Existing Credit Agreement, the Lenders provided the Borrower with (i) term loans in an aggregate amount equal to $32,125,000,000 (the "Tranche B Term Loans") and (ii) term loans in an aggregate amount equal to $1,175,000,000 (the "Tranche C Term Loans");

WHEREAS, on June 25, 2009, the Bankruptcy Court entered the Final Order pursuant to the Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (the "Final Order") approving the terms and conditions of the Existing Credit Agreement and the Loan Documents (as defined in the Existing Credit Agreement);

WHEREAS, on July 5, 2009, the Bankruptcy Court entered the Wind-Down Order pursuant to the Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (the "Wind-Down Order") approving the amendment to the Existing Credit Agreement to provide the Debtors with post-petition, wind-down financing;

WHEREAS, pursuant to the Master Transaction Agreement (as defined below), on July 10, 2009 the Treasury (as defined below) exchanged a portion of its Tranche B Term Loans in an amount equal to $25,052,511,395 together with its Additional Notes (as defined in the Existing Credit Agreement) and its rights under the Existing UST Term Loan Agreement including the Warrant Note (as defined in the Existing UST Loan Agreement as defined below) and the Additional Notes (as defined in the Existing UST Loan Agreement) to New CarCo (as

defined below) in exchange for common and preferred Capital Stock (as defined below) of New CarCo;

WHEREAS, pursuant to the Master Transaction Agreement, on July 10, 2009 the Canadian Lender exchanged a portion of its Tranche B Term Loans in an amount equal to $3,010,805,085 together with its Additional Notes to New CarCo in exchange for common and preferred Capital Stock of New CarCo;

WHEREAS, pursuant to the Master Transaction Agreement and in accordance with the Section 363 Sale Order (as defined below), the Borrower sold to New CarCo certain of its assets and property, and New CarCo assumed certain liabilities of the Borrower and its Subsidiaries (as defined below), including a portion of the Treasury's Tranche B Term Loans in an aggregate amount equal to $7,072,488,605 pursuant to the Assignment and Assumption Agreement, dated as of the date hereof (the "New CarCo Assignment and Assumption"), between the Borrower and New CarCo (collectively, and together with the other transactions contemplated by the Transaction Documents, the "Related Section 363 Transactions");

WHEREAS, after giving effect to the Related Section 363 Transactions, the remaining obligations of the Borrower to the Lenders are comprised solely of the Tranche C Term Loans; and

WHEREAS, the Borrower has requested, and the Lenders have agreed, to amend and restate the portion of the Existing Credit Agreement relating to the Tranche C Term Loans on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and mutual agreements contained herein, the parties hereto agree that on the Effective Date, as provided in Section 8.19, the Existing Credit Agreement shall be amended and restated in its entirety as follows:

SECTION 1

DEFINITIONS

1.1. Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABR": for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the three month Eurodollar Rate (for the avoidance of doubt after giving effect to the provisos in the definition thereof) plus 1.00%; provided that, in the event the Required Lenders shall have determined that adequate and reasonable means do not exist for ascertaining the calculation of clause (c), such calculation shall be replaced with the last available calculation of the three month Eurodollar Rate plus 1.00%. Any change in the ABR due to a change in the Prime Rate, the Federal Funds Effective Rate or the three month Eurodollar Rate shall be effective as of the opening of business on the effective

day of such change in the Prime Rate, the Federal Funds Effective Rate or the three month Eurodollar Rate, respectively.

"ABR Loans": Loans the rate of interest applicable to which is based upon the ABR.

"Additional Guarantor": as defined in Section 5.23.

"Administrative/Priority Claim Payment Amount": any positive amount equal to the difference between $200,000,000 and the aggregate amount paid or payable (or specifically reserved for payment as such) to satisfy all of the administrative and priority claims comprising the Administrative/Priority Claim Tranche.

"Administrative/Priority Claim Payment Date": the first Business Day after which the administrative and priority claims that comprise the Administrative/Priority Claim Tranche are satisfied in full or otherwise finalized so that no such claims remain outstanding and unsatisfied, but in no case later than the date on which a liquidation plan with respect to the Debtors is approved by the Bankruptcy Court and declared effective.

"Administrative/Priority Claim Tranche": an amount under the Wind-Down Budget up to $200,000,000 that was allocated as of the Effective Date to cover anticipated (i) administrative claims related to contract rejections by the Debtors and (ii) priority claims against the Debtors, each as further described in the Wind-Down Budget. The description of the administrative and priority claims that are to be set forth in the Wind-Down Budget shall reflect such categories, provisions and assumptions such that a good faith estimate, as of the Effective Date, of the sum of the obligations arising from the claims referenced in clauses (i) and (ii) above shall be at least equal to $200,000,000.

"Affiliate": with respect to any Person, any other Person which, directly or indirectly, controls, is controlled by, or is under common control with, such Person. For purposes of this Agreement, "control" (together with the correlative meanings of "controlled by" and "under common control with") means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by contract, or otherwise. For the avoidance of doubt, pension plans of a Person and entities holdings the assets of such plans, shall not be deemed to be Affiliates of such Person.

"Aggregate Exposure Percentage": with respect to any Lender at any time, the ratio (expressed as a percentage) of such Lender's aggregate but unpaid principal amount of such Lender's Loans at such time to the sum of the aggregate but unpaid principal amount of all Lenders' Loans at such time.

"Agreement": as defined in the preamble hereto.

"Anti-Money Laundering Laws": as defined in Section 3.18(d).

"Applicable Law": as to any Person, all laws (including common law), statutes, regulations, ordinances, treaties, judgments, decrees, injunctions, writs and orders of any court,

governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any Governmental Authority applicable to such Person or its property or in respect of its operations.

"Applicable Margin": (A) 2.0% per annum in the case of ABR Loans and (B) 3.0% per annum in the case of Eurodollar Loans.

"Assignee": as defined in Section 8.6(b).

"Assignment and Assumption": an Assignment and Assumption, substantially in the form of Exhibit C.

"Bankruptcy Code": the United States Bankruptcy Code, 11 U.S.C. Section 101 *et seq.*

"Bankruptcy Court": the United States Bankruptcy Court for the Southern District of New York (together with the District Court for the Southern District of New York, where applicable).

"Bankruptcy Exceptions": limitations on, or exceptions to, the enforceability of an agreement against a Person due to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally or the application of general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity.

"Bankruptcy Rules": the Federal Rules of Bankruptcy Procedure and local rules of the Bankruptcy Court, each as amended, and applicable to the Cases.

"Benefitted Lender": as defined in Section 8.7(a).

"Board": the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower": as defined in the recitals.

"Business Day": any day other than a Saturday, Sunday or other day on which banks in New York City or Ottawa, Ontario, Canada are permitted to close; provided, however, that when used in connection with a Eurodollar Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in Dollar deposits in the London Interbank market.

"Canadian Lender": Export Development Canada, a corporation established pursuant to the laws of Canada, and its successors and assigns.

"Canadian Lender Consortium Members": each of the Export Development Canada, the Government of Canada and the Government of Ontario.

"Canadian Post-Sale Facility": the Amended and Restated Loan Agreement, dated as of the Effective Date, by and among General Motors of Canada Limited, as borrower, the other loan parties thereto, and the Canadian Lender.

"Canadian PV Loan Agreement": the Loan Agreement, dated as of the Effective Date, by and among New CarCo, as borrower, the other loan parties thereto, and the Canadian Lender.

"Capital Lease Obligations": for any Person, all obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) Property to the extent such obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under GAAP, and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP.

"Capital Stock": any and all equity interests, including any shares of stock, membership or partnership interests, participations or other equivalents whether certificated or uncertificated (however designated) of a corporation, limited liability company, partnership or any other entity, and any and all similar ownership interests in a Person and any and all warrants or options to purchase any of the foregoing.

"Carve-Out": as defined in the Orders.

"Cases": the Initial Cases and each other case of a Debtor filed with the Bankruptcy Court and joined with the Initial Cases.

"Cash Equivalents": (a) Dollars, or money in other currencies received in the ordinary course of business, (b) securities with maturities of one (1) year or less from the date of acquisition issued or fully guaranteed or insured by the United States or Canadian government or any agency thereof, (c) securities with maturities of one (1) year or less from the date of acquisition issued or fully guaranteed by any state, province, commonwealth or territory of the United States or Canada, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least "A" by S&P or "A" by Moody's or equivalent rating, (d) demand deposit, certificates of deposit and time deposits with maturities of one (1) year or less from the date of acquisition and overnight bank deposits of any commercial bank, supranational bank or trust company having capital and surplus in excess of $500,000,000, (e) repurchase obligations with respect to securities of the types (but not necessarily maturity) described in clauses (b) and (c) above, having a term of not more than 90 days, of banks (or bank holding companies) or subsidiaries of such banks (or bank holding companies) and non-bank broker-dealers listed on the Federal Reserve Bank of New York's list of primary and other reporting dealers ("Repo Counterparties"), which Repo Counterparties have capital, surplus and undivided profits aggregating in excess of $500,000,000 (or the foreign equivalent thereof) and which Repo Counterparties or their parents (if the Repo Counterparties are not rated) will at the time of the transaction be rated "A-1" by S&P (or such similar equivalent rating) or higher by at least one nationally recognized statistical rating organization, (f) commercial paper rated at least A-1 or the equivalent thereof by S&P or P-1 or the equivalent thereof by Moody's and in either case

maturing within one (1) year after the day of acquisition, (g) short-term marketable securities of comparable credit quality, (h) shares of money market mutual or similar funds which invest at least 95% in assets satisfying the requirements of clauses (a) through (g) of this definition (except that such assets may have maturities of 13 months or less), and (i) in the case of a Foreign Subsidiary, substantially similar investments, of comparable credit quality, denominated in the currency of any jurisdiction in which such Person conducts business.

"Change of Control": with respect to the Borrower, the acquisition, after the Closing Date, by any other Person, or two or more other Persons acting in concert other than the Permitted Holders, the Lenders or any Affiliate of the Lenders, of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of outstanding shares of voting stock of the Borrower at any time if after giving effect to such acquisition such Person or Persons owns twenty percent (20%) or more of such outstanding voting stock.

"Closing Date": June 3, 2009.

"Code": the Internal Revenue Code of 1986, as amended from time to time.

"Collateral": all property and assets of the Loan Parties of every kind or type whatsoever, including tangible, intangible, real, personal or mixed, whether now owned or hereafter acquired or arising, wherever located, all property of the estates of each Debtor within the meaning of section 541 of the Bankruptcy Code (including avoidance actions arising under Chapter 5 of the Bankruptcy Code and applicable state law except avoidance actions against the Prepetition Senior Facilities Secured Parties (as defined in the Final Order)), all property pledged to secure the Obligations under each Collateral Document (other than the Orders) and all proceeds, rents and products of the foregoing other than Excluded Collateral. For the avoidance of doubt, the proceeds of the Tranche C Term Loans constitute Collateral.

"Collateral Documents": means, collectively, the Orders, the Guaranty, the Equity Pledge Agreement, each Mortgage, collateral assignment, security agreement, pledge agreement or similar agreements delivered to the Lenders to secure the Obligations. The Collateral Documents (other than the Orders) shall supplement, and shall not limit, the grant of Collateral pursuant to the Orders.

"Committee": any statutory committee appointed in the Cases.

"Compensation Regulations": as defined in Section 5.16(a)(i).

"Compliance Certificate": a certificate duly executed by a Responsible Officer, substantially in the form of Exhibit F, for the immediately prior calendar month and on a cumulative basis from the Petition Date.

"Contractual Obligation": as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control": as defined in the definition of "Affiliate".

"Controlled Affiliate": as defined in Section 3.18(a).

"Convention": as defined in Section 2.12(d).

"Debtor": each of the Initial Debtors and, subject to the written consent of the Required Lenders, each other Subsidiary of the Initial Debtors to the extent that (i) such Subsidiary files with the Bankruptcy Court, (ii) such case is joined with the Cases and (iii) such Subsidiary is subject, by order of the Bankruptcy Court, to the previously issued orders relating to the Cases (including the Orders).

"Debtor Successor": with respect to any Debtor, (i) a "liquidating trust," within the meaning of Treas. Reg. § 301.7701-4, to which such Debtor's assets are distributed, or (ii) any other entity established for the sole purpose of liquidating the assets of such Debtor.

"Default": any event, that with the giving of notice, the lapse of time, or both, would become an Event of Default.

"Disposition": with respect to any Property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof; and the terms "Dispose" and "Disposed of" shall have correlative meanings.

"Dollar Equivalent": on any date of determination, (a) with respect to any amount denominated in Dollars, such amount and (b) with respect to an amount denominated in any other currency, the equivalent in Dollars of such amount as determined by the Treasury in accordance with normal banking industry practice using the Exchange Rate on the date of determination of such equivalent. In making any determination of the Dollar Equivalent, the Treasury shall use the relevant Exchange Rate in effect on the date on which a Dollar Equivalent is required to be determined pursuant to the provisions of this Agreement. As appropriate, amounts specified herein as amounts in Dollars shall include any relevant Dollar Equivalent amount.

"Dollars" and "$": the lawful money of the United States.

"Domestic 956 Subsidiary": any U.S. Subsidiary substantially all of the value of whose assets consist of equity of one or more Foreign 956 Subsidiaries for U.S. federal income tax purposes.

"Domestic Subsidiary": any Subsidiary that is organized or existing under the laws of the United States or Canada or any state, province, commonwealth or territory of the United States or Canada.

"EAWA": the Employ American Workers Act (Section 1611 of Division A, Title XVI of the American Recovery and Reinvestment Act of 2009), Public Law No. 111-5, effective as of February 17, 2009, as may be amended and in effect from time to time.

"EESA": the Emergency Economic Stabilization Act of 2008, Public Law No. 110-343, effective as of October 3, 2008, as amended by Section 7000 *et al.* of Division A,

Title VII of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, effective as of February 17, 2009, as may be further amended and in effect from time to time.

"Effective Date": the date on which the conditions precedent set forth in Section 4.1 shall have been satisfied, which date shall not be later than the date on which the Related Section 363 Transactions are consummated.

"EISA": the Energy Independence and Security Act of 2007, Public Law No. 110-140, effective as of January 1, 2009, as may be amended and in effect from time to time.

"Embargoed Person": as defined in Section 3.19.

"Environmental Agreement": the Environmental Agreement dated as of the date hereof, executed by the Loan Parties for the benefit of the Lenders, substantially in the form of Exhibit I.

"Environmental Laws": any and all foreign, Federal, state, provincial, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of the environment or natural resources, as now or may at any time hereafter be in effect.

"Environmental Permits": any and all permits, licenses, approvals, registrations, notifications, exemptions and other authorizations required under any Environmental Law.

"Environmental Tranche" an amount under the Wind-Down Budget up to $500,000,000 that was allocated as of the Effective Date to cover anticipated environmental related expenses and claims.

"Equity Pledge Agreement": the Amended and Restated Equity Pledge Agreement dated as of the date hereof, made by each Pledgor in favor of the Lenders, substantially in the form of Exhibit L.

"ERISA": the Employee Retirement Income Security Act of 1974, as amended from time to time.

"Eurocurrency Reserve Requirements": for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board) maintained by a member bank of the Federal Reserve System; provided that the Eurocurrency Reserve Requirements shall be $0 with respect to the Canadian Lender.

"Eurodollar Base Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate per annum determined on the basis of the rate for deposits in Dollars for a period equal to such Interest Period commencing on the first day of such

Interest Period appearing on page LIBOR01 of the Reuters screen as of 11:00 a.m. (London time) two Business Days prior to the beginning of such Interest Period. In the event that such rate does not appear on such page of the Reuters screen (or otherwise on such screen), the Eurodollar Base Rate shall be determined by reference to such other comparable publicly available service for displaying eurodollar rates as may be selected by the Treasury or, in the absence of such availability, by reference to the rate at which a reference institution selected by the Treasury is offered Dollar deposits at or about 11:00 a.m. (New York City time) two Business Days prior to the beginning of such Interest Period in the interbank eurodollar market where its eurodollar and foreign currency and exchange operations are then being conducted for delivery on the first day of such Interest Period for the number of days comprised therein.

"Eurodollar Loans": Loans the rate of interest applicable to which is based upon the Eurodollar Rate.

"Eurodollar Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum determined for such day in accordance with the following formula (rounded upward to the nearest 1/100th of 1%):

$$\frac{\text{Eurodollar Base Rate}}{1.00 - \text{Eurocurrency Reserve Requirements}}$$

; provided that, in no event shall the Eurodollar Rate be less than 2.00%.

"Event of Default": as defined in Section 7.1 .

"Exchange Act": the Securities and Exchange Act of 1934, as amended.

"Exchange Rate": for any day with respect to any currency (other than Dollars), the rate at which such currency may be exchanged into Dollars, as set forth at 11:00 a.m. (New York time) on such day on the applicable Bloomberg currency page with respect to such currency. In the event that such rate does not appear on the applicable Bloomberg currency page, the Exchange Rate with respect to such currency shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Treasury and the Borrower or, in the absence of such agreement, such Exchange Rate shall instead be the spot rate of exchange of a reference institution selected by the Treasury in the London Interbank market or other market where such reference institution's foreign currency exchange operations in respect of such currency are then being conducted, at or about 11:00 a.m. (New York time) on such day for the purchase of Dollars with such currency, for delivery two Business Days later; provided, however, that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Treasury may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

"Excluded Collateral": as defined in Schedule 3.28. For the avoidance of doubt, Excluded Collateral shall at all times include the New GM Equity Interests and tax refunds due to Canadian subsidiaries.

"Excluded Subsidiary": (i) any JV Subsidiary in which any Loan Party owns less than 80% of the voting or economic interest, (ii) any U.S. Subsidiary of the Borrower listed as one of the "Domestic Entities" on Annex 1 to Schedule 3.28 other than the Loan Parties listed therein, (iii) any Subsidiary of the Borrower existing on the Closing Date that the Borrower does not Control as of the Closing Date (including, without limitation, dealerships wholly owned by the Borrower that are operated by a third party pursuant to an agreement in effect on the Petition Date), (iv) [intentionally omitted] and (v) any Subsidiary set forth on Schedule 1.1G as such Schedule 1.1G may be amended from time to time with the consent of the Required Lenders.

"Executive Order": as defined in Section 3.19.

"Existing Agreements": the agreements of the Loan Parties and their Subsidiaries in effect on the Closing Date and any extensions, renewals and replacements thereof so long as any such extension, renewal and replacement could not reasonably be expected to have a material adverse effect on the rights and remedies of the Lenders under any of the Loan Documents.

"Existing Credit Agreement": as defined in the recitals.

"Existing UST Term Loan Agreement": the Loan and Security Agreement, dated as of December 31, 2008, between the Borrower and the Treasury.

"Expense Policy": the Borrower's comprehensive written policy on excessive or luxury expenditures maintained and implemented in accordance with the Treasury regulations contained in 31 C.F.R. Part 30.

"Federal Funds Effective Rate": for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by JPMorgan Chase Bank, N.A. from three federal funds brokers of recognized standing selected by it (or, if JPMorgan Chase Bank, N.A. is no longer receiving such quotations for any reason, the average of such quotations received by a reference institution selected by the Lender).

"Final Order": as defined in the recitals.

"Foreign Assets Control Regulations": as defined in Section 3.19.

"Foreign 956 Subsidiary": any Non-U.S. Subsidiary of the Borrower that is a "controlled foreign corporation" as defined in Code Section 957.

"Foreign Subsidiary": any Subsidiary that is not a Domestic Subsidiary.

"Funding Office": the office of each Lender specified in Schedule 1.1A or such other office as may be specified from time to time by such Lender as its funding office by written notice to the Borrower.

"GAAP": generally accepted accounting principles as in effect from time to time in the United States.

"Governmental Authority": any federal, state, provincial, municipal or other governmental department, commission, board, bureau, agency or instrumentality, or any federal, state or municipal court, in each case whether of the United States or a foreign jurisdiction.

"Group Members": the collective reference to the Borrower and its Subsidiaries.

"Guarantee Obligation": as to any Person, any obligation of such Person directly or indirectly guaranteeing any Indebtedness of any other Person or in any manner providing for the payment of any Indebtedness of any other Person or otherwise protecting the holder of such Indebtedness against loss (whether by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, or to take-or-pay or otherwise), provided that the term "Guarantee Obligation" shall not include (i) endorsements for collection or deposit in the ordinary course of business, or (ii) obligations to make servicing advances for delinquent taxes and insurance, or other obligations in respect of a Mortgaged Property, to the extent required by the Lenders. The amount of any Guarantee Obligation of a Person shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith. The terms "Guarantee" and "Guaranteed" used as verbs shall have correlative meanings.

"Guarantor": each Person listed on Schedule 1.1B and each other Person that becomes an Additional Guarantor.

"Guaranty": the Amended and Restated Guaranty and Security Agreement dated as of the date hereof, executed and delivered by the Borrower and each Guarantor, substantially in the form of Exhibit A.

"Indebtedness": for any Person: (a) obligations created, issued or incurred by such Person for borrowed money (whether by loan, the issuance and sale of debt securities or the sale of Property to another Person subject to an understanding or agreement, contingent or otherwise, to repurchase such Property from such Person); (b) obligations of such Person to pay the deferred purchase or acquisition price of Property or services; (c) indebtedness of others of the type referred to in clauses (a), (b), (d), (e), (f), (g) and (i) of this definition secured by a Lien on the Property of such Person, whether or not the respective indebtedness so secured has been assumed by such Person; (d) obligations (contingent or otherwise) of such Person in respect of letters of credit or similar instruments issued or accepted by banks and other financial institutions for the account of such Person; (e) Capital Lease Obligations of such Person; (f) obligations of such Person under repurchase agreements or like arrangements; (g) indebtedness of others of the type referred to in clauses (a), (b), (d), (e), (f), (h) and (i) of this definition guaranteed by such Person; (h) all obligations of such Person incurred in connection with the acquisition or carrying of fixed assets by such Person; (i) indebtedness of general partnerships of which such Person is a general partner unless the terms of such indebtedness expressly provide that such Person is not liable therefor; (j) the liquidation value of all redeemable preferred Capital Stock of such Person;

and (k) any other indebtedness of such Person evidenced by a note, bond, debenture or similar instrument.

"Indemnified Liabilities": as defined in Section 8.5.

"Indemnitee": as defined in Section 8.5.

"Initial Case": as defined in the recitals.

"Initial Debtors": as defined in the recitals.

"Interest Payment Date": (a) as to any ABR Loan, the first day of each March, June, September and December to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any Eurodollar Loan, the last day of such Interest Period, and (c) as to any Loan, the date of any repayment or prepayment made in respect thereof.

"Interest Period": as to any Eurodollar Loan, (i) initially, the period commencing on the Borrowing Date (as defined in the Existing Credit Agreement) with respect to such Loan and ending three months thereafter; and (ii) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Loan and ending three months thereafter; provided that all of the foregoing provisions relating to Interest Periods are subject to the following:

(A) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(B) any Interest Period that would otherwise extend beyond the Maturity Date shall end on the Maturity Date; and

(C) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period.

"Interim Order": the Interim Order entered June 2, 2009 by the Bankruptcy Court pursuant to Bankruptcy Code sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (a) approving this Agreement and authorizing the Loan Parties to obtain Postpetition financing pursuant thereto, (b) granting related Liens and Superpriority Claims, (c) granting adequate protection to certain Prepetition secured parties, and (d) scheduling a final hearing.

"Investments": as defined in Section 6.10.

"JV Agreement": each partnership or limited liability company agreement (or similar agreement) between a North American Group Member or one of its Subsidiaries and the

relevant JV Partner as the same may be amended, restated, supplemented or otherwise modified from time to time, in accordance with the terms hereof.

"JV Partner": each Person party to a JV Agreement that is not a Loan Party or one of its Subsidiaries.

"JV Subsidiary": any Subsidiary of a Group Member which is not a Wholly Owned Subsidiary and as to which the business and management thereof is jointly controlled by the holders of the Capital Stock therein pursuant to customary joint venture arrangements.

"Lenders": as defined in the preamble hereto.

"Lien": any mortgage, pledge, security interest, lien or other charge or encumbrance (in the nature of a security interest), including the lien or retained security title of a conditional vendor, upon or with respect to any property or assets.

"Loan Documents": this Agreement, the Notes, the Environmental Agreement, the Collateral Documents and each post-closing letter or agreement now and hereafter entered into among the parties hereto.

"Loan Parties": the Borrower, each Guarantor and the Pledgors.

"Loans": as defined in Section 2.1.

"Master Transaction Agreement": that certain Amended and Restated Master Sale and Purchase Agreement, dated as of June 26, 2009, among New CarCo and the sellers party thereto.

"Material Adverse Effect": a material adverse effect on (a) the business, operations, property, condition (financial or otherwise) or prospects of the Borrower and its Subsidiaries (taken as a whole), (b) the ability of the Loan Parties (taken as a whole) to perform any of their obligations under any of the Loan Documents to which they are a party, (c) the validity or enforceability in any material respect of any of the Loan Documents to which the Loan Parties are a party, (d) the rights and remedies of the Lenders under any of the Loan Documents, or (e) the Collateral (taken as a whole); provided that, (w) the taking of any action by the Borrower and its Subsidiaries, including the cessation of production, pursuant to and in accordance with the Wind-Down Budget, (x) the filing of the Cases, and (y) any sale pursuant to any Related Section 363 Transaction or any other action taken pursuant to the Orders, shall not be taken into consideration.

"Material Environmental Amount": $50,000,000.

"Maturity Date": the first date on which the earlier of the following shall have occurred (which date may be extended by the Lenders in their sole discretion in accordance with Section 8.1): (a) the effective date of a plan of liquidation confirmed by the Bankruptcy Court with respect to the Cases that is not reasonably satisfactory to the Treasury; provided that any objection from the Treasury that such plan is not reasonably satisfactory to the Treasury will not be based on the Disposition of Excluded Collateral under such plan and (b) the first date on

which each of the following shall have occurred (i) all claims against the Debtors have been resolved such that there are no remaining disputed claims, (ii) all assets of the Debtors (other than remaining cash) have been liquidated and (iii) all distributions on account of allowed claims have been made, and all other actions that are required under the plan of liquidation (other than the dissolution of the last remaining Debtor) have been completed. On the Maturity Date arising under clause (b) above, the plan administrator or other individual or entity charged with administering the liquidation plan shall be entitled to retain a de minimis amount of funds to complete the dissolution of the last remaining Debtor. As used in this definition, references to a Debtor includes its Debtor Successor.

"Moody's": Moody's Investors Service, Inc. and its successors.

"Mortgage": each of the mortgages and deeds of trust made by the Borrower or any Guarantor in favor of, or for the benefit of, the Lenders, substantially in the form of Exhibit J, taking into consideration the law and jurisdiction in which such mortgage or deed of trust is to be recorded or filed, to the extent applicable.

"Mortgaged Property": each property listed on Schedule 1.1C, as to which the Lenders shall be granted a Lien pursuant to the Orders or the Mortgages.

"New CarCo": General Motors Company (formerly known as NGMCO, Inc.), a Delaware corporation and successor-in-interest to Vehicle Acquisition Holdings, LLC.

"New CarCo Assignment and Assumption": as defined in the recitals.

"New GM Equity Interests": any stock, warrants, options or other equity interests of New CarCo or any of its Subsidiaries issued to or held by any Debtor (or any of its Subsidiaries) pursuant to the Related Section 363 Transactions, including any (i) subsequent dividends, payment or other distribution thereon, and (ii) proceeds received or receivable upon any Disposition thereof.

"Non-Debtor": each Subsidiary of the Borrower that is not a Debtor.

"Non-Excluded Taxes": as defined in Section 2.12(a).

"Non-U.S. Lender": as defined in Section 2.12(d).

"Non-U.S. Subsidiary": any Subsidiary of any Loan Party that is not a U.S. Subsidiary.

"North American Group Members": collectively, the Loan Parties and each Domestic Subsidiary of a Loan Party that is not an Excluded Subsidiary.

"Notes": as defined in Section 4.1(a)(vi) and any promissory notes issued in connection with an assignment contemplated by Section 2.3(b).

"Obligations": the unpaid principal of and interest on (including, without limitation, interest accruing after the maturity of the Loans and interest accruing after the filing

of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Loan Party, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of any Loan Party to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including, without limitation, all fees, charges and disbursements of counsel to any Lender that are required to be paid by any Loan Party pursuant hereto) or otherwise.

"OFAC": the Office of Foreign Assets Control of the Treasury.

"Orders": the Interim Order, the Final Order and the Wind-Down Order.

"Other Foreign 956 Subsidiary": any Non-U.S. Subsidiary substantially all of the value of whose assets consist of equity of one or more Foreign 956 Subsidiaries for U.S. federal income tax purposes.

"Other Taxes": any and all present or future stamp or documentary taxes and any other excise or property taxes, intangible or mortgage recording taxes, charges or similar levies imposed by the United States or any taxing authority thereof or therein arising from any payment made, or from the execution, delivery or enforcement of, or otherwise with respect to this Agreement or any other Loan Document.

"Participant": as defined in Section 8.6(c).

"Permitted Holders": any holder of any Capital Stock of the Borrower as of the Closing Date.

"Permitted Indebtedness":

(a) Indebtedness created under any Loan Document;

(b) [intentionally omitted];

(c) trade payables, if any, in the ordinary course of its business;

(d) Indebtedness existing on the Petition Date and any refinancings, refundings, renewals or extensions thereof (without any increase, or any shortening of the maturity, of any principal amount thereof);

(e) intercompany Indebtedness of a North American Group Member in the ordinary course of business; provided that, the right to receive any repayment of such Indebtedness (other than Indebtedness meeting the criteria of clause (d) above, or any extensions, renewals, exchanges or replacements thereof) shall be subordinated to the Lenders' rights to receive repayment of the Obligations;

(f) [intentionally omitted];

(g) [intentionally omitted];

(h) Swap Agreements permitted pursuant to Section 6.15 that are not entered into for speculative purposes;

(i) Indebtedness with respect to (x) letters of credit, bankers' acceptances and similar instruments issued in the ordinary course of business, including letters of credit, bankers' acceptances and similar instruments in respect of the financing of insurance premiums, customs, stay, performance, bid, surety or appeal bonds and similar obligations, completion guaranties, "take or pay" obligations in supply agreements, reimbursement obligations regarding workers' compensation claims, indemnification, adjustment of purchase price and similar obligations incurred in connection with the acquisition or Disposition of any business or assets, and sales contracts, coverage of long-term counterparty risk in respect of insurance companies, purchasing and supply agreements, rental deposits, judicial appeals and service contracts and (y) appeal, bid, performance, surety, customs or similar bonds issued for the account of any Loan Party in the ordinary course of business;

(j) Indebtedness incurred in the ordinary course of business in connection with cash management and deposit accounts and operations, netting services, employee credit card programs and similar arrangements and Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five Business Days of its incurrence;

(k) any guarantee by any Loan Party of Permitted Indebtedness; and

(l) Indebtedness entered into under Section 136 of EISA.

"Permitted Investments":

(a) any Investment in Cash Equivalents;

(b) any Investment by a Loan Party in the Borrower, another Loan Party, or a Pledged Entity that is a Domestic Subsidiary;

(c) [intentionally omitted];

(d) any Investment (i) existing on the Effective Date, or (ii) consisting of any extension, modification or renewal of any Investment existing on the Closing Date; provided that the amount of any such Investment is not increased through such extension, modification or renewal;

(e) [intentionally omitted];

(f) [intentionally omitted];

(g) [intentionally omitted];

(h) any Investment otherwise permitted under this Agreement;

(i) Investments in Indebtedness of, or Investments guaranteed by, Governmental Authorities, in connection with industrial revenue, municipal, pollution control, development or other bonds or similar financing arrangements;

(j) [intentionally omitted];

(k) Trade Credit;

(l) [intentionally omitted];

(m) Investments (i) received in satisfaction or partial satisfaction of delinquent accounts and disputes with customers or suppliers in the ordinary course of business, or (ii) acquired as a result of foreclosure of a Lien securing an Investment or the transfer of the assets subject to such Lien in lieu of foreclosure;

(n) commercial transactions in the ordinary course of business with the Borrower or any of its Subsidiaries to the extent such transactions would constitute an Investment;

(o) conveyance of Collateral in an arm's-length transaction to a Subsidiary that is not a Loan Party or an Affiliate of the Borrower for non-cash consideration consisting of Trade Credit or other Property to become Collateral having a fair market value equal to or greater than the fair market value of the conveyed Collateral; and

(p) Investments after the Effective Date in (i) dealerships of the Borrower and its Subsidiaries in the United States in an aggregate amount not exceeding $2,500,000 and (ii) General Motors Strasbourg, S.A. in an aggregate amount not exceeding $7,500,000.

"Permitted Liens": with respect to any Property of any North American Group Member:

(a) Liens created under the Loan Documents;

(b) Liens on Property of a North American Group Member existing on the date hereof (including Liens on Property of a North American Group Member pursuant to Existing Agreements; provided that such Liens shall secure only those obligations and any permitted refinancing that they secure on the date hereof);

(c) [intentionally omitted];

(d) Liens for taxes and utility charges not yet due or that are being contested in good faith, by proper proceedings diligently pursued, and as to which adequate reserves have been provided;

(e) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business and securing obligations that are not due and payable or that are being contested in compliance with Section 5.8;

(f) Liens securing reimbursement obligations with respect to letters of credit that encumber documents and other property relating to such letters of credit and the proceeds thereof;

(g) Liens securing Swap Agreements permitted pursuant to Section 6.15;

(h) Liens created in the ordinary course of business in favor of banks and other financial institutions over balances of any accounts held at such banks or financial institutions or over investment property held in a securities account, as the case may be, to facilitate the operation of cash pooling, cash management or interest set-off arrangements;

(i) customary Liens in favor of trustees and escrow agents, and netting and set-off rights, banker's liens and the like in favor of counterparties to financial obligations and instruments, including, without limitation, Swap Agreements permitted pursuant to Section 6.15;

(j) Liens securing Indebtedness incurred under Section 136 of EISA;

(k) pledges and deposits made in the ordinary course of business in compliance with workmen's compensation, unemployment or other insurance and other social security laws or regulations;

(l) deposits to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capital Lease Obligations), statutory obligations, surety, customs and appeal bonds, performance bonds and other obligations of a like nature, or to secure the payment of import or customs duties, in each case incurred in the ordinary course of business;

(m) zoning and environmental restrictions, easements, licenses, encroachments, covenants and servitudes, rights-of-way, restrictions on use of real property or groundwater, institutional controls and other similar encumbrances or deed restrictions incurred in the ordinary course of business that, in the aggregate, are not substantial in amount and do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of any North American Group Member;

(n) [intentionally omitted];

(o) judgment Liens securing judgments;

(p) any Lien consisting of rights reserved to or vested in any Governmental Authority by statutory provision;

(q) Liens securing Indebtedness described in clauses (d) and (e) of the definition of Permitted Indebtedness;

(r) pledges or deposits made to secure reimbursement obligations in respect of letters of credit issued to support any obligations or liabilities described in clauses (k) or (l) of this definition;

(s) [intentionally omitted];

(t) [intentionally omitted]; and

(u) other Liens created or assumed in the ordinary course of business of the North American Group Member; provided that the obligations secured by all such Liens shall not exceed the principal amount of $10,000,000.

"Person": any individual, corporation, company, voluntary association, partnership, joint venture, limited liability company, trust, unincorporated association or government (or any agency, instrumentality or political subdivision thereof).

"Petition Date": as defined in the recitals hereto.

"Pledged Entity": a Subsidiary of a Loan Party whose Capital Stock is subject to a security interest in favor of the Lenders pursuant to the Orders or the Collateral Documents.

"Pledgors": the parties set forth on Schedule 1.1D and each other Person that makes a pledge in favor of the Lenders under the Equity Pledge Agreement.

"Postpetition": when used with respect to any agreement or instrument, any claim or proceeding or any other matter, shall refer to an agreement or instrument that was entered into or became effective, a claim or proceeding that first arose or was first instituted, or another matter that first occurred, after the commencement of the Cases.

"Prepetition": when used with respect to any agreement or instrument, any claim or proceeding or any other matter, shall refer to an agreement or instrument that was entered into or became effective, a claim or proceeding that arose or was instituted, or another matter that occurred, prior to the Petition Date.

"Prepetition Payment": a payment (by way of adequate protection or otherwise) of principal or interest or otherwise on account of any Prepetition Indebtedness or trade payables or other Prepetition claims against any Debtor.

"Prime Rate": the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. (or if JPMorgan Chase Bank, N.A. is no longer announcing such a rate for any reason, another reference institution selected by the Lender) as its prime rate in effect at its principal office in New York City (the Prime Rate not being intended to be the lowest rate of interest charged by JPMorgan Chase Bank, N.A. in connection with extensions of credit to borrowers).

"Prohibited Jurisdiction": any country or jurisdiction, from time to time, that is the subject of a prohibition order (or any similar order or directive), sanctions or restrictions promulgated or administered by any Governmental Authority of the United States.

"Prohibited Person": any Person:

(a) subject to the provisions of the Executive Order;

(b) that is owned or controlled by, or acting for or on behalf of, any person or entity that is subject to the provisions of the Executive Order;

(c) with whom a Lender is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering law, including the Executive Order;

(d) who commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order;

(e) that is named as a "specially designated national and blocked person" on the most current list published by the OFAC at its official website, http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf or at any replacement website or other replacement official publication of such list; or

(f) who is an Affiliate or affiliated with a Person listed above.

"Property": any right or interest in or to property (other than tax refunds due to Canadian subsidiaries) of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

"Quarterly Report": as defined in Section 5.1(f).

"Records": all books, instruments, agreements, customer lists, credit files, computer files, storage media, tapes, disks, cards, software, data, computer programs, printouts and other computer materials and records generated by other media for the storage of information maintained by any Person with respect to the business and operations of the Loan Parties and the Collateral.

"Register": as defined in Section 8.6(b).

"Regulation D": Regulation D of the Board as in effect from time to time.

"Related Section 363 Transactions": as defined in the recitals.

"Required Lenders": at any time, Lenders with Loans constituting a majority of the Loans of all Lenders.

"Requirements of Law": as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty,

rule or regulation or determination of an arbitrator or a court of competent jurisdiction or other Governmental Authority, in each case applicable to and binding upon such Person and any of its property, and to which such Person and any of its property is subject.

"Responsible Officer": as to any Person, the chief executive officer or, with respect to financial matters (including without limitation those matters set forth in Sections 5.1(f) and 5.2(h)), the chief financial officer, treasurer or assistant treasurer of such Person, an individual so designated from time to time by such Person's board of directors or, for the purposes of Section 5.2 only (other than Sections 5.1(f) and 5.2(h)), to include the secretary or an assistant secretary of the Borrower, or, in the event any such officer is unavailable at any time he or she is required to take any action hereunder, Responsible Officer shall mean any officer authorized to act on such officer's behalf as demonstrated by a certificate or corporate resolution (or equivalent); provided that the Lenders are notified in writing of the identity of such Responsible Officer.

"Restricted Payments": as defined in Section 6.5.

"S&P": Standard & Poor's Ratings Services and its successors.

"Sale/Leaseback Transaction": as defined in Section 6.17.

"SEC": the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

"Section 363 Sale Order": an order of the Bankruptcy Court approving the Related Section 363 Transactions in form and substance substantially in the form attached to the Transaction Documents or otherwise satisfactory to the Required Lenders.

"Senior Employee": any of the 25 most highly compensated employees (including the SEOs) of the Loan Parties, as determined pursuant to the rules set forth in 31 C.F.R. Part 30.

"SEO": a Senior Executive Officer as defined in the EESA and any interpretation of such term by the Treasury thereunder, including the rules set forth in 31 C.F.R. Part 30.

"Special Inspector General of the Troubled Asset Relief Program": The Special Inspector General of the Troubled Asset Relief Program, as contemplated by Section 121 of the EESA.

"Specified Benefit Plan": any employee benefit plan within the meaning of section 3(3) of ERISA and any other plan, arrangement or agreement which provides for compensation, benefits, fringe benefits or other remuneration to any employee, former employee, individual independent contractor or director, including any bonus, incentive, supplemental retirement plan, golden parachute, employment, individual consulting, change of control, bonus or retention agreement, whether provided directly or indirectly by any Group Member or otherwise.

"Subsidiary": with respect to any Person, any corporation, partnership, limited liability company or other entity of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or shall have the right to have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person. Unless otherwise qualified, all references to a "Subsidiary" or "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Superpriority Claim": a claim against the Borrower or any other Debtor in any of the Cases pursuant to section 364(c)(1) of the Bankruptcy Code having priority over any or all administrative expenses including administrative expenses specified in sections 503 and 507 of the Bankruptcy Code, whether or not such claim or expenses may become secured by a judgment lien or other non-consensual lien, levy or attachment.

"Swap Agreement": any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or any of its Subsidiaries shall be a "Swap Agreement."

"Taxes": as defined in Section 2.12(a).

"Trade Credit": accounts receivable, trade credit or other advances extended to, or investment made in, customers, suppliers, including intercompany, in the ordinary course of business.

"Trading With the Enemy Act": as defined in Section 3.19.

"Tranche B Term Loan": as defined in the recitals.

"Tranche C Term Loan": as defined in the recitals.

"Transaction Documents": each of, and collectively, (i) the Master Transaction Agreement, (ii) the Section 363 Sale Order, (iii) the Transition Services Agreement and (iv) the related manufacturing agreements, asset purchase agreements, organizational documents, finance support agreements and all other related documentation, each as amended, supplemented or modified from time to time in accordance with Section 6.6.

"Transferee": any Assignee or Participant.

"Transition Services Agreement": the Transition Services Agreement, dated as of the date hereof, among the Borrower, the other Initial Debtors, and New CarCo, substantially in the form of Exhibit T to the Master Transaction Agreement.

"Treasury": The United States Department of the Treasury.

"Uniform Commercial Code": the Uniform Commercial Code as in effect from time to time in the State of New York.

"United States": the United States of America.

"USA PATRIOT Act": as defined in Section 3.18(d).

"U.S. Subsidiary": any Subsidiary of any Loan Party that is organized or existing under the laws of the United States or any state thereof or the District of Columbia.

"Wholly Owned Subsidiary": as to any Person, any other Person all of the Capital Stock of which (other than directors' qualifying shares required by law) is owned by such Person directly and/or through other Wholly Owned Subsidiaries.

"Wind-Down": the sale or shutdown of certain businesses and properties of the Debtors and the Subsidiaries thereof.

"Wind-Down Budget": the budget, in form and substance consistent with the budget provided by the Company prior to the Effective Date and satisfactory to the Required Lenders, setting forth in reasonable detail all anticipated receipts and disbursements of the Borrower and certain of its U.S. Subsidiaries on a calendar year basis, as amended by each Quarterly Report delivered pursuant to Section 5.1(f).

"Wind-Down Order": as defined in the recitals.

1.2. Other Definitional Provisions. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to Group Members not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP, (ii) the words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation," (iii) the word "incur" shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words "incurred" and "incurrence" shall have correlative meanings), (iv) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, (v) references to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as

amended, supplemented, restated or otherwise modified from time to time and (vi) references to any Person shall include its successors and assigns.

(c) The words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole (including the Schedules and Exhibits hereto) and not to any particular provision of this Agreement (or the Schedules and Exhibits hereto), and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

1.3. Conversion of Foreign Currencies. (a) For purposes of this Agreement and the other Loan Documents, with respect to any monetary amounts in a currency other than Dollars, the Dollar Equivalent thereof shall be determined based on the Exchange Rate in effect at the time of such determination (unless otherwise explicitly provided herein).

(b) The Treasury may set up appropriate rounding off mechanisms or otherwise round-off amounts hereunder to the nearest higher or lower amount in whole Dollar or cent to ensure amounts owing by any party hereunder or that otherwise need to be calculated or converted hereunder are expressed in whole Dollars or in whole cents, as may be necessary or appropriate.

SECTION 2

AMOUNT AND TERMS OF THE LOANS

2.1. Loans. On the Effective Date, the Lenders made the Tranche C Term Loans in Dollars to the Borrower in the aggregate principal amount of $1,175,000,000 (the "Loans"). The Loans shall be non-recourse to the Borrower and the Guarantors and recourse only to the Collateral. The Loans may from time to time be Eurodollar Loans or, solely in the circumstances specified in Section 2.8, ABR Loans. Loans repaid or prepaid may not be reborrowed.

2.2. [Intentionally Omitted].

2.3. Repayment of Loans; Evidence of Debt. (a) The Loans shall be payable on the Maturity Date; provided that, upon the Administrative/Priority Claim Payment Date, the portion of the Loans equal to the Administrative/Priority Claim Payment Amount as of such date shall be due. Except as otherwise expressly provided herein, the repayment of the Loans shall, subsequent to the closing of the Related Section 363 Transactions, be subject to claims against the Debtors' estates that have priority under Sections 503(b) or 507(a) of the Bankruptcy Code, including costs and expenses of administration that are attendant to the formulation and confirmation of a liquidating chapter 11 plan, whether incurred prior or subsequent to the consummation of the Related Section 363 Transactions, in an aggregate amount up to $1,175,000,000, or such larger amount as approved by the Lenders.

(b) Pursuant to Section 4.1(a), the Borrower shall execute and deliver the Notes on the Effective Date. Following any assignment of the Loans pursuant to Section 8.6, the Borrower agrees that, upon the request of any Lender, the Borrower shall promptly execute and deliver to such Lender Notes reflecting the Loans assigned and the Loans retained by such Lender, if any.

2.4. Optional Prepayments. (a) The Borrower may at any time and from time to time prepay the Loans, in whole or in part, without premium or penalty, upon irrevocable notice delivered to each Lender no later than 12:00 noon (New York City time) three Business Days prior to the date such prepayment is requested to be made, which notice shall specify the date of such prepayment, the aggregate amount of such prepayment and such Lender's Aggregate Exposure Percentage of such payment; provided that, if a Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.10. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to such date on the amount prepaid and shall be applied as provided in Section (b). Partial prepayments of Loans shall be in an aggregate principal amount of $20,000,000 or a whole multiple thereof or, if less, the entire principal amount thereof then outstanding.

(b) Unless the Required Lenders shall otherwise agree, amounts to be applied in connection with prepayments made pursuant to Section 2.4 shall be applied, (i) first, to pay accrued and unpaid interest on, and expenses in respect of, the Loans, and (ii) second, to repay the Loans. Any such prepayment shall be accompanied by a notice to each Lender specifying the aggregate amount of such prepayment and such Lender's Aggregate Exposure Percentage of such prepayment.

2.5. [Intentionally Omitted].

2.6. Interest Rates and Payment Dates/Fee Payment Dates/Fees. (a) Each Eurodollar Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the Eurodollar Rate determined for such Interest Period plus the Applicable Margin.

(b) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(c) [Intentionally Omitted].

(d) At any time any Event of Default shall have occurred and be continuing, (i) all outstanding Loans shall bear interest at a rate per annum equal to the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section 2.6 plus 5% per annum, which, in the sole discretion of the Treasury, may be the rate of interest then applicable to ABR Loans, and (ii) all other outstanding Obligations shall bear interest at 5% above the rate per annum equal to the rate of interest then applicable to ABR Loans.

(e) [Intentionally Omitted].

(f) Interest shall be payable in arrears on each Interest Payment Date, provided that, interest on the Loans shall not be payable in cash on each Interest Payment Date but shall instead be added to the principal of the Loans on each Interest Payment Date and shall be payable in cash on the Maturity Date.

2.7. Computation of Interest and Fees. (a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that with respect to ABR Loans the rate of interest on which is calculated on the basis of the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-) day year for the actual days elapsed. The Treasury shall, as soon as practicable, and promptly, notify the Borrower and the other Lenders of each determination of a Eurodollar Rate. Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Treasury shall, as soon as practicable, and promptly, notify the Borrower and the other Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Treasury pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Treasury shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Treasury in determining any interest rate pursuant to Section 2.7(a).

2.8. Inability to Determine Interest Rate; Illegality. (a) If prior to the first day of any Interest Period:

(i) any Lender shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period, or

(ii) any Lender shall have determined that the Eurodollar Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lender (as conclusively certified by such Lender) of making or maintaining their affected Loans during such Interest Period;

such Lender shall give telecopy or telephonic notice thereof to the Borrower and the other Lenders as soon as practicable thereafter. If such notice is given pursuant to clause (i) or (ii) of this Section 2.8(a) in respect of Eurodollar Loans, then (1) any Eurodollar Loans requested to be made on the first day of such Interest Period shall be made by the affected Lenders as ABR Loans, and (2) any outstanding Eurodollar Loans of the affected Lender, shall be converted, on the last day of the then-current Interest Period, to ABR Loans. Until such relevant notice has been withdrawn by such Lender, no further Eurodollar Loans by the affected Lenders shall be made or continued as such, nor shall the Borrower have the right to convert ABR Loans to Eurodollar Loans.

(b) If the adoption of or any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for any Lender to make or maintain Eurodollar Loans as contemplated by this Agreement, such Lender shall give notice thereof to the Borrower describing the relevant provisions of such Requirement of Law, following which, (i) in the case of Eurodollar Loans, (A) the commitment of such Lender hereunder to make Eurodollar Loans and continue such Eurodollar Loans as such and (B) such Lender's outstanding Eurodollar Loans shall be converted automatically on the last day of the then current Interest Periods with respect to such Loans (or within such earlier period as shall be required by law) to ABR Loans. If any such conversion or prepayment of a Eurodollar Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 2.10.

2.9. Treatment of Borrowings and Payments; Evidence of Debt. (a) [Intentionally Omitted].

(b) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Loans shall be made *pro rata* according to the respective outstanding principal amounts of the Loans then held by the Lenders. Amounts paid on account of the Loans may not be reborrowed.

(c) [Intentionally Omitted].

(d) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 3:00 p.m. (New York City time) on the due date thereof to the Lenders at their respective Funding Offices, in Dollars and in immediately available funds. If any payment hereunder (other than payments on the Eurodollar Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

2.10. Indemnity. The Borrower agrees to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense that such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of Eurodollar Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment after the Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment of Eurodollar Loans on a day that is not the last day of an Interest Period with respect thereto. Such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest that would have accrued on the amount so prepaid, or not so borrowed, for the period from the date of such prepayment or of such failure to borrow to the last day of such Interest Period (or, in the case of a failure to borrow the Interest Period that would have

commenced on the date of such failure) in each case at the applicable rate of interest for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such Lender) that would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank Eurodollar market. A certificate as to any amounts payable pursuant to this Section 2.10 submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error and shall be payable within 30 days of receipt of any such notice. The agreements in this Section 2.10 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.11. Superpriority Nature of Obligations and Lenders' Liens. The priority of Lenders' Liens on the Collateral owned by the Loan Parties shall be set forth in the Final Order entered with respect to the Cases.

2.12. Taxes. (a) All payments made by the Borrower under this Agreement or any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereinafter imposed, levied, collected, withheld or assessed by any Governmental Authority (collectively, "Taxes"), except for any deduction or withholding required by law. If the Borrower is required to withhold any Non-Excluded Taxes from any amounts payable to any Lender (i) the Borrower shall make such deductions and shall pay the full amount deducted to the relevant Governmental Authority in accordance with Applicable Laws and (ii) the amounts so payable to such Lender shall be increased to the extent necessary to pay to such Lender such additional amounts as may be necessary so that the Lender receives, free and clear of all such Non-Excluded Taxes, a net amount equal to the amount it would have received from the Borrower under this Agreement or any other Loan Document if no such deduction or withholding had been made. For purposes of this Agreement or any other Loan Document, "Non-Excluded Taxes" are withholding Taxes imposed by the United States or any taxing authority thereof or therein on payments made by the Borrower under this Agreement or any other Loan Document other than (a) withholding Taxes imposed on any Lender as a result of a present or former connection between such Lender and the jurisdiction of the United States or any taxing authority thereof or therein imposing such Tax (other than any such connection arising solely from such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document), (b) any branch profits taxes imposed by the United States, (c) any withholding Taxes that exist on the date the Lender becomes a Lender or that arise as a result of a change in status of the Lender as a Governmental Authority which is an agency of the Canadian federal government that is exempt from withholding under the Convention as in effect on the date the Lender becomes a Lender, and (d) withholding Taxes that could be eliminated or reduced by the Lender providing tax forms, certifications, or other documentation.

(b) In addition, the Borrower shall pay any Other Taxes over to the relevant Governmental Authority in accordance with Applicable Law.

(c) Whenever any Non-Excluded Taxes or Other Taxes are payable by the Borrower, as promptly as possible thereafter, the Borrower shall send to the Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing

payment thereof (or if an official receipt is not available, such other evidence of payment as shall be reasonably satisfactory to such Lender). If the Borrower fails to pay any Non-Excluded Taxes or Other Taxes required to be paid by the Borrower when due to the appropriate taxing authority or fails to remit to the Lender the required receipts or other required documentary evidence, in each case after receiving at least five days' advance written notice from the Lender, the Borrower shall indemnify the Lender, as the case may be, for any incremental taxes, Non-Excluded Taxes or Other Taxes, interest, additions to tax, expenses or penalties that may become payable by any Lender, as the case may be, as a result of such failure. The indemnification payments under this Section 2.12(c) shall be made within 30 days after the date such Lender, as the case may be, makes a written demand therefor (together with a reasonably detailed calculation of such amounts).

(d) Each Lender (or any Transferee) (other than the United States government (including the Treasury)) that either (i) is not incorporated under the laws of the United States, any state thereof, or the District of Columbia or (ii) whose name does not include "Incorporated," "Inc.," "Corporation," "Corp.," "P.C.," "insurance company," or "assurance company" (a "Non-U.S. Lender") shall deliver to the Borrower, so long as such Lender is legally entitled to do so, two originals of either U.S. Internal Revenue Service Form W-9, Form W-8BEN, Form W-8EXP, Form W-8ECI, or in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payment of "portfolio interest", a Form W-8BEN (along with a statement as to certain requirements in order to claim an exemption for "portfolio interest" reasonably acceptable to the Borrower), or Form W-8IMY (with applicable attachments), or any subsequent versions thereof or successors thereto, properly completed and duly executed by such Non-U.S. Lender claiming a complete exemption from (or reduced rate of) United States federal withholding tax on all payments by the Borrower under this Agreement or any other Loan Document. In addition, each Lender shall provide any other U.S. tax forms (with applicable attachments) as will reduce or eliminate United States federal withholding tax on payments by the Borrower under this Agreement or any other Loan Document. For the avoidance of doubt, the Canadian Lender shall provide a Form W-8BEN claiming exemption from withholding under the Convention between the United States of America and Canada with respect to Taxes on Income and on Capital (the "Convention") on the Closing Date. Each Lender (other than the United States government (including the Treasury)) shall provide the appropriate documentation under this clause (d) at the following times (i) prior to the first payment date after becoming a party to this Agreement, (ii) upon a change in circumstances or upon a change in law, in each case, requiring or making appropriate a new or additional form, certificate or documentation, (iii) upon or before the expiration, obsolescence or invalidity of any documentation previously provided to the Borrower and (iv) upon reasonable request by the Borrower. If a Lender is entitled to an exemption from or a reduction of any non-U.S. withholding Tax under the laws of any jurisdiction imposing such Tax on any payments made by the Borrower under this Agreement, then the Lender shall deliver to the Borrower, at the time or times prescribed by Applicable Law and as reasonably requested by the Borrower, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate, provided that the Lender is legally entitled to complete, execute and deliver such documentation and without material adverse consequences to the Lender.

(e) If any Lender determines, in its sole good faith discretion, that it has received a refund, credit or other tax benefit in respect of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.12, it shall pay over such refund to the Borrower (but only to the extent of Non-Excluded Taxes or Other Taxes paid by the Borrower plus any interest thereon paid by the relevant Governmental Authority with respect to such refund), net of all out of pocket third-party expenses of the Lender related to claiming such refund or credit, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund) within 30 days of the date of such receipt. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, upon the request of the Lender, as the case may be, the Borrower agrees to repay any amount paid over to the Borrower by such Lender pursuant to the immediately preceding sentence if such Lender, as the case may be, is required to repay such amount to such Governmental Authority. This paragraph shall not be construed to (i) interfere with the rights of any Lender to arrange its tax affairs in whatever manner it sees fit, (ii) obligate any Lender to claim any tax refund, (iii) require any Lender to make available its tax returns (or any other information relating to its taxes or any computation with respect thereof which it deems in its sole discretion to be confidential) to the Borrower or any other Person, or (iv) require any Lender to do anything that would in its sole discretion prejudice its ability to benefit from any other refunds, credits, reliefs, remissions or repayments to which it may be entitled.

(f) Each Lender that is an Assignee shall be bound by this Section 2.12.

(g) The agreements contained in this Section 2.12 shall survive the termination of this Agreement or any other Loan Document and the payments contemplated hereunder or thereunder.

SECTION 3

REPRESENTATIONS AND WARRANTIES

To induce the Lenders to enter into this Agreement, each Loan Party represents to the Lenders, with respect to itself and each of its Subsidiaries that is a North American Group Member, in each case subject to the Wind-Down, the Orders, the Related Section 363 Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court issued in connection with the Cases, that as of the Effective Date:

3.1. Existence. Each North American Group Member (a) is a corporation, limited partnership or limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has all requisite corporate or other power, and has all governmental licenses, authorizations, consents and approvals, necessary to own its assets and carry on its business as now being or as proposed to be conducted, except where the lack of such licenses, authorizations, consents and approvals would not be reasonably likely to have a Material Adverse Effect, (c) is qualified to do business and is in good standing in all other jurisdictions in which the nature of the business conducted by it makes such qualification necessary, except where failure so to qualify would not be reasonably

likely (either individually or in the aggregate) to have a Material Adverse Effect, and (d) is in compliance in all material respects with all Requirements of Law.

3.2. [Intentionally Omitted].

3.3. [Intentionally Omitted].

3.4. [Intentionally Omitted].

3.5. Action, Binding Obligations. (i) Each North American Group Member has all necessary corporate or other power, authority and legal right to execute, deliver and perform its obligations under each of the Loan Documents to which it is a party; (ii) the execution, delivery and performance by each North American Group Member of each of the Loan Documents to which it is a party has been duly authorized by all necessary corporate or other action on its part; and (iii) each Loan Document has been duly and validly executed and delivered by each North American Group Member party thereto and constitutes a legal, valid and binding obligation of all of the North American Group Members party thereto, enforceable against such North American Group Members in accordance with its terms, subject to the Bankruptcy Exceptions.

3.6. Approvals. Except as required under applicable state and federal bankruptcy rules, no authorizations, approvals or consents of, and no filings or registrations with, any Governmental Authority, or any other Person, are necessary for the execution, delivery or performance by each North American Group Member of the Loan Documents to which it is a party for the legality, validity or enforceability thereof, except with respect to North American Group Members other than the Debtors for filings and recordings or other actions in respect of the Liens pursuant to the Collateral Documents, unless the same has already been obtained and provided to the Lenders.

3.7. [Intentionally Omitted].

3.8. Investment Company Act. None of the Loan Parties is required to register as an "investment company", or is a company "controlled" by a Person required to register as an "investment company", within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to any Federal or state statute or regulation which limits its ability to incur Indebtedness.

3.9. [Intentionally Omitted].

3.10. Chief Executive Office; Chief Operating Office. The chief executive office and the chief operating office on the Closing Date for each North American Group Member is located at the location set forth on Schedule 3.10 hereto.

3.11. Location of Books and Records. The location where the North American Group Members keep their books and records including all Records relating to their business and operations and the Collateral are located in the locations set forth in Schedule 3.11.

3.12. [Intentionally Omitted].

3.13. [Intentionally Omitted].

3.14. Expense Policy. The Borrower has taken steps necessary to ensure that (a) the Expense Policy conforms to the requirements set forth herein and (b) the Borrower and its Subsidiaries are in compliance with the Expense Policy.

3.15. Subsidiaries. All of the Subsidiaries of each Loan Party at the date hereof are listed on Schedule 3.15, which schedule sets forth the name and jurisdiction of formation of each of their Subsidiaries and, as to each such Subsidiary, the percentage of each class of Capital Stock owned by each Loan Party or any of their Subsidiaries except as set forth on Schedule 3.15.

3.16. Capitalization. One hundred percent (100%) of the issued and outstanding Capital Stock of each North American Group Member (other than Borrower) is owned by the Persons listed on Schedule 3.16 and, to the knowledge of each Loan Party, such Capital Stock are owned by such Persons, free and clear of all Liens other than Permitted Liens. No Loan Party has issued or granted any options or rights with respect to the issuance of its respective Capital Stock which is presently outstanding except as set forth on Schedule 3.16 hereto.

3.17. Fraudulent Conveyance. Each North American Group Member acknowledges that it will benefit from the Loans contemplated by this Agreement. No North American Group Member is incurring Indebtedness or transferring any Collateral with any intent to hinder, delay or defraud any of its creditors.

3.18. USA PATRIOT Act. (a) No North American Group Member nor any of its respective Affiliates over which it exercises management control (a "Controlled Affiliate") is a Prohibited Person, and such Controlled Affiliates are in compliance with all applicable orders, rules, regulations and recommendations of OFAC.

(b) No North American Group Member nor any of its members, directors, officers, employees, parents, Subsidiaries or Affiliates: (1) is subject to U.S. or multilateral economic or trade sanctions currently in force; (2) is owned or controlled by, or act on behalf of, any governments, corporations, entities or individuals that are subject to U.S. or multilateral economic or trade sanctions currently in force; or (3) is a Prohibited Person or is otherwise named, identified or described on any blocked persons list, designated nationals list, denied persons list, entity list, debarred party list, unverified list, sanctions list or other list of individuals or entities with whom U.S. persons may not conduct business, including but not limited to lists published or maintained by OFAC, lists published or maintained by the U.S. Department of Commerce, and lists published or maintained by the U.S. Department of State.

(c) None of the Collateral is traded or used, directly or indirectly by a Prohibited Person or is located or organized (in the case of a Pledged Entity) in a Prohibited Jurisdiction.

(d) Each North American Group Member has established an anti-money laundering compliance program as required by all applicable anti-money laundering laws and regulations, including without limitation the Uniting and Strengthening America by Providing

Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (the "USA PATRIOT Act") (collectively, the "Anti-Money Laundering Laws").

3.19. Embargoed Person. As of the date hereof and at all times throughout the term of any Loan, (a) none of any North American Group Member's funds or other assets constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 *et seq.*, The Trading with the Enemy Act, 50 U.S.C. App. 1 *et seq.* (the "Trading With the Enemy Act"), any of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended) (the "Foreign Assets Control Regulations") or any enabling legislation or regulations promulgated thereunder or executive order relating thereto (which for the avoidance of doubt shall include but shall not be limited to (i) Executive Order No. 13224, effective as of September 24, 2001 and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the "Executive Order") and (ii) the USA PATRIOT Act), with the result that the investment in the Borrower (whether directly or indirectly), is prohibited by law or any Loan made by the Lenders is in violation of law ("Embargoed Person"); (b) no Embargoed Person has any interest of any nature whatsoever in it with the result that the investment in it (whether directly or indirectly), is prohibited by law or any Loan is in violation of law; (c) none of its funds have been derived from any unlawful activity with the result that the investment in it (whether directly or indirectly), is prohibited by law or any Loans is in violation of law; and (d) neither it nor any of its Affiliates (i) is or will become a "blocked person" as described in the Executive Order, the Trading With the Enemy Act or the Foreign Assets Control Regulations or (ii) engages or will engage in any dealings or transactions, or be otherwise associated, with any such "blocked person". For purposes of determining whether or not a representation with respect to any indirect ownership is true or a covenant is being complied with under this Section 3.19, no North American Group Member shall be required to make any investigation into (i) the ownership of publicly traded stock or other publicly traded securities or (ii) the ownership of assets by a collective investment fund that holds assets for employee benefit plans or retirement arrangements.

3.20. Use of Proceeds. (a) The proceeds of the Loans shall be used (i) as permitted in the Wind-Down Order or (ii) to finance working capital needs and other general corporate purposes incurred in connection with the Wind-Down, including the payment of expenses associated with the administration of the Cases; provided that, the North American Group Members may not prepay Indebtedness without the prior written consent of the Required Lenders.

(b) Notwithstanding anything to the contrary herein, none of the proceeds of the Loans shall be used in connection with (i) any investigation (including discovery proceedings), initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against any Lender, (ii) the initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against any Lender, any of their respective affiliates or other Canadian Lender Consortium Member with respect to any loans or other financial accommodations made to any North American Group Member prior to the Petition Date, or (iii) any loans, advances, extensions of credit, dividends or other investments to any

person not a North American Group Member; provided, however, that the limitations set forth in this Section 3.20(b) shall not preclude the use of the proceeds of the Loans in connection with any claims, causes of action, adversary proceedings or other litigations against any Governmental Authority (excluding the Canadian Lender Consortium Members) with respect to the imposition or administration of any Tax laws or Environmental Laws. For the avoidance of doubt, the limitations set forth in Section 3.20(b)(i) and (ii) above, shall not limit the use of proceeds with respect to any of the actions and claims described in such clauses against any Governmental Authority that is not (x) a Lender or (y) a Canadian Lender Consortium Member.

(c) The North American Group Members are the ultimate beneficiaries of this Agreement and the proceeds of Loans to be received hereunder. The use of the Loans will comply with all Applicable Laws, including Anti-Money Laundering Laws. No portion of any Loan is to be used, for the "purpose of purchasing or carrying" any "margin stock" as such terms are used in Regulations U and X of the Board, as amended, and the Borrower is not engaged in the business of extending credit to others for such purpose.

3.21. Representations Concerning the Collateral. Each Loan Party represents and warrants to the Lenders:

(a) No Loan Party has assigned, pledged, conveyed, or encumbered any Collateral to any other Person (other than Permitted Liens) and immediately prior to the pledge of any such Collateral, a Loan Party was the sole owner of such Collateral and had good and marketable title thereto, free and clear of all Liens (other than Permitted Liens), and no Person, other than the Lenders has any Lien (other than Permitted Liens) on any Collateral. No security agreement, financing statement, equivalent security or lien instrument or continuation statement covering all or any part of the Collateral which has been signed by any Loan Party or which any Loan Party has authorized any other Person to sign or file or record, is on file or of record with any public office, except such as may have been filed by or on behalf of a Loan Party in favor of the Lenders pursuant to the Loan Documents or in respect of applicable Permitted Liens.

(b) The provisions of the Loan Documents are effective to create in favor of the Lenders a valid security interest in all right, title, and interest of each Loan Party in, to and under the Collateral, subject only to applicable Permitted Liens.

(c) Upon the entry and effectiveness of the Orders and the filing of financing statements on Form UCC-1 naming the Lenders as "Secured Parties" and each Loan Party as "Debtor", and describing the Collateral, in the jurisdictions and recording offices listed on Schedule 3.21 attached hereto, the security interests granted in the Collateral pursuant to the Collateral Documents will constitute perfected first priority security interests under the Uniform Commercial Code in all right, title and interest of the applicable Loan Party in, to and under such Collateral, which can be perfected by filing under the Uniform Commercial Code, in each case, subject to applicable Permitted Liens and as provided in Section 3.24.

(d) Each Loan Party has and will continue to have the full right, power and authority, to pledge the Collateral, subject to Permitted Liens, and the pledge of the Collateral may be further assigned without any requirement.

3.22. [Intentionally Omitted].

3.23. [Intentionally Omitted].

3.24. Lien Priority. (a) On and after the Closing Date, and the entry of the Orders and after giving effect thereto and the filing of financing statements on Form UCC-1 naming the Lenders as "Secured Parties" and each Loan Party as "Debtor", and describing the Collateral, in the jurisdictions and recording offices listed on Schedule 3.21 attached hereto subject to the Permitted Liens, the provisions of the Loan Documents are effective to create in favor of the Lenders, legal, valid and perfected Liens on and security interests (having the priority provided for herein and in the Orders) in all right, title and interest in the Collateral, enforceable against each Loan Party that owns an interest in such Collateral and any other Person.

(b) On and after the entry of the Orders and after giving effect thereto and the filing of financing statements on Form UCC-1 naming the Lenders as "Secured Parties" and each Loan Party as "Debtor", and describing the Collateral, in the jurisdictions and recording offices listed on Schedule 3.21 attached hereto, all Obligations owing by the Loan Parties will be secured by:

(i) valid, perfected, first-priority security interests in and liens (i) with respect to the Debtors, pursuant to section 364(c)(2) of the Bankruptcy Code and (ii) with respect to the Non-Debtor Loan Parties, pursuant to the Collateral Documents (other than the Orders), in each case, on the Collateral that is not subject to non avoidable, valid and perfected liens in existence as of the Petition Date (or to non avoidable valid liens in existence as of the Petition Date that are subsequently perfected as permitted by section 546(b) of the Bankruptcy Code), subject only to Permitted Liens (other than Liens permitted under clause (a) thereof) and the Carve-Out; and

(ii) valid, perfected, security, junior interests in and liens pursuant to (i) with respect to the Debtors, section 364(c)(3) of the Bankruptcy Code and (ii) with respect to the Non-Debtor Loan Parties, pursuant to the Collateral Documents (other than the Orders), in each case, on the Collateral that is subject to non avoidable, valid and perfected liens in existence as of the Petition Date, or to non avoidable valid liens in existence as of the Petition Date that are subsequently perfected as permitted by section 546(b) of the Bankruptcy Code, subject only to the Carve-Out.

(c) On and after the entry of the Orders and after giving effect thereto, all Obligations owing by the Debtors will be an allowed administrative expense claim pursuant to section 364(c)(1) of the Bankruptcy Code in each of the Cases having priority over all administrative expenses of the kind specified in sections 503 and 507 of the Bankruptcy Code and any and all expenses and claims of the Borrower and the other Debtors, whether heretofore or hereafter incurred, including, but not limited to, the kind specified in sections 105, 326, 328, 506(c), 507(a) or 1114 of the Bankruptcy Code, subject only to the Carve-Out.

3.25. [Intentionally Omitted].

3.26. [Intentionally Omitted].

3.27. [Intentionally Omitted].

3.28. Excluded Collateral. Set forth on Annex I to Schedule 3.28 is a complete and accurate list as of the Effective Date of all Excluded Collateral that is Capital Stock of domestic joint ventures, Domestic Subsidiaries, "first-tier" foreign joint ventures, and Foreign 956 Subsidiaries.

3.29. Mortgaged Real Property. After giving effect to the recording of the Mortgages, real property identified on Schedule 1.1C shall be subject to a recorded first lien mortgage, deed of trust or similar security instrument (subject to Permitted Liens).

3.30. [Intentionally Omitted].

3.31. The Final Order. Upon the maturity (whether by the acceleration or otherwise) of any of the Obligations, the Lenders shall, subject to the provisions of Section 7 and the applicable provisions of the Final Order, be entitled to immediate payment of such Obligations, and to enforce the remedies provided for hereunder, without further application to or order by the Bankruptcy Court.

3.32. Wind-Down Budget. All material facts in the Wind-Down Budget are accurate and the Borrower has disclosed to each Lender all assumptions in the Wind-Down Budget, it being understood that in the case of projections, such projections are based on reasonable estimates, on the date as of which such information is stated or certified.

SECTION 4

CONDITIONS PRECEDENT

4.1. Conditions to Effectiveness. The effectiveness of this Agreement is subject to the satisfaction of the following conditions precedent, satisfaction of such conditions precedent to be determined by the Required Lenders in their reasonable discretion, except as otherwise set forth below:

(a) Loan Documents. The Lenders shall have received the following documents, which shall be in form satisfactory to each Lender:

(i) this Agreement executed and delivered by the Borrower;

(ii) the Guaranty, executed and delivered by each Guarantor;

(iii) the Equity Pledge Agreement, executed and delivered by each Pledgor;

(iv) [intentionally omitted];

(v) the Environmental Agreement, executed and delivered by each Loan Party party thereto; and

(vi) a promissory note of the Borrower evidencing the Loans of such Lender, substantially in the form of Exhibit G (the "Note"), with appropriate insertions as to date and principal amount.

(b) Related Section 363 Transactions. The Required Lenders and their counsel shall be reasonably satisfied that the terms of the Related Section 363 Transactions and of the Transaction Documents are consistent in all material respects with the information provided to the Lenders in advance of the date hereof or are otherwise reasonably satisfactory to the Required Lenders (the Required Lenders acknowledge that the form of Transaction Documents provided to them on or prior to the date hereof are satisfactory). The Transaction Documents shall have been duly executed and delivered by the parties thereto, all conditions precedent to the Related Section 363 Transactions set forth in the Transaction Documents shall have been satisfied, and the Related Section 363 Transactions shall have been consummated pursuant to such Transaction Documents substantially contemporaneously with the conditions precedent set forth in this Section 4.1, and no provision thereof shall have been waived, amended, supplemented or otherwise modified, in each case in a manner adverse to the Lenders, without the Required Lender's consent.

(c) Final Order. (i) The Final Order shall have been entered by the Bankruptcy Court and shall have been in full force and effect.

(ii) The Final Order shall not have been reversed, modified, amended, stayed or vacated, in the case of any modification or amendment, in a manner, or relating to a matter, without the consent of the Lenders.

(iii) The Debtors and their respective Subsidiaries shall be in compliance in all respects with the Final Order.

(iv) [Intentionally Omitted].

(v) [Intentionally Omitted].

(d) New CarCo Assignment and Assumption. The Borrower and New CarCo shall have executed and delivered the New CarCo Assignment and Assumption, and all conditions precedent to New CarCo's $7,072,488,605 First Lien Credit Agreement between New CarCo and Treasury shall have been satisfied or waived by the Treasury in accordance with the terms therewith substantially contemporaneously with the conditions precedent set forth in this Section 4.1.

(e) Canadian Post-Sale Facility. The Canadian Post-Sale Facility, in form and substance satisfactory to the Lenders, shall have become effective and the Lenders shall have received all documents, instruments and related agreements in connection with the Canadian Post-Sale Facility.

(f) Canadian PV Loan Agreement. The Canadian PV Loan Agreement, in form and substance satisfactory to the Lenders, shall have become effective and the Lenders shall have received all documents, instruments and related agreements in connection with the Canadian PV Loan Agreement.

(g) [Intentionally Omitted].

(h) [Intentionally Omitted].

(i) Wind-Down Budget. The Borrower shall have delivered to the Lenders the Wind-Down Budget in form and substance satisfactory to the Required Lenders.

(j) [Intentionally Omitted].

(k) Litigation. There shall not exist any action, suit, investigation, litigation or proceeding pending (other than the Cases) or threatened in any court or before any arbitrator or Governmental Authority that, in the sole discretion of the Required Lenders, materially or adversely affects any of the transactions contemplated hereby, or that has or could be reasonably likely to have a Material Adverse Effect.

(l) [Intentionally Omitted].

(m) Consents. The Lenders shall have received all necessary third party and governmental waivers and consents, and each Loan Party shall have complied with all Applicable Laws, decrees and material agreements.

(n) No Default. No Default or Event of Default shall exist on the Effective Date or after giving effect to the transactions contemplated to be consummated on the Effective Date pursuant to the Transaction Documents and the Loan Documents.

(o) Accuracy of Representations and Warranties. All representations and warranties made by the North American Group Members in or pursuant to the Loan Documents shall be true and correct in all material respects.

(p) Closing Certificate; Certified Certificate of Incorporation; Good Standing Certificates. The Lenders shall have received (i) a certificate of the secretary or assistant secretary of each Loan Party, dated the Effective Date, substantially in the form of Exhibit B-1, with appropriate insertions and attachments, including the certificate of incorporation (or equivalent organizational document) of each Loan Party, certified by the relevant authority of the jurisdiction of organization of such Loan Party (provided that, to the extent applicable, in lieu of delivering the certificate of incorporation and other organizational documents, such certificate may include a certification that such documents not have been amended, supplemented or otherwise modified since the Closing Date), (ii) bring down good standing certifications for each Loan Party from its jurisdiction of organization and (iii) a certificate of the Borrower and each Guarantor, dated the Effective Date, to the effect that the conditions set forth in this Section 4.1 have been satisfied, substantially in the form of Exhibit B-2.

(q) Legal Opinion. The Lenders shall have received the executed legal opinion of Weil, Gotshal and Manges LLP, New York counsel to the Loan Parties, substantially in the form of Exhibit E, as to New York law, United States federal law and the Delaware General Corporation Law.

SECTION 5

AFFIRMATIVE COVENANTS

Each Loan Party covenants and agrees to, and to cause each of its Subsidiaries that is a North American Group Member to, so long as any Loan is outstanding and until payment in full of all Obligations, in each case except as shall be required in connection with the Wind-Down, and subject to the Orders, the Related Section 363 Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court issued in connection with the Cases:

5.1. Financial Statements. The Borrower shall deliver to the Lenders:

(a) as soon as reasonably possible after receipt by the subject North American Group Member, a copy of any material report that may be prepared and submitted by such North American Group Member's independent certified public accountants at any time or any other material report with respect to the North American Group Members provided to the Borrower and its Subsidiaries pursuant to the Transition Services Agreement;

(b) from time to time such other information regarding the financial condition, operations, or business of any North American Group Member as any Lender may reasonably request;

(c) promptly upon their becoming available, copies of such other financial statements and reports, if any, as any North American Group Member may be required to publicly file with the SEC or any similar or corresponding governmental commission, department or agency substituted therefor, or any similar or corresponding governmental commission, department, board, bureau, or agency, federal or state;

(d) [intentionally omitted];

(e) notice of and copies of each Debtors' pleadings filed in the Cases in connection with any material contested matter or adversary proceeding in the Cases (but the foregoing may be satisfied by including each of the Lenders and their counsel in a "core service group," to receive copies of all pleadings under any order establishing notice and service requirements in the Cases), and such additional information with respect to such matters as either of the Lenders may reasonably request, and which notice shall also include sending copies of any pleadings or other documents that the Borrower or other Debtors seek to file under seal to each of the lenders and their counsel, provided, however, that if (in addition to the confidentiality provisions of this Agreement) additional confidentiality provisions are needed (i.e. if required by third parties), the Lenders and the Borrower shall endeavor to work out reasonable additional confidentiality terms;

(f) no later than the twentieth Business Day following the last day of each fiscal quarter, a report (a "Quarterly Report") setting forth in reasonable detail the anticipated receipts and disbursements of the North American Group Members for the immediately succeeding twelve-month period (on a calendar month basis) and the aggregate amount of cash and Cash Equivalents of the North American Group Members as of the last day of the immediately preceding fiscal quarter, in form and substance reasonably satisfactory to the

Required Lenders. Each Quarterly Report shall be accompanied by a certificate of a Responsible Officer certifying that such Quarterly Report was prepared in good faith and are based on reasonable estimates on the date as of which such information is certified; and

(g) on the first Business Day of February to occur each year from the Effective Date until the Maturity Date, a report setting forth in reasonable detail the three-year business plan of the Borrower.

5.2. Notices; Reporting Requirements. The relevant Loan Party shall deliver written notice to the Lenders of the following:

(a) Defaults. Promptly after a Responsible Officer or any officer of a North American Group Member with a title of at least executive vice president becomes aware of the occurrence of any Default or Event of Default, or any event of default under any publicly filed material Contractual Obligation of any Group Member;

(b) Litigation. Promptly after a Responsible Officer or an attorney in the general counsel's office of a North American Group Member obtains knowledge of any action, suit or proceeding instituted by or against such North American Group Member or any of its Subsidiaries in any federal or state court or before any commission, regulatory body or Governmental Authority (i) in which the amount in controversy, in each case, is an amount equal to $25,000,000 or more, (ii) in which injunctive or similar relief is sought, or (iii) which relates to any Loan Document, the relevant Loan Party shall furnish to the Lenders notice of such action, suit or proceeding;

(c) Material Adverse Effect on Collateral. Promptly upon any North American Group Member becoming aware of any default or any event or change in circumstances related to any Collateral which, in each case, could reasonably be expected to have a Material Adverse Effect;

(d) Judgments. Promptly upon the entry of a judgment or decree against any Loan Party or any of its Subsidiaries in an amount in excess of $15,000,000;

(e) Environmental Events. As soon as possible and in any event within seven Business Days of obtaining knowledge thereof: (i) any development, event, or condition occurring after the date hereof that, individually or in the aggregate with other developments, events or conditions occurring after the date hereof, could reasonably be expected to result in the payment by the Group Members, in the aggregate, of a Material Environmental Amount; and (ii) any notice that any Governmental Authority may deny any application for an Environmental Permit sought by, or revoke or refuse to renew any Environmental Permit held by, any Group Member; to the extent such Environmental Permit is material to the continued operations or business of the Group Members or of any manufacturing related facility;

(f) Material Adverse Effect. Any development or event that has had or could reasonably be expected to have a Material Adverse Effect;

(g) Insurance. Promptly upon any material change in the insurance coverage required of any Loan Party or any other Person pursuant to any Loan Document, with copy of evidence of same attached;

(h) Compliance Certificate. On the tenth Business Day of each calendar month, beginning with the first month to occur after the Effective Date, a Compliance Certificate, executed by a Responsible Officer of the Borrower, stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate;

(i) Investment Reports. With respect to any Investment made pursuant to clause (p)(i) or (ii) of the definition of Permitted Investments, on the tenth Business Day of each calendar month, beginning with the month immediately following the calendar month in which the first such Investment is made, a report executed by a Responsible Officer of the Borrower, setting forth (x) the amount of each Investment made pursuant to each of clause (p)(i) and/or (p)(ii), if any, in the immediately proceeding calendar month, (y) a description of each such Investment, if any, and (z) the aggregate amount of Investments made pursuant to each of clause (p)(i) and (p)(ii) since the Effective Date, if any, as of the end of the immediately preceding calendar month;

(j) [Intentionally Omitted];

(k) [Intentionally Omitted];

(l) Expense Policy. Within 15 days after the conclusion of each calendar month, beginning with the month in which the Effective Date occurs, the Borrower shall deliver to the Lenders a certification signed by a Responsible Officer of the Borrower that (i) the Expense Policy conforms to the requirements set forth herein; (ii) the Borrower and its Subsidiaries are in compliance with the Expense Policy; and (iii) there have been no material amendments to the Expense Policy or deviations from the Expense Policy other than those that have been disclosed to and approved by the Lenders; provided that the requirement to deliver the certification referenced in this Section 5.2(l) may be qualified as to the best of such Responsible Officer's knowledge after due inquiry and investigation;

(m) Executive Privileges and Compensation. The Borrower shall submit a certification on the last day of each fiscal quarter beginning with the fiscal quarter ended September 30, 2009, certifying that the Borrower has complied with and is in compliance with the provisions set forth in Section 5.16. Such certification shall be made to the Lenders by an SEO of the Borrower, subject to the requirements and penalties set forth in Title 18, United States Code, Section 1001; and

(n) Organizational Documents. Subject to Section 6.6, each North American Group Member shall furnish prompt written notice to the Lenders of any material amendment to such entity's organizational documents and copies of such amendments.

Each notice required to be provided pursuant to this Section 5.2(a)-(f) above shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Borrower proposes to take with respect thereto.

5.3. Existence. (a) Preserve and maintain its legal existence and all of its material rights, privileges, licenses and franchises;

(b) pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all their Postpetition obligations of whatever nature, except (i) where such payment, discharge or satisfaction is prohibited by the Orders, the Bankruptcy Code, the Bankruptcy Rules or an order of the Bankruptcy Court or by this Agreement or the Wind-Down Budget, or (ii) where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with GAAP with respect thereto have been provided on the books of the Borrower or its Subsidiaries, as the case may be;

(c) comply with the requirements of all Applicable Laws, rules, regulations and orders of Governmental Authorities if failure to comply with such requirements could be reasonably likely (either individually or in the aggregate) to have a Material Adverse Effect on any Loan Party or the Collateral;

(d) keep adequate records and books of account, in which complete entries will be made in accordance with GAAP consistently applied, and maintain adequate accounts and reserves for all taxes (including income taxes), all depreciation, depletion, obsolescence and amortization of its properties, all contingencies, and all other reserves;

(e) (i) change the location of its chief executive office/chief place of business from that specified in Section 3.10, (ii) change its name, identity or corporate structure (or the equivalent) or change the location where it maintains records with respect to the Collateral, or (iii) reincorporate or reorganize under the laws of another jurisdiction, it shall give the Lenders written notice thereof not later than ten (10) days after such event occurs, and shall deliver to the Lenders all Uniform Commercial Code financing statements and amendments as the Lenders shall request and take all other actions deemed reasonably necessary by the Lenders to continue its perfected status in the Collateral with the same or better priority;

(f) keep in full force and effect the provisions of its charter documents, certificate of incorporation, by-laws, operating agreements or similar organizational documents; and

(g) comply (i) in the case of each North American Group Member that is not a Debtor, with all Contractual Obligations in a manner such that a Material Adverse Effect could not reasonably be expected to result and (ii) in the case of each Debtor, with all material Postpetition Contractual Obligations (including the Transition Services Agreement).

5.4. Payments of Taxes. Except as prohibited by the Bankruptcy Code, the Borrower will and will cause each Group Member (i) to timely file or cause to be filed all federal and material state and other Tax returns that are required to be filed and all such Tax returns shall be true and correct and (ii) to timely pay and discharge or cause to be paid and discharged promptly all Taxes, assessments and governmental charges or levies arising Postpetition and imposed upon the Borrower or any of the other Group Members or upon any of their respective incomes or receipts or upon any of their respective properties before the same shall become in

default or past due, as well as all lawful claims for labor, materials and supplies or otherwise which, if unpaid, might result in the imposition of a Lien or charge upon such properties or any part thereof; provided that it shall not constitute a violation of the provisions of this Section 5.4 if the Borrower or any of the other Group Members shall fail to pay any such Tax, assessment, government charge or levy or claim for labor, materials or supplies which is being contested in good faith, by proper proceedings diligently pursued, and as to which adequate reserves have been provided.

5.5. Use of Proceeds. The Loan Parties and their Subsidiaries shall use the Loan proceeds only for the purposes set forth in Section 3.20 and in a manner generally consistent with the Wind-Down Budget, except as otherwise permitted in Section 3.20(a)(i).

5.6. Maintenance of Existence; Payment of Obligations; Compliance with Law. Subject to the Orders, the Related Section 363 Transactions and the Cases, each Loan Party shall:

(a) keep all property useful and necessary in its business in good working order and condition; and

(b) maintain errors and omissions insurance and blanket bond coverage in such amounts as are in effect on the Closing Date (as disclosed to the Lenders in writing except in the event of self-insurance) and shall not reduce such coverage without the written consent of the Lenders, and shall also maintain such other insurance with financially sound and reputable insurance companies, and with respect to property and risks of a character usually maintained by entities engaged in the same or similar business similarly situated, against loss, damage and liability of the kinds and in the amounts customarily maintained by such entities. Notwithstanding anything to the contrary in this Section 5.6, to the extent that any North American Group Member is engaged in self-insurance with respect to any of its property as of the Closing Date, such Loan Party may, if consistent with past practices, continue to engage in such self-insurance throughout the term of this Agreement; provided, that the North American Group Members shall promptly obtain third party insurance that conforms to the criteria in this Section 5.6 at the request of the Lenders.

5.7. Further Identification of Collateral. Each Loan Party will furnish to the Lenders from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as any Lender may reasonably request, all in reasonable detail.

5.8. Defense of Title. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court, each Loan Party warrants and will defend the right, title and interest of the Lenders in and to all Collateral against all adverse claims and demands of all Persons whomsoever, subject to (x) the restrictions imposed by the Existing Agreements to the extent that such restrictions are valid and enforceable under the applicable Uniform Commercial Code and other Requirements of Law and (y) the rights of holders of any Permitted Lien.

5.9. Preservation of Collateral. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court, each Loan Party shall do all things necessary to preserve the Collateral so that the Collateral remains subject to a perfected security interest with the priority provided for such security interest under the Loan Documents. Without limiting the foregoing, each Loan Party will comply with all Applicable Laws, rules and regulations of any Governmental Authority applicable to such Loan Party or relating to the Collateral and will cause the Collateral to comply, with all Applicable Laws, rules and regulations of any such Governmental Authority, except where failure to so comply would not reasonably be expected to have a Material Adverse Effect. No Loan Party will allow any default to occur for which any Loan Party is responsible under any Loan Documents and each Loan Party shall fully perform or cause to be performed when due all of its obligations under the Loan Documents.

5.10. Maintenance of Papers, Records and Files. (a) each North American Group Member will maintain all Records in good and complete condition and preserve them against loss or destruction, all in accordance with industry and customary practices;

(b) each North American Group Member shall collect and maintain or cause to be collected and maintained all Records relating to its business and operations and the Collateral in accordance with industry custom and practice, including those maintained pursuant to the preceding subsection, and all such Records shall be in the possession of the North American Group Members or reasonably obtainable upon the request of any Lender unless the Lenders otherwise approve; and

(c) for so long as any Lender has an interest in or Lien on any Collateral, each North American Group Member will hold or cause to be held all related Records in trust for such Lender. Each North American Group Member shall notify, or cause to be notified, every other party holding any such Records of the interests and Liens granted hereby.

5.11. Maintenance of Licenses. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions and the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court, except where the failure to do so could not reasonably be likely to have a Material Adverse Effect, each Loan Party shall (i) maintain all licenses, permits, authorizations or other approvals necessary for such Loan Party to conduct its business and to perform its obligations under the Loan Documents, (ii) remain in good standing under the laws of the jurisdiction of its organization, and in each other jurisdiction where such qualification and good standing are necessary for the successful operation of such Loan Party's business, and (iii) shall conduct its business in accordance with Applicable Law in all material respects.

5.12. Payment of Obligations. The Borrower will duly and punctually pay or cause to be paid the principal and interest on the Loans and each North American Group Member will duly and punctually pay or cause to be paid all fees and other amounts from time to time owing by it hereunder or under the other Loan Documents, all in accordance with the terms of this Agreement and the other Loan Documents. Each North American Group Member will, and will cause each of its Subsidiaries to, pay (i) with respect to each Debtor its Postpetition obligations; and (ii) with respect to each other Group Member its obligations, in each case including tax liabilities, assessments and governmental charges or levies imposed upon such

Person or upon its income and profits or upon any of its property, real, personal or mixed (including without limitation, the Collateral) or upon any part thereof, as well as any other lawful claims which, if unpaid, could reasonably be expected to become a Lien upon such properties or any part thereof, that, if not paid, could reasonably be expected to result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the relevant Loan Party, or such Subsidiary, has set aside on its books adequate reserves with respect thereto and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

5.13. OFAC. At all times throughout the term of this Agreement, each Loan Party and its Controlled Affiliates (a) shall be in full compliance with all applicable orders, rules, regulations and recommendations of OFAC and (b) shall not permit any Collateral to be maintained, insured, traded, or used (directly or indirectly) in violation of any United States statutes, rules or regulations, in a Prohibited Jurisdiction or by a Prohibited Person, and no lessee or sublessee shall be a Prohibited Person or a Person organized in a Prohibited Jurisdiction.

5.14. Investment Company. Each North American Group Member will conduct its operations in a manner which will not subject it to registration as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended from time to time.

5.15. Further Assurances. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions and the Cases, the Borrower shall, and shall cause each North American Group Member to, from time to time execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take such actions, as the Lenders may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, or of more fully perfecting or renewing the rights of the Lenders with respect to the Collateral (or with respect to any additions thereto or replacements or proceeds thereof or with respect to any other property or assets hereafter acquired by any Group Member which may be deemed to be part of the Collateral) pursuant hereto or thereto. Upon the exercise by any Lender of any power, right, privilege or remedy pursuant to this Agreement or the other Loan Documents that requires any consent, approval, recording, qualification or authorization of any Governmental Authority, the Borrower will execute and deliver, or will cause the execution and delivery of, all applications, certifications, instruments and other documents and papers that such Lender may be required to obtain from the Borrower or any Group Member such governmental consent, approval, recording, qualification or authorization.

5.16. Executive Privileges and Compensation. (a) Subject to the Wind-Down, the Orders, the Related Section 363 Transactions and the Cases, the Borrower shall comply with the following restrictions on executive privileges and compensation:

(i) the Borrower shall take all necessary action to ensure that its Specified Benefit Plans comply in all respects with the EESA, including, without limitation, the provisions of the Capital Purchase Program (as defined in the EESA) and the TARP Standards for Compensation and Corporate Governance, as implemented by any guidance or regulation thereunder, including the rules set forth in 31 C.F.R. Part 30, or

any other guidance or regulations promulgated under the EESA, as the same shall be in effect from time to time (collectively, the "Compensation Regulations"), and shall not adopt any new Specified Benefit Plan (x) that does not comply therewith or (y) that does not expressly state and require that such Specified Benefit Plan and any compensation thereunder shall be subject to all relevant Compensation Regulations adopted, issued or released on or after the date any such Specified Benefit Plan is adopted. To the extent that the Compensation Regulations change, or are implemented in a manner that requires changes to then-existing Specified Benefit Plans, the Borrower shall effect such changes to its Specified Benefit Plans as promptly as practicable after it has actual knowledge of such changes in order to be in compliance with this Section 5.16(a)(i) (and shall be deemed to be in compliance for a reasonable period within which to effect such changes);

(ii) the Borrower shall be subject to the limits on the deductibility of executive compensation imposed by section 162(m)(5) of the Code, as applicable;

(iii) the Borrower shall not pay or accrue any bonus or incentive compensation to the Senior Employees, except as may be permitted under the EESA or the Compensation Regulations;

(iv) the Borrower shall not adopt or maintain any compensation plan that would encourage manipulation of its reported earnings to enhance the compensation of any of its employees;

(v) the Borrower shall maintain all suspensions and other restrictions of contributions to Specified Benefit Plans that are in place or initiated as of the Closing Date; and

(vi) the Borrower shall otherwise comply with the provisions of the Capital Purchase Program and the TARP Standards for Compensation and Corporate Governance, as implemented by any guidance or regulation thereunder, including the rules set forth in 31 C.F.R. Part 30, including without limitation the prohibition on golden parachute and tax "gross up" payments, the requirement with respect to the establishment of a compensation committee of the board of directors, and the requirement that the Borrower provide certain disclosures to the Treasury and the Borrower's primary regulator.

At all times throughout the term of this Agreement, the Required Lenders shall have the right to require any Group Member to claw back any bonuses or other compensation, including golden parachutes, paid to any Senior Employees in violation of any of the foregoing.

(b) On or prior to September 15, 2009, the Borrower shall cause (i) its principal executive officer and principal financial officer (or, in each case, a person acting in a similar capacity) and (ii) its compensation committee, as applicable, to provide the certifications to the Treasury and the Borrower's primary regulator required by the rules set forth in 31 C.F.R. Part 30. The Borrower shall preserve appropriate documentation and records to substantiate such

certification in an easily accessible place for a period not less than three years following the Maturity Date.

From the Closing Date until the repayment of all Obligations, the Borrower shall comply with the provisions of this Section 5.16.

5.17. Aircraft. With respect to any private passenger aircraft or interest in such aircraft that is owned or held by the Borrower or any of its respective Subsidiaries immediately prior to the Closing Date, such party shall demonstrate to the satisfaction of the Treasury that it is taking all reasonable steps to divest itself of such aircraft or interest. In addition, the Borrower shall not acquire or lease any private passenger aircraft or interest in private passenger aircraft after the Closing Date.

5.18. Restrictions on Expenses. (a) The Borrower shall maintain and implement an Expense Policy, provide the Expense Policy to the Treasury and the Borrower's primary regulatory agency, and post the text of the Expense Policy on its Internet website, if the Borrower maintains a company website, and distribute the Expense Policy to all employees covered under the Expense Policy. Any material amendments to the Expense Policy shall require the prior written consent of the Treasury, and any material deviations from the Expense Policy, whether in contravention thereof or pursuant to waivers provided for thereunder, shall promptly be reported to the Treasury.

(b) The Expense Policy shall, at a minimum: (i) require compliance with all Requirements of Law, (ii) apply to the Borrower and all of its Subsidiaries, (iii) govern (A) the hosting, sponsorship or other payment for conferences and events, (B) travel accommodations and expenditures, (C) consulting arrangements with outside service providers, (D) any new lease or acquisition of real estate, (E) expenses relating to office or facility renovations or relocations, and (F) expenses relating to entertainment or holiday parties, (iv) provide for (A) internal reporting and oversight, and (B) mechanisms for addressing non-compliance with the Expense Policy and (v) comply in all respects with the provisions of the Capital Purchase Program and the TARP Standards for Compensation and Corporate Governance, as implemented by any guidance or regulation thereunder, including the rules set forth in 31 C.F.R. Part 30.

5.19. Employ American Workers Act. The Borrower shall comply, and the Borrower shall take all necessary action to ensure that its Subsidiaries comply, in all respects with the provisions of the EAWA in all respects.

5.20. Internal Controls; Recordkeeping; Additional Reporting. (a) The Borrower shall promptly establish internal controls to provide reasonable assurance of compliance in all material respects with each of the Borrower's covenants and agreements set forth in Sections 5.16, 5.17, 5.18, 5.19 and 5.20(b) hereof and shall collect, maintain and preserve reasonable records evidencing such internal controls and compliance therewith, a copy of which records shall be provided to the Lenders promptly upon request. On the 15th day after the last day of each calendar quarter (or, if such day is not a Business Day, on the first Business Day after such day) commencing with the calendar quarter ending September 30, 2009, the Borrower shall deliver to the Treasury (at its address set forth in Section 8.2) a report setting forth in reasonable detail (x) the status of implementing such internal controls and (y) the

Borrower's compliance (including any instances of material non-compliance) with such covenants and agreements. Such report shall be accompanied by a certification duly executed by an SEO of the Borrower stating that such quarterly report is accurate in all material respects to the best of such SEO's knowledge, which certification shall be made subject to the requirements and penalties set forth in Title 18, United States Code, Section 1001.

(b) The Borrower shall use its reasonable best efforts to account for the use and expected use of the proceeds from the Loans. On the 30th day after the last day of each month (or, if such day is not a Business Day, on the first Business Day after such day) commencing with July 31, 2009, the Borrower shall deliver to the Lenders (at their respective addresses set forth in Section 8.2) a report setting forth in reasonable detail the actual results of the operations of the Borrower and its Subsidiaries for such month, which shall include (without limitation) a budget-to-actual variance analysis. Such report shall be accompanied by a certification duly executed by an SEO of the Borrower that such monthly report is accurate in all material respects to the best of such SEO's knowledge, which certification shall be made subject to the requirements and penalties set forth in Title 18, United States Code, section 1001.

(c) The Borrower shall collect, maintain and preserve reasonable records relating to the implementation of all Federal support programs provided to the Borrower or any of its Subsidiaries pursuant to the EESA, the use of the proceeds thereunder and the compliance with the terms and provisions of such programs; provided that the Borrower shall have no obligation to comply with the foregoing in connection with any such program to the extent that such program independently requires, by its express terms, the Borrower to collect, maintain and preserve any records in connection therewith. The Borrower shall provide the Treasury with copy of all such reasonable records promptly upon request.

5.21. Waivers. (a) For any Person who is a Loan Party as of the Closing Date and any Person that becomes a Loan Party after the Closing Date, the Borrower shall cause a waiver, in substantially the form attached hereto as Exhibit D-1, to be duly executed by such North American Group Member and promptly delivered to the Treasury.

(b) For any Person who is an SEO as of the Closing Date and any Person that becomes an SEO after the Closing Date, the Borrower shall cause a waiver, in substantially the form attached hereto as Exhibit D-2, to be duly executed by such SEO, and promptly delivered to the Treasury.

(c) For any Person who is an SEO as of the Closing Date and any Person that becomes an SEO after the Closing Date, the Borrower shall cause a consent and waiver, in substantially the form attached hereto as Exhibit D-3, to be duly executed by such SEO, and promptly delivered to the Borrower (with a copy to the Treasury).

(d) For any Person who is a Senior Employee as of the Closing Date and any Person that becomes an Senior Employee after the Closing Date, the Borrower shall cause a waiver, in substantially the form attached hereto as Exhibit D-4, to be duly executed by such Senior Employee, and promptly delivered to the Treasury.

(e) For any Person who is a Senior Employee as of the Closing Date and any Person that becomes an Senior Employee after the Closing Date, the Borrower shall cause a consent and waiver, in substantially the form attached hereto as Exhibit D-5, to be duly executed by such Senior Employee, and promptly delivered to the Borrower (with a copy to the Treasury).

(f) For the avoidance of doubt, this requirement will be deemed satisfied for the United States with respect to Loan Parties that are party to the Existing UST Term Loan Agreement and any SEO or Senior Employee, to the extent such Loan Party, SEO or Senior Employee has previously provided such a waiver to the Treasury.

5.22. [Intentionally Omitted].

5.23. Additional Guarantors. Except as otherwise agreed to by the Required Lenders, the Borrower shall cause each Domestic Subsidiary of a North American Group Member who becomes a Debtor after the Closing Date to become a Guarantor (each, an "Additional Guarantor") in accordance with Section 4.24 of the Guaranty, other than (i) [intentionally omitted], (ii) any Foreign 956 Subsidiary, (iii) any Other Foreign 956 Subsidiary and (iv) any Non-U.S. Subsidiary owned in whole or in part by a Foreign 956 Subsidiary, except in the case of clauses (i) through (iv), any Subsidiaries that were guarantors under the Existing UST Term Loan Agreement.

5.24. Provide Additional Information. Each North American Group Member shall, promptly, from time to time and upon request of any Lender, furnish to such Lender such information, documents, records or reports with respect to the Collateral, the Indebtedness of the North American Group Members or any Subsidiary thereof or the corporate affairs, conditions or operations, financial or otherwise, of such North American Group Member as any Lender may reasonably request, including without limitation, providing to such Lender reasonably detailed information with respect to each inquiry of such Lender raised with the North American Group Members prior to the Closing Date.

5.25. Inspection of Property; Books and Records; Discussions. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions and the Cases, the Borrower shall, and shall cause each Group Member to, (a) keep proper books of records and account in which full, true and correct entries in conformity with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its business and activities, and (b) permit representatives of any Lender, the Special Inspector General of the Troubled Asset Relief Program or the Comptroller General of the United States to visit and inspect any of its properties and examine and make abstracts from any of its books and records and other data delivered to them pursuant to the Loan Documents at any reasonable time and as often as may reasonably be desired and to discuss the business, operations, properties and financial and other condition of the Group Members with officers and employees of the Group Members and with its independent certified public accountants.

5.26. Governance of Borrower. Promptly after the Effective Date, the Borrower shall cause its by-laws to be amended and maintained to provide as follows:

(a) From the date of such amendment until a plan of liquidation confirmed by the Bankruptcy Court is effective for each of the Cases (such date, the "Liquidation Plan Effective Date"):

(i) the Borrower's Board of Directors shall be comprised of five (5) members (it being understood that so long as the Borrower is diligently and in good faith pursuing the nomination and appointment of members to the Borrower's Board of Directors, no Default shall arise under the Wind-Down Facility Agreement from the fact that from time to time, the Borrower's Board of Directors might consist of fewer than five (5) members);

(ii) subject to clauses (iii) and (iv) below, (A) the Required Lenders, as a group, shall have the right to nominate three (3) individuals as members to the Board of Directors and (B) the Creditors' Committee, as a group, shall have the right to nominate two (2) individuals as members to the Borrower's Board of Directors, and each of the Required Lenders, the Creditors' Committee, and the Borrower shall use its commercially reasonable efforts to cause the election to the Board of Directors of such individuals as directors of Borrower (unless the Board of Directors reasonably concludes that any such individual is not eligible to serve as a director, in which event the Required Lenders or Creditors' Committee, as the case may be, shall nominate a substitute individual);

(iii) prior to the appointment of any individual as director of the Borrower by the Board of Directors, such individual shall be subject to a review by and shall be reasonably acceptable to the Required Lenders and the Creditors' Committee (it being understood that so long as the Borrower is diligently and in good faith pursuing the nomination and appointment of members to its Board of Directors that satisfy the requirements of the undertaking set forth in this Annex, no Default shall arise under the Wind-Down Facility Agreement from the fact that the foregoing parties have not agreed on acceptable nominees);

(iv) upon the vacancy of a director's position on the Borrower's Board of Directors (whether by resignation of a director or otherwise), the party with the right to nominate such director hereby shall be entitled to nominate such director's replacement; provided that, at no time shall the majority of the members serving on the Borrower's Board of Directors be members nominated by the Creditors' Committee; and

(v) at least one director nominated by each of the Required Lenders and the Creditors' Committee shall be appointed to any committee of the Borrower's Board of Directors.

(b) The provisions of the Borrower's by-laws relating to the matters set forth in clause (a) above, as amended in accordance with the terms thereof shall remain in effect and may not be amended or repealed in whole or in any part, nor may any provision inconsistent with any of the preceding provisions (in whole or in part) be adopted other than (i) with respect to any period, by a unanimous approval of the Borrower's Board of Directors or (ii) with respect to the period on or after the Liquidation Plan Effective Date, by a unanimous approval of the

Borrower's Board of Directors, or if such unanimous approval of the Borrower's Board of Directors is not obtained, as determined by the Bankruptcy Court.

(c) Notwithstanding anything in this Agreement to the contrary, the Creditors' Committee (or the Unsecured Creditors Representative, as applicable) is intended to and shall be a third-party beneficiary of this Section 5.26, and shall be legally entitled to enforce the provisions hereof, but only to the extent that the Creditors' Committee (or the Unsecured Creditors Representative, as applicable) shall have take the action contemplated by this Section 5.26 to have been taken by such Person.

SECTION 6

NEGATIVE COVENANTS

Each Loan Party hereby covenants and agrees to, and to cause itself and each of its Subsidiaries that is a North American Group Member to, so long as any Loan or any interest or fee payable hereunder is owing to any Lender, each North American Group Member will abide by the following negative covenants, in each case except as shall be required in connection with the Wind-Down and subject to the Orders, the Related Section 363 Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court issued in connection with the Cases:

6.1. Prohibition on Fundamental Changes. No North American Group Member shall, at any time, directly or indirectly, (i) enter into any transaction of merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation, winding up or dissolution) or Dispose of all or substantially all of its Property without the Lender's prior consent, provided, any Guarantor may merge, consolidate, amalgamate into, or Dispose of all or substantially all of its Property to another North American Group Member; or (ii) form or enter into any partnership, syndicate or other combination (other than joint ventures permitted by Section 6.14) that could reasonably be expected to have a Material Adverse Effect.

6.2. Lines of Business. No North American Group Member will engage to any substantial extent in any line or lines of business activity other than the businesses generally carried on by the North American Group Members as of the Closing Date or businesses reasonably related thereto.

6.3. Transactions with Affiliates. No North American Group Member will (a) enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of Property (including Collateral) or the rendering of any service, with any Affiliate unless such transaction is (i) in the ordinary course of such North American Group Member's business, and (ii) generally upon fair and reasonable terms and, with respect to any transaction with an Affiliate that is not a Group Member, no less favorable to such North American Group Member than it would obtain in an arm's length transaction with a Person which is not an Affiliate (other than any transaction that occurs pursuant to an agreement in effect as of the Petition Date), and in either case, is otherwise permitted under this Agreement, or (b) make a payment that is not otherwise permitted by this Section 6.3 to any Affiliate. Irrespective of whether such transactions comply with the provisions of this Section 6.3, but subject to the other restrictions set forth elsewhere in this Agreement, the Loan Parties shall be permitted to (x) transact business

in the ordinary course with (i) the joint ventures in which the Loan Parties or their Subsidiaries participate and (ii) [intentionally omitted], and (y) make Restricted Payments permitted under Section 6.5.

6.4. Limitation on Liens. No North American Group Member will, create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except Permitted Liens.

6.5. Restricted Payments. Without the Lenders' consent, no North American Group Member shall, (i) declare or pay any dividend (other than dividends payable solely in common Capital Stock of the Person making such dividend) on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of any Capital Stock of any North American Group Member, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of any North American Group Member and (ii) optionally prepay, repurchase, redeem or otherwise optionally satisfy or defease with cash or Cash Equivalents any Indebtedness (any such payment referred to in clauses (i) and (ii), a "Restricted Payment"), other than:

(a) redemptions, acquisitions or the retirement for value or repurchases (or loans, distributions or advances to effect the same) of shares of Capital Stock from current or former officers, directors, consultants and employees, including upon the exercise of stock options or warrants for such Capital Stock, or any executive or employee savings or compensation plans, or, in each case to the extent applicable, their respective estates, spouses, former spouses or family members or other permitted transferees;

(b) any Subsidiary (including an Excluded Subsidiary) may make Restricted Payments to its direct parent or to the Borrower or any Guarantor that is a Wholly Owned Subsidiary;

(c) any JV Subsidiary may make Restricted Payments required or permitted to be made pursuant to the terms of the joint venture arrangements in effect on the Closing Date (or otherwise as approved by the Required Lenders) of holders of its Capital Stock, provided that, the Borrower and its Subsidiaries have received their *pro rata* portion of such Restricted Payments; and

(d) any Subsidiary that is not a North American Group Member may make Restricted Payments to any other Subsidiary or Subsidiaries that are not North American Group Members.

For the avoidance of doubt this Section 6.5 shall not restrict in any manner any North American Group Member from Disposing of any New GM Equity Interests.

6.6. Amendments to Transaction Documents. (a) No North American Group Member will amend, supplement or otherwise modify (pursuant to a waiver or otherwise) the terms and conditions of the indemnities and licenses furnished to New CarCo and its successors or any of its Subsidiaries pursuant to the Transaction Documents such that after giving effect thereto such indemnities or licenses, taken as a whole, shall be materially less favorable to the

interests of the Lenders with respect thereto or (b) otherwise amend, supplement or otherwise modify the terms and conditions of the Transaction Documents.

6.7. Changes in Fiscal Periods. No North American Group Member will permit its fiscal year to end on a day other than December 31 or change its method of determining fiscal quarters, in each case, unless otherwise agreed by the Required Lenders.

6.8. Negative Pledge. No North American Group Member will, enter into or suffer to exist or become effective any agreement that prohibits or limits the ability of any North American Group Member to create, incur, assume or permit to exist any Lien upon any of the Collateral, whether now owned or hereafter acquired, other than this Agreement, the other Loan Documents, the Existing Agreements, and Permitted Liens; provided that the agreements excepted from the restrictions of this Section shall include customary negative pledge clauses in agreements providing refinancing Indebtedness or permitted unsecured Indebtedness.

6.9. Indebtedness. No North American Group Member will, create, incur, assume or suffer to exist any Indebtedness except Permitted Indebtedness.

6.10. Investments. No North American Group Member will make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any assets constituting a business unit of, or make any other investment in, any Person (all of the foregoing, "Investments"), except Permitted Investments.

6.11. Action Adverse to the Collateral. Except as permitted under any provision of this Agreement, no Loan Party shall or shall permit any Pledged Entity that is a Subsidiary to take any action that would directly or indirectly materially impair or materially adversely affect such North American Group Member's title to, or the value of, the Collateral, or materially increase the duties, responsibilities or obligation of any North American Group Member.

6.12. Limitation on Sale of Assets. Subject to the Wind-Down, the Orders, the Related Section 363 Transactions and the Cases and any other applicable provision of any Loan Document, each North American Group Member shall have the right to Dispose freely of any of its Property (including, without limitation, receivables and leasehold interests) whether now owned or hereafter acquired.

6.13. [Intentionally Omitted].

6.14. JV Agreements. No North American Group Member or Pledged Entity shall allow any modification or amendment to any JV Agreement, except that any such party that is not a Debtor may modify or amend any JV Agreement; provided that such amendment or modification could not reasonably be expected to have a Material Adverse Effect.

6.15. Swap Agreements. The North American Group Members will not itself, and will not permit any of their respective Subsidiaries to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Borrower or any Subsidiary has actual or anticipated exposure (other than those in respect of Capital Stock) and

(b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates with respect to any interest-bearing liability or investment of the Borrower or any Subsidiary.

6.16. Clauses Restricting Subsidiary Distributions. The Borrower will not, and will not permit any Guarantor to, enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any such Guarantor to (a) make Restricted Payments in respect of any Capital Stock of such Guarantor held by, or pay any Indebtedness owed to, the Borrower or any other Guarantor, (b) make loans or advances to, or other Investments in, the Borrower or any other Guarantor or (c) transfer any of its assets to the Borrower or any other Guarantor, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) any restrictions with respect to a Guarantor imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Guarantor, (iii) any agreement or instrument governing Indebtedness assumed in connection with the acquisition of assets by the Borrower or any Guarantor permitted hereunder or secured by a Lien encumbering assets acquired in connection therewith, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person or the properties or assets of the Person so acquired, (iv) restrictions on the transfer of assets subject to any Lien permitted by Section 6.4 imposed by the holder of such Lien or on the transfer of assets subject to a Disposition permitted by Section 6.12 imposed by the acquirer of such assets, (v) provisions in joint venture agreements and other similar agreements (in each case relating solely to the respective joint venture or similar entity or the Capital Stock therein) entered into in the ordinary course of business, (vi) restrictions contained in the terms of any agreements governing purchase money obligations, Capital Lease Obligations or attributable obligations not incurred in violation of this Agreement; provided that, such restrictions relate only to the property financed with such Indebtedness, (vii) restrictions on cash or other deposits imposed by customers under contracts or other arrangements entered into or agreed to in the ordinary course of business, or (viii) customary non-assignment provisions in leases, contracts, licenses and other agreements entered into in the ordinary course of business and consistent with past practices.

6.17. Sale/Leaseback Transactions. No North American Group Member will enter into any arrangement with any Person providing for the leasing by any such North American Group Member of real or personal property that has been or is to be sold or transferred by any such North American Group Member to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of any such North American Group Member (a "Sale/Leaseback Transaction") other than any Sale/Leaseback Transaction in effect on the Closing Date.

6.18. [Intentionally Omitted].

6.19. Modification of Organizational Documents. No North American Group Member will modify any organizational documents, except (i) as required by the Bankruptcy Code or (ii) in connection with a Disposition permitted by Section 6.12.

SECTION 7

EVENTS OF DEFAULT

7.1. Events of Default. Notwithstanding the provisions of section 362(c) of the Bankruptcy Code, and without notice, application or motion to, hearing before, or order of the Bankruptcy Court, or any notice to any of the North American Group Members, and subject to the provisions of this Section 7, each of the following events shall constitute an "Event of Default", provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied:

(a) the Borrower shall default in the payment of any principal of or interest on any Loan when due (whether at stated maturity or upon acceleration), including the failure to pay the Administrative Priority Claim Payment Amount on or before the Administrative/Priority Claim Payment Date; or

(b) any Guarantor shall default in its payment obligations under the Guaranty; or

(c) any Loan Party shall default in the payment of any other amount payable by it hereunder or under any other Loan Document after notification by the Lenders of such default, and such default shall have continued unremedied for three (3) Business Days; or

(d) any North American Group Member shall breach any covenant contained in Section 5.16 (Executive Privileges and Compensation), Section 5.17 (Aircraft), Section 5.18 (Restrictions on Expenses), Section 5.19 (Employ American Workers Act), Section 5.20 (Internal Controls; Recordkeeping; Additional Reporting), Section 5.21 (Waivers) or Section 6 hereof; or

(e) any North American Group Member shall default in performance of or otherwise breach non-payment obligations or covenants under any of the Loan Documents not covered by another clause in this Section 7, and such default has not been remedied within the applicable grace period provided therein, or if no grace period, within ten (10) Business Days; or

(f) any representation, warranty or certification made or deemed made herein or in any other Loan Document by any North American Group Member or any certificate furnished to the Lenders pursuant to the provisions hereof or thereof, shall prove to have been false or misleading in any material respect as of the time made or furnished; or

(g) [intentionally omitted]; or

(h) [intentionally omitted]; or

(i) [intentionally omitted]; or

(j) [intentionally omitted]; or

(k) any of the Cases shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code; a trustee or interim trustee under chapter 7 or chapter 11 of the Bankruptcy Code, a receiver and manager, or an examiner with enlarged powers relating to the operation of the business (powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code) under section 1106(b) of the Bankruptcy Code shall be appointed in any of the Cases; or an application shall be filed by the Borrower or any of its Subsidiaries for the approval of any other Superpriority Claim (other than the Carve-Out) in any of the Cases which is *pari passu* with or senior to the claims of the Lenders against any Borrower or any other Loan Party hereunder or under any of the other Loan Documents, or there shall arise or be granted any such *pari passu* or senior Superpriority Claim; or

(l) except as expressly agreed to in writing by the Required Lenders, any Debtor shall make any Prepetition Payment to any general unsecured creditor other than any such Prepetition Payments that are (i) payable pursuant to an order by the Bankruptcy Court or (ii) consistent with the Wind-Down Budget; or

(m) [intentionally omitted]; or

(n) [intentionally omitted]; or

(o) [intentionally omitted]; or

(p) any Loan Document shall for whatever reason be terminated, any default or event of default shall have occurred under any Loan Document, the Loan Documents shall for any reason cease to create a valid, security interest in any of the Collateral purported to be covered hereby or thereby, or any North American Group Member's material obligations (including the Borrower's Obligations hereunder) shall cease to be in full force and effect, or the enforceability thereof shall be contested by any North American Group Member; or

(q) the filing of a motion, pleading or proceeding by any of the other Loan Parties which could reasonably be expected to result in a material impairment of the rights or interests of any Lender under any Loan Document, or a determination by a court with respect to a motion, pleading or proceeding brought by another party which results in a material impairment of the rights or interests of any Lender under any Loan Document; or

(r) (i) any order shall be entered reversing, amending, supplementing, staying for a period in excess of five days, vacating or otherwise modifying in any material respect the Final Order without the prior written consent of the Lenders, (ii) the Final Order shall cease to create a valid and perfected Lien or to be otherwise in full force and effect or (iii) any Debtor shall fail to, or fail to cause any North American Group Member to, comply with the Orders; or

(s) the North American Group Members or any other material Subsidiaries of the Borrower shall take any action in support of any of the events set forth in clauses (k), (l), (m), (q) or (s) or any person other than the North American Group Members or any other material Subsidiaries of the Borrower shall do so, and such application is not contested in good faith by the North American Group Members or any other material Subsidiaries of the Borrower and the relief requested is granted in an order that is not stayed pending appeal; or

(t) [intentionally omitted]; or

(u) any Change of Control shall have occurred without the prior consent of the Lenders other than pursuant to the Related Section 363 Transaction; or

(v) any North American Group Member shall grant, or suffer to exist, any Lien on any Collateral other than Permitted Liens; or the Liens contemplated under the Loan Documents shall cease to be perfected Liens on the Collateral in favor of the Lenders of the requisite priority hereunder with respect to such Collateral (subject to the Permitted Liens); or

(w) [intentionally omitted]; or

(x) [intentionally omitted]; or

(y) [intentionally omitted]; or

(z) [intentionally omitted]; or

(aa) [intentionally omitted]; or

(bb) any North American Group Member (other than a Debtor) shall admit its inability to, or intention not to, perform any of such party's material Obligations hereunder; or

(cc) a plan shall be confirmed in any of the Cases that does not, or any order shall be entered which dismisses any of the Cases and which order does not comply with the repayment provisions of this Agreement; or any of the Debtors shall seek support, or fail to contest in good faith the filing or confirmation of such a plan or the entry of such an order.

7.2. Remedies upon Event of Default. (a) If any Event of Default occurs and is continuing under Section 7.1(l), the Required Lenders may, by written notice to the Borrower, take any action set forth in Section 7.2(c).

(b) After the Maturity Date, if any Obligations remain outstanding, the Required Lenders may, by written notice to the Borrower, take any action set forth in Section 7.2(c).

(c) Upon (but only upon) the occurrence of an event set forth in Section 7.2(a) and (b), the Required Lenders may take any or all of the following actions, at the same or different times, in each case without further order of or application to the Bankruptcy Court (provided that (x) with respect to clause (iii) below and the enforcement of Liens or other remedies with respect to the Collateral under clause (v) below, the Lenders shall provide the Borrower (with a copy to counsel for each Committee and to the United States Trustee for the Southern District of New York) with five Business Days' written notice prior to taking the action contemplated thereby, (y) upon receipt of any such notice, the Borrower may only make disbursements in the ordinary course of business and with respect to the Carve-Out, but may not disburse any other amounts, and (z) in any hearing after the giving of the aforementioned notice, the only issue that may be raised by any party in opposition thereto shall be whether, in fact, the specific Event of Default giving rise to the enforcement has occurred and is continuing):

(i) declare the principal of and accrued interest on the outstanding Loans to be immediately due and payable;

(ii) [intentionally omitted]

(iii) set-off any amounts (other than Excluded Collateral) held in any accounts maintained by any Loan Party with respect to which any Lender is a party to a control agreement;

(iv) compel any Debtor to or to cause any North American Group Member to sell any or all of its assets (other than the Excluded Collateral) that comprise collateral consistent with Section 363(b) of the Bankruptcy Code or any other Applicable Law, and credit bid the Loans in any such sale pursuant to Section 363(k) of the Bankruptcy Code or other Applicable Law; or

(v) take any other action or exercise any other right or remedy (including, without limitation, with respect to the Liens in favor of the Lenders) permitted under and consistent with the Loan Documents or by Applicable Law.

(d) Notwithstanding any other provision in this Agreement or the other Loan Documents, the Lenders' rights and remedies set forth in Section 7.2(a), (b) and (c) shall for all purposes be the sole and exclusive remedy of the Lenders and their respective Affiliates under this Agreement and the other Loan Documents, at law or in equity, for all purposes against the Borrower, any of its direct or indirect Subsidiaries (including, the Guarantors), the Pledgors, and any of their respective former, current and future direct or indirect equity holders, controlling persons, stockholders, directors, officers, employees, agents, members, managers, general or limited partners or assignees upon any Event of Default or for any loss or damage suffered as a result of the breach of any representation, warranty, covenant or agreement contained in this Agreement, the other Loan Documents or otherwise by the Borrower or any of its direct or indirect Subsidiaries, any Pledgor or any Guarantor.

SECTION 8

MISCELLANEOUS

8.1. Amendments and Waivers. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 8.1 or as otherwise expressly provided herein. The Required Lenders and the Borrower (on its own behalf and as agent on behalf of any other Loan Party party to the relevant Loan Document) may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights or obligations of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Lenders may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; except that (x) the consent of each Lender directly affected thereby shall be required with respect to (i) reductions in the amount or

extensions of the Maturity Date of any Loan or any change to the definition of "Maturity Date", (ii) reductions in the rate of interest or any fee or extensions of any due date thereof, (iii) [intentionally omitted], (iv) imposition of any additional restrictions on assignments and participations, (v) [intentionally omitted] and (vi) modifications to the *pro rata* treatment and sharing provisions of the Loan Documents, and (y) the consent of 100% of the Lenders shall be required with respect to (i) modifications to this Section of any of the voting percentages, the definition of "Required Lenders", or the minimum requirement necessary for all Lenders or Required Lenders to take action hereunder, (ii) prior to the consummation of the Related Section 363 Transactions, the release or subordination of any of the Guarantors or a material portion of the Collateral other than in connection with the Related Section 363 Transactions, (iii) after the consummation of the Related Section 363 Transactions, the release or subordination of all or substantially all of the Guarantors or all or substantially all of the Collateral, (iv) the assignment, delegation or other transfer by any Loan Party of any of its rights and obligations under this Agreement and (v) amendments, supplements, modifications or waivers of Sections 2.12 (or the rights and obligations contained therein), 4.1(a), 4.1(c)(ii), 4.1(e), 4.1(f), 4.1(m) or 7.1(r), the definition of "ABR" or the minimum notice requirements contained in Section 2.4.

Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders and all future holders of the Loans. In the case of any waiver, the Loan Parties and the Lenders shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon. Any such waiver, amendment, supplement or modification shall be effected by a written instrument signed by the parties required to sign pursuant to the foregoing provisions of this Section 8.1; provided that, delivery of an executed signature page of any such instrument by facsimile transmission shall be effective as delivery of a manually executed counterpart thereof.

8.2. Notices. (a) All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy or electronic transmission), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy notice or electronic transmission or overnight or hand delivery, when received, addressed as follows in the case of the Borrower and the Lenders, or to such other address as may be hereafter notified by the respective parties hereto:

Borrower:

Motors Liquidation Company
GM Global Headquarters
Att. Mail Code 482-C37-A99
300 Renaissance Center
Detroit, MI 48265
Attn: Treasurer, James Selzer
Telecopy: 248-262-8491

with a copy to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153-0119
Attention: Stephen Karotkin
Richard Ginsburg
Soo-Jin Shim
Telecopy: 212-310-8007

Treasury:

The United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220
Attention: Chief Counsel Office of Financial Stability
Telecopy: 202-927-9225
Email: OFSChiefCounselNotices@do.treas.gov

with a copy to:

Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, NY 10281
Attention: John J. Rapisardi
Telecopy: 212-504-6666
Telephone: 212-504-6000

Canadian Lender:

Export Development Canada
151 O'Connor Street
Ottawa, Ontario
Canada K1A 1K3
Attention: Loans Services
Telecopy: 613-598-2514

with a copy to:

Export Development Canada
151 O'Connor Street
Ottawa, Ontario
Canada K1A 1K3
Attention: Asset Management/Covenants Officer
Telecopy: 613-598-3186

provided that any notice, request or demand to or upon the Lenders shall not be effective until received.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by each Lender in its sole discretion. The Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

8.3. No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

8.4. Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

8.5. Payment of Expenses. The Borrower agrees (a) to pay or reimburse the Lenders and any other Canadian Lender Consortium Member for all their (i) reasonable out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby (including the reasonable out-of-pocket costs and expenses of the advisors and counsel to each Lender and each other Canadian Lender Consortium Member, but excluding the professional fees of such advisors and counsel to each Lender and each other Canadian Lender Consortium Member), and (ii) costs and expenses incurred in connection with the enforcement or preservation of any rights or exercise of remedies under this Agreement, the other Loan Documents and any other documents prepared in connection herewith or therewith in respect of any Event of Default or otherwise, including the fees and disbursements of counsel (including the allocated fees and disbursements and other charges of in-house counsel) to each Lender and each other Canadian Lender Consortium Member, (b) to pay, indemnify, or reimburse each Lender and each other Canadian Lender Consortium Member for, and hold each Lender and each other Canadian Lender Consortium Member harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying such fees, if any, which may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (c) to pay, indemnify or reimburse each Lender and each other Canadian Lender Consortium Member, their respective affiliates, and their respective officers, directors, partners, employees, advisors, agents,

controlling persons and trustees (each, an "Indemnitee") for, and hold each Indemnitee harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever incurred by an Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of, the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, including any of the foregoing relating to the use or proposed use of proceeds of the Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations or assets of any Group Member, including any of the Mortgaged Properties, and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnitee against any Loan Party under any Loan Document or any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by any third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto (all the foregoing in this clause (c), collectively, the "Indemnified Liabilities"), provided that the Borrower shall have no obligation hereunder to any Indemnitee (x) for Taxes (it being understood that the Borrower's obligations with respect to Taxes are set forth in Section 2.12) or (y) with respect to Indemnified Liabilities to the extent such Indemnified Liabilities resulted from the gross negligence or willful misconduct of, in each case as determined by a final and nonappealable decision of a court of competent jurisdiction, such Indemnitee, any of its affiliates or its or their respective officers, directors, partners, employees, agents or controlling persons. No Indemnitee shall be liable for any damages arising from the use by unauthorized persons of information or other materials sent through electronic, telecommunications or other information transmission systems that are intercepted by such persons or for any special, indirect, consequential or punitive damages in connection with the Loans. Without limiting the foregoing, and to the extent permitted by Applicable Law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnitee. All amounts due under this Section 8.5 shall be payable not later than 30 days after written demand therefor. Statements payable by the Borrower pursuant to this Section 8.5 shall be submitted to the Treasurer of the Borrower as set forth in Section 8.2, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Lenders. The agreements in this Section 8.5 shall survive repayment of the Loans and all other amounts payable hereunder.

8.6. Successors and Assigns; Participations and Assignments. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, all future holders of the Loans and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder (except to its Debtor Successor) without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 8.6.

(b) Any Lender may, without the consent of the Borrower, assign to one or more assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Loans at the time owing to it) pursuant to an Assignment and Assumption, executed by such Assignee and such Lender and delivered to the Borrower for its records, to any other branch, division or agency of the United States or Canadian governments or any government of any state, province, commonwealth or territory of the United States or Canada or to New CarCo, together with any related rights and obligations thereunder, without the consent of the Borrower. The Borrower or its agent will maintain a register ("Register") of each Lender and Assignee. The Register shall contain the names and addresses of the Lenders and Assignees and the principal amount of the loans (and stated interest thereon) held by each such Lender and Assignee from time to time. The entries in the Register shall be conclusive and binding, absent manifest error.

(c) Any Lender may, without the consent of the Borrower, sell participations to any other branch, division or agency of the United States or Canadian governments or any government of any state, province, commonwealth or territory of the United States or Canada (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrower and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 8.1 and (2) directly affects such Participant. Subject to paragraph (c) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Section 2.10 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section 8.6. To the extent permitted by law, and subject to paragraph (c) of this Section, each Participant also shall be entitled to the benefits of Section 8.7 as though it were a Lender. Notwithstanding anything to the contrary in this Section 8.6, each Lender shall have the right to sell one or more participations in all or any part of its Loans or other Obligations to one or more lenders or other Persons that provide financing to such Lender in the form of sales and repurchases of participations without having to satisfy the foregoing requirements. In the event that a Lender sells a participation in such Lender's rights and obligations under this Agreement, the Lender, on behalf of Borrower, shall maintain a register on which it enters the name, address and interest in this Agreement of all Participants.

8.7. Adjustments; Set-off. (a) Except to the extent that this Agreement expressly provides for payments to be allocated to a particular Lender or to the Lenders, if any Lender (a "Benefitted Lender") shall, at any time after the Loans and other amounts payable hereunder shall immediately become due and payable pursuant to Section 7, receive any payment of all or part of the Obligations owing to it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing

to such other Lender, such Benefitted Lender shall purchase for cash in Dollars from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral or the proceeds thereof, as shall be necessary to cause such Benefitted Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) In addition to any rights and remedies of the Lenders provided by law, subject to any notice or other requirement contained in the Orders, each Lender shall have the right, without (i) further order of or application to the Bankruptcy Court, or (ii) prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by Applicable Law, upon all amounts owing hereunder becoming due and payable (whether at the stated maturity, by acceleration or otherwise) to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Borrower. Each Lender agrees promptly to notify the Borrower and the other Lenders after any such set-off and application made by such Lender; provided that, the failure to give such notice shall not affect the validity of such set off and application.

8.8. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Lenders.

8.9. Severability. Any provision of this Agreement that is held to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8.10. Integration. This Agreement and the other Loan Documents represent the entire agreement of the Borrower and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents. Subject to Section 8.18, in the event of any conflict between this Agreement or any other Loan Document and the Orders, the Orders shall control.

8.11. Governing Law. **THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH,**

THE LAW OF THE STATE OF NEW YORK AND, TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.

8.12. Submission to Jurisdiction; Waivers. All judicial proceedings brought against any Loan Party hereto arising out of or relating to this Agreement or any other Loan Document, or any Obligations hereunder and thereunder, may be brought in the Bankruptcy Court and, if the Bankruptcy Court does not have (or abstains from) jurisdiction, the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof. Each Loan Party hereto hereby irrevocably and unconditionally:

(a) submits for itself and its property in any such legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such party at its address set forth in Section 8.2 or at such other address of which the Lenders shall have been notified pursuant thereto; and

(d) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

8.13. Acknowledgments. The Loan Party hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) no Lender has any fiduciary relationship with or duty to any Group Member arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Lenders, on one hand, and any Group Member, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower or any Subsidiary and the Lenders.

8.14. Release of Guaranties. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Lenders hereby agree to take promptly, any action requested by the Borrower having the effect of releasing, or evidencing the release of, any

guarantee by any Loan Party of the Obligations to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to in accordance with Section 8.1.

8.15. Confidentiality. Each of the Lenders agrees to keep confidential all non-public information provided to it by any Loan Party or any other Lender pursuant to this Agreement that is designated by such Loan Party as confidential; provided that nothing herein shall prevent any Lender from disclosing any such information (a) to any other Lender or any affiliate of any thereof, (b) subject to an agreement to comply with the provisions of this Section 8.15 (or other provisions at least as restrictive as this Section), to any actual or prospective Transferee or any pledgee of Loans or any direct or indirect contractual counterparty (or the professional advisors thereto) to any swap or derivative transaction relating to the Loan Party and its obligations, (c) to its affiliates, employees, directors, trustees, agents, attorneys, accountants and other professional advisors, or those of any of its affiliates for performing the purposes of a Loan Document, subject to such Lender, as the case may be, advising such Person of the confidentiality provisions contained herein, (d) upon the request or demand of any Governmental Authority or regulatory agency (including self-regulated agencies) having jurisdiction (or purporting to have jurisdiction) over it upon notice (other than in connection with routine examinations or inspections by regulators) to the Borrower thereof unless such notice is prohibited or the Governmental Authority or regulatory agency shall require otherwise, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, after notice to the Borrower if reasonably feasible, and, if applicable, after exhaustion of the Group Members' rights and remedies under Section 1.6 of the Department of the Treasury Regulations, 31 C.F.R. Part 1, Subpart A; Sections 27-29 inclusive and 44 of the Access to Information Act, R.S.C., ch A-1 (1985) and Section 28 and Part IV (Sections 50-56 inclusive) of the Freedom of Information and Protection of Privacy Act, R.S.O., ch. F.31 (1990), after notice to the Borrower if reasonably feasible, (f) if requested or required to do so in connection with any litigation or similar proceeding, after notice to the Borrower if reasonably feasible, (g) that has been publicly disclosed, other than in breach of this Section, (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender or (i) in connection with the exercise of any remedy hereunder or under any other Loan Document.

8.16. Waivers of Jury Trial. **THE BORROWER AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.**

8.17. USA PATRIOT Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender to identify each Loan Party in accordance with the USA PATRIOT Act.

8.18. Orders. The terms and conditions hereunder shall be subject to the terms and conditions of the Final Order. In the event of any inconsistency between the terms or

conditions of this Agreement and the terms and conditions of the Orders, the terms and conditions of the Orders shall control. Notwithstanding the foregoing, in the event of any inconsistency between the terms or conditions of Section 8.1 and the terms and conditions of the Orders, the terms and conditions of Section 8.1 shall control.

8.19. Effect of Amendment and Restatement of the Existing Credit Agreement. On the Effective Date, the Existing Credit Agreement shall be amended, restated and superseded in its entirety. The parties hereto acknowledge and agree that (a) this Agreement and the other Loan Documents, whether executed and delivered in connection herewith or otherwise, do not constitute a novation, payment and reborrowing, or termination of the "Obligations" (as defined in the Existing Credit Agreement) under the Existing Credit Agreement as in effect prior to the Effective Date and (b) such "Obligations" are in all respects continuing (as amended and restated hereby) with only the terms thereof being modified as provided in this Agreement.

8.20. New GM Equity Interests. Each Lender hereby acknowledges and agrees that it, and each Affiliate of any Lender, (a) shall have no right, in any manner whatsoever, to the New GM Equity Interests or any proceeds received from the sale or distribution thereof in satisfaction or repayment of the Loans and (b) will not initiate or prosecute any claims, causes of action, adversary proceedings or other litigation seeking recourse against the New GM Equity Interests or any proceeds received from the sale or distribution thereof in satisfaction or repayment of the Loans or otherwise.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

MOTORS LIQUIDATION COMPANY

By:_____
Name:
Title:

[GUARANTOR]

By:_____
Name:
Title:

UNITED STATES DEPARTMENT OF THE TREASURY, as a Lender

By:_____

Title: Interim Assistant Secretary of the Treasury for Financial Stability

EXPORT DEVELOPMENT CANADA, as a Lender

By: _____
Name:
Title:

By: _____
Name:
Title:

Exhibit 9

Mayer, Thomas Moers

From: Caton, Amy

Sent: Tuesday, June 23, 2009 9:58 AM

To: Mayer, Thomas Moers; 'Mintz, Douglas'; john.rapisardi@cwt.com

Cc: Novod, Gordon; Sharret, Jennifer; Campana, Kristen; Eckstein, Kenneth H.

Subject: RE: GUM -- DIP Order Draft

Doug and John -- below are the global comments we gave to the Debtors regarding the DIP and cash collateral orders. These are based on our meeting on Friday with the Debtors and Treasury. Could you please forward to your team as appropriate. We can discuss these on this morning's call, or on a follow-up call if that makes more sense.

We talked briefly with Weil last night about the issues we have with transforming the DIP facility into a wind-down facility, which will require stripping a lot of the DIP facility provisions. What we suggested was the following solution and changes to the DIP order: (1) a finding or so-ordered paragraph in the order that, upon the closing of the sale process, Treasury will fund $950mm to Old GM, to be used for wind-down expenses, (2) a finding in the order that, based on testimony from Alix Partners, that the $950mm being left behind is sufficient to fund wind-down expenses and pay administrative and priority claims, (3) a timeline for when the wind-down budget and amendments will be proposed, with the Committee being consulted on the drafting of the amendments and wind-down budget and an opportunity to object.

We can circulate more detailed comments to the Final Order as well. Of note, we have not yet seen the Final Budget, which is referenced in the Final Order.

1. **Consent / Review Rights.** The Committee should be granted consultation rights over the Final Budget and any wind-down Budget (as referenced in Section 2.14 of the DIP loan agreement), with at least a 5 day notice period and opportunity to object. In addition, the Committee should receive the same reports from the Company that the Company is providing to the DIP lender under Section 5.2 of the DIP loan agreement or Final DIP Order.

2. **Excluded Collateral.** Definition of "Excluded Collateral" should specifically include stock and warrants being left for Old GM and chapter 5 actions against the prepetition lenders. The DIP Loan should be non-recourse to these assets.

3. **Wind-Down Budget and Costs.** Before any Section 506(c) waiver is granted, Final DIP order should provide that the DIP Lender is committing to fund the Wind-Down Budget and the expenses contained therein by no more than $950 million. We need to have testimony from Alix Partners that the $950 million is enough to cover wind-down expenses, and confirm that the wind-down budget and requirements of the DIP credit agreement match. For example, the June 12 draft wind-down budget provides that an estimated $92.5mm in asset sale proceeds will be used to fund wind-down costs, whereas under the DIP credit agreement, those amounts are to be used to mandatorily prepay and reduce the DIP. Administrative and priority claims should be senior in right of payment out of the $950 million to any repayment of the DIP/wind-down loan.

We do not yet understand how the wind-down loan is going to fit in through the current DIP facility documents. Won't the wind-down facility have stripped-down covenants, events of default, mandatory prepayment provisions, etc, to avoid defaults and potential early repayment of the $950mm. In addition, if the Treasury leaves its claim for the $950mm outstanding, is it going to create a veto over the plan, or even a potential administrative insolvency.

4. **Investigation Period.** The Committee should be granted a 60 day investigation period to review the prepetition lenders' liens and claims against the prepetition lenders.

Exhibit 10

From: Caton, Amy <ACaton@KRAMERLEVIN.com>
Sent: Tuesday, June 30, 2009 6:37 PM
To: ram.burshtine@weil.com; Perry.Hicks@cwt.com; Julian.Chung@cwt.com; Jeff.Morneau@weil.com; soo-jin.shim@weil.com; richard.ginsburg@weil.com; steven.karotkin@weil.com
Cc: Katz, Alyssa R. <akatz95503590@exchange.com>; campana@KRAMERLEVIN.com; arosenberg@paulweiss.com; mphillips@paulweiss.com; jhamill@paulweiss.com; Mayer, Thomas Moers <tmayer@exchange.com>; Eckstein, Kenneth H. <keckstein@exchange.com>
Subject: GM Wind-Down Facility: KL Comments
Attach: KL Markup Wind-Down CA 6-30-09.doc

All,

We continue to be concerned that the wind-down credit agreement as drafted does not reflect the business deal that we understood would be implemented here. Our understanding of the business deal is as follows:

First, the wind-down loan is to be repaid only to the extent that the wind-down is complete and there is cash left over. The repayment provisions must reflect that, and the provisions of the DIP order that require payment of amounts contemplated under the wind-down budget must be included in this agreement.

Second, the wind-down is supposed to continue until we have a plan of distribution, without Treasury having the right to pull the plug on the wind-down, unless funds are not being used in accordance with the business of a wind-down and the wind-down budget. This is why we have removed some of the covenants and events of default. If there is a default under any of the sale documents, New GM has its remedies against Old GM under those documents.

Third, the only amounts that are going to prepay the loan are proceeds from asset sales. [See Section __, which has added back in the concept of Extraordinary Receipts].

Finally, we have not yet seen a revised wind-down budget. From recent conversations between FTI and Alix, we understand that the $950mm is not enough to pay administrative and priority expense claims, as well as pay for certain claims (including environmental liabilities, claims secured by real property that is being sold to New GM, and others) that New GM intends to leave behind with the estate.

These issues are of utmost importance to the Creditors' Committee. We have attached a mark-up of the draft credit agreement that implement our requested changes and understanding of the business deal on the wind-down.

Please let us know at your earliest convenience how you would like to proceed.

$[950,000,000]
AMENDED AND RESTATED SECURED SUPERPRIORITY
DEBTOR-IN-POSSESSION CREDIT AGREEMENT

among

GENERAL MOTORS CORPORATION,
a Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code,
as the Borrower,

THE GUARANTORS

and

THE LENDERS PARTIES HERETO FROM TIME TO TIME

Dated as of July __, 2009

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ANNEXES:

SCHEDULES:

EXHIBITS:

AMENDED AND RESTATED SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT (this "Agreement"), dated as of July __, 2009, by and among GENERAL MOTORS CORPORATION, a Delaware corporation and a debtor and debtor-in-possession in a case pending under Chapter 11 of the Bankruptcy Code (as defined below) (the "Borrower"), the Guarantors (as defined below), and the several lenders from time to time parties to this Agreement (the "Lenders").

W I T N E S S E T H:

WHEREAS, on June 1, 2009 (the "Petition Date"), the Borrower, Saturn, LLC, a Delaware limited liability company, Saturn Distribution Corporation, a Delaware corporation, and Chevrolet-Saturn of Harlem, Inc., a Delaware corporation (each an "Initial Debtor" and collectively, the "Initial Debtors") filed voluntary petitions in the Bankruptcy Court (as defined below) for relief, and commenced cases (each an "Initial Case" and collectively, the "Initial Cases") under the Bankruptcy Code and have continued in the possession of their assets and in the management of their businesses pursuant to sections 1107 and 1108 of the Bankruptcy Code;

WHEREAS, on June 3, 2009, the Borrower entered into the Secured Superpriority Debtor-In-Possession Credit Agreement, among the Borrower and the Lenders (the "Existing Credit Agreement");

WHEREAS, pursuant to the Existing Credit Agreement, the Lenders provided the Borrower with a multiple-draw term loan facility in an aggregate principal amount not to exceed $33,300,000,000, comprised of (i) term loans in an aggregate amount equal to $_____ (the "Tranche B Term Loans") and (ii) term loans in an aggregate amount equal to no less than $[950,000,000] (provided that any greater amount shall be subject to approval by the Lenders) (the "Tranche C Term Loans");

WHEREAS, on June 25, 2009, the Bankruptcy Court entered the Final Order pursuant to the Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (the "Final Order") approving the Existing Credit Agreement, and providing *inter alia*, that (i) obligations owing to the Lenders under the Existing Credit Agreement shall be accorded administrative expense status ~~with~~and subject only to the Carve-Out (as defined below), have priority over any and all other administrative expenses arising in these Cases; provided, however, that subsequent to the closing of the Related Section 363 Sale Transactions (as defined below), claims against the Debtors' estates that have priority under Sections 503(b) and 507(a) of the Bankruptcy Code, including costs and expenses of administration that are attendant to the formulation and confirmation of a liquidating chapter 11 plan, as well as other expenses incurred under the Wind-Down Budget, whether incurred prior or subsequent to the consummation of the Related Section 363 Sale Transactions shall have priority over such obligations (up to the amount of the Tranche C Term Loans) owing to the Lenders under this Agreement and (ii) the obligations owing under the Existing Credit Agreement shall be secured by fully perfected security interests and Liens upon all Collateral;

WHEREAS, pursuant to the Master Transaction Agreement (as defined below), on [July __, 2009] [the date hereof] the Treasury (as defined below) exchanged a portion of its Tranche B Term Loans in an amount equal to $_____ together with, its Additional Note (as defined in the Existing Credit Agreement) and its rights under the Existing UST Term Loan Agreement (as defined below) to New CarCo (as defined below) in exchange for common and preferred Capital Stock (as defined below) of New CarCo;

WHEREAS, pursuant to the Master Transaction Agreement, on [July __, 2009] [the date hereof] the Canadian Lender exchanged a portion of its Tranche B Term Loans in an amount equal to $_____ together with its Additional Note to New CarCo in exchange for common and preferred Capital Stock of New CarCo;

WHEREAS, pursuant to the Master Transaction Agreement ~~(as defined below)~~ and in accordance with the Section 363 Sale Order (as defined below), the Borrower sold to New CarCo all or substantially all of the Borrower's assets and property, and New CarCo assumed certain liabilities of the Borrower and its subsidiaries, including a portion of the Treasury's Tranche B Term Loans in an aggregate amount equal to $7,072,488,605 pursuant to the Assignment and Assumption Agreement, dated as of the date hereof (the "New CarCo Assignment and Assumption"), between the Borrower and New CarCo (collectively, and together with the other transactions contemplated by the Transaction Documents, the "Related Section 363 Sale Transactions");

WHEREAS, after giving effect to the Related Section 363 Sale Transactions, the remaining obligations of the Borrower to the Lenders is comprised solely of the Tranche C Term Loans; and

WHEREAS, the Borrower has requested, and the Lenders have agreed, to amend and restate the portion of the Existing Credit Agreement relating to the Tranche C Term Loans on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and mutual agreements contained herein, the parties hereto agree that on the Effective Date, as provided in Section 8.19, the Existing Credit Agreement shall be amended and restated in its entirety as follows:

SECTION 1

DEFINITIONS

1.1. Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABR": for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greater of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the three month Eurodollar Rate (for the avoidance of doubt after giving effect to the provisos in the definition thereof) plus

1.00%; provided that, in the event the Required Lenders shall have determined that adequate and reasonable means do not exist for ascertaining the calculation of clause (c), such calculation shall be replaced with the last available calculation of the three month Eurodollar Rate plus 1.00%. Any change in the ABR due to a change in the Prime Rate, the Federal Funds Effective Rate or the three month Eurodollar Rate shall be effective as of the opening of business on the effective day of such change in the Prime Rate, the Federal Funds Effective Rate or the three month Eurodollar Rate, respectively.

"ABR Loans": Loans the rate of interest applicable to which is based upon the ABR.

"Additional Guarantor": as defined in Section 5.23.

"Affiliate": with respect to any Person, any other Person which, directly or indirectly, controls, is controlled by, or is under common control with, such Person. For purposes of this Agreement, "control" (together with the correlative meanings of "controlled by" and "under common control with") means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by contract, or otherwise. For the avoidance of doubt, pension plans of a Person and entities holdings the assets of such plans, shall not be deemed to be Affiliates of such Person.

"Aggregate Exposure Percentage": with respect to any Lender at any time, the ratio (expressed as a percentage) of such Lender's aggregate then unpaid principal amount of such Lender's Loans at such time to the sum of the aggregate then unpaid principal amount of all Lenders at such time.

"Agreement": as defined in the preamble hereto.

"Anti-Money Laundering Laws": as defined in Section 3.18(d).

"Applicable Law": as to any Person, all laws (including common law), statutes, regulations, ordinances, treaties, judgments, decrees, injunctions, writs and orders of any court, governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any Governmental Authority applicable to such Person or its property or in respect of its operations.

"Applicable Margin": (A) 2.0% per annum in the case of ABR Loans and (B) 3.0% per annum in the case of Eurodollar Loans.

"Asset Sale": any Disposition of property or series of related Dispositions of property occurring contemporaneously. The term "Asset Sale" shall not include any issuance of Capital Stock or any event that constitutes a Recovery Event.

"Assignee": as defined in Section 8.6(b).

"Assignment and Assumption": an Assignment and Assumption, substantially in the form of Exhibit C.

"Bankruptcy Code": the United States Bankruptcy Code, 11 U.S.C. Section 101 *et seq.*

"Bankruptcy Court": the United States Bankruptcy Court for the Southern District of New York (together with the District Court for the Southern District of New York, where applicable).

"Bankruptcy Exceptions": limitations on, or exceptions to, the enforceability of an agreement against a Person due to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally or the application of general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity.

"Bankruptcy Rules": the Federal Rules of Bankruptcy Procedure and local rules of the Bankruptcy Court, each as amended, and applicable to the Cases.

~~"Benefit Plan": any employee benefit plan within the meaning of section 3(3) of ERISA and any other plan, arrangement or agreement which provides for compensation, benefits, fringe benefits or other remuneration to any employee, former employee, individual independent contractor or director, including without limitation, any bonus, incentive, supplemental retirement plan, golden parachute, employment, individual consulting, change of control, bonus or retention agreement, whether provided directly or indirectly by any Loan Party or otherwise.~~

"Benefitted Lender": as defined in Section 8.7(a).

"Board": the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower": as defined in the preamble hereto.

"Business Day": any day other than a Saturday, Sunday or other day on which banks in New York City or Ottawa, Ontario, Canada are permitted to close; provided, however, that when used in connection with a Eurodollar Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in Dollar deposits in the London Interbank market.

"Canadian Lender": Export Development Canada, a corporation established pursuant to the laws of Canada, and its successors and assigns.

"Canadian Lender Consortium Members": each of the Export Development Canada, the Government of Canada and the Government of Ontario.

"Canadian Post-Sale Facility": the Amended and Restated Loan Agreement, dated as of the [Effective Date], by and among General Motors of Canada Limited, as borrower, the other loan parties thereto, and the Canadian Lender, as amended, supplemented or respected from time to time.

"Canadian PV Note": the [Note], dated as of the [Effective Date], by and among Vehicle Acquisition Holdings LLC, as borrower, the other loan parties thereto, and the Canadian Lender, as amended, supplemented or replaced from time to time.

"Capital Lease Obligations": for any Person, all obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) Property to the extent such obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under GAAP, and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP.

"Capital Stock": any and all equity interests, including any shares of stock, membership or partnership interests, participations or other equivalents whether certificated or uncertificated (however designated) of a corporation, limited liability company, partnership or any other entity, and any and all similar ownership interests in a Person and any and all warrants or options to purchase any of the foregoing.

"Carve-Out": as defined in the Orders.

"Cases": the Initial Cases and each other case of a Debtor filed with the Bankruptcy Court and joined with the Initial Cases.

"Cash Equivalents": shall mean (a) U.S. dollars, or money in other currencies received in the ordinary course of business, (b) securities with maturities of one (1) year or less from the date of acquisition issued or fully guaranteed or insured by the United States or Canadian government or any agency thereof, (c) securities with maturities of one (1) year or less from the date of acquisition issued or fully guaranteed by any state, province, commonwealth or territory of the United States or Canada, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least "A" by S&P or "A" by Moody's or equivalent rating, (d) demand deposit, certificates of deposit and time deposits with maturities of one (1) year or less from the date of acquisition and overnight bank deposits of any commercial bank, supranational bank or trust company having capital and surplus in excess of $500,000,000, (e) repurchase obligations with respect to securities of the types (but not necessarily maturity) described in clauses (b) and (c) above, having a term of not more than 90 days, of banks (or bank holding companies) or subsidiaries of such banks (or bank holding companies) and non-bank broker-dealers listed on the Federal Reserve Bank of New York's list of primary and other reporting dealers ("Repo Counterparties"), which Repo Counterparties have capital, surplus and undivided profits aggregating in excess of $500,000,000 (or the foreign equivalent thereof) and which Repo Counterparties or their parents (if the Repo Counterparties are not rated) will at the time of the transaction be rated "A-1" by S&P (or such similar equivalent rating) or higher by at least one nationally recognized statistical rating organization, (f) commercial paper rated at least A-1 or the equivalent thereof by S&P or P-1 or the equivalent thereof by Moody's and in either case maturing within one (1) year after the day of acquisition, (g) short-term marketable securities of comparable credit quality, (h) shares of money market mutual or similar funds which invest at least 95% in assets satisfying the requirements of clauses (a) through (g) of this definition, and

(i) in the case of a Foreign Subsidiary, substantially similar investments, of comparable credit quality, denominated in the currency of any jurisdiction in which such Person conducts business.

"Change of Control": with respect to the Borrower, the acquisition, after the Closing Date, by any other Person, or two or more other Persons acting in concert other than the Permitted Holders, the Lenders or any Affiliate of the Lenders, of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act of outstanding shares of voting stock of the Borrower at any time if after giving effect to such acquisition such Person or Persons owns twenty percent (20%) or more of such outstanding voting stock.

"Closing Date": June 3, 2009.

"Code": the Internal Revenue Code of 1986, as amended from time to time.

"Collateral": all property and assets of the Loan Parties of every kind or type whatsoever, including tangible, intangible, real, personal or mixed, whether now owned or hereafter acquired or arising, wherever located, all property of the estates of each Debtor within the meaning of section 541 of the Bankruptcy Code (including avoidance actions arising under Chapter 5 of the Bankruptcy Code and applicable state law except avoidance actions against the Prepetition Senior Facilities Secured Parties (as defined in the Final Order)), all property pledged to secure the Obligations under each Collateral Document (other than the Orders) and all proceeds, rents and products of the foregoing other than Excluded Collateral. For the avoidance of doubt, the proceeds of the Tranche C Term Loans constitute Collateral.

"Collateral Documents": means, collectively, the Orders, the Guaranty, the Equity Pledge Agreement, each Mortgage, collateral assignment, security agreement, pledge agreement or similar agreements delivered to the Lenders to secure the Obligations. The Collateral Documents (other than the Orders) shall supplement, and shall not limit, the grant of Collateral pursuant to the Orders.

"Committee": any statutory committee appointed in the Cases.

"Compensation Regulations": as defined in Section 5.16(i).

"Compliance Certificate": a certificate duly executed by a Responsible Officer, substantially in the form of Exhibit F, for the immediately prior calendar month and on a cumulative basis from the Petition Date.

"Consolidated": the consolidation of accounts in accordance with GAAP.

"Contractual Obligation": as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control": as defined in the definition of "Affiliate".

"Controlled Affiliate": as defined in Section 3.18(a).

"Convention": as defined in Section 2.12(d).

"Debtor": each of the Initial Debtors and, subject to the written consent of the Required Lenders, each other Subsidiary of the Initial Debtors to the extent that (i) such Subsidiary files with the Bankruptcy Court, (ii) such case is joined with the Cases and (iii) such Subsidiary is subject, by order of the Bankruptcy Court, to the previously issued orders relating to the Cases (including the Orders).

"Default": any event, that with the giving of notice, the lapse of time, or both, would become an Event of Default.

"DIP Liens": the Liens described in Sections 3.24(b) and 3.24(c).

"Disposition": with respect to any Property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof; and the terms "Dispose" and "Disposed of" shall have correlative meanings.

"Dollar Equivalent": on any date of determination, (a) with respect to any amount denominated in Dollars, such amount and (b) with respect to an amount denominated in any other currency, the equivalent in Dollars of such amount as determined by the Treasury in accordance with normal banking industry practice using the Exchange Rate on the date of determination of such equivalent. In making any determination of the Dollar Equivalent, the Treasury shall use the relevant Exchange Rate in effect on the date on which a Dollar Equivalent is required to be determined pursuant to the provisions of this Agreement. As appropriate, amounts specified herein as amounts in Dollars shall include any relevant Dollar Equivalent amount.

"Dollars" and "$": the lawful money of the United States.

"Domestic Subsidiary": any Subsidiary that is organized or existing under the laws of the United States or Canada or any state, province, commonwealth or territory of the United States or Canada.

"EAWA": the Employ American Workers Act (Section 1611 of Division A, Title XVI of the American Recovery and Reinvestment Act of 2009), Public Law No. 111-5, effective as of February 17, 2009, as may be amended and in effect from time to time.

"EESA": the Emergency Economic Stabilization Act of 2008, Public Law No. 110-343, effective as of October 3, 2008, as amended by Section 7000 *et al.* of Division A, Title VII of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, effective as of February 17, 2009, as may be further amended and in effect from time to time.

"Effective Date": the date on which the conditions precedent set forth in Section 4.1 shall have been satisfied which date shall not be later than the date on which the Related Section 363 Sale Transactions are consummated.

"EISA": the Energy Independence and Security Act of 2007, Public Law No. 110-140, effective as of January 1, 2009, as may be amended and in effect from time to time.

"Embargoed Person": as defined in Section 3.19.

"Environmental Indemnity Agreement": the Amended and Restated Environmental Indemnity Agreement dated as of the date hereof, executed by the Loan Parties for the benefit of the Lenders, substantially in the form of Exhibit I.

"Environmental Laws": any and all foreign, Federal, state, provincial, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of human health, the environment or natural resources, as now or may at any time hereafter be in effect.

"Environmental Permits": any and all permits, licenses, approvals, registrations, notifications, exemptions and other authorizations required under any Environmental Law.

"Equity Pledge Agreement": the Amended and Restated Equity Pledge Agreement dated as of the date hereof, made by each Pledgor in favor of the Lenders, substantially in the form of Exhibit L.

"ERISA": the Employee Retirement Income Security Act of 1974, as amended from time to time.

"Eurocurrency Reserve Requirements": for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board) maintained by a member bank of the Federal Reserve System; provided that the Eurocurrency Reserve Requirements shall be $0 with respect to the Canadian Lender.

"Eurodollar Base Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate per annum determined on the basis of the rate for deposits in Dollars for a period equal to such Interest Period commencing on the first day of such Interest Period appearing on page LIBOR01 of the Reuters screen as of 11:00 a.m. (London time) two Business Days prior to the beginning of such Interest Period. In the event that such rate does not appear on such page of the Reuters screen (or otherwise on such screen), the Eurodollar Base Rate shall be determined by reference to such other comparable publicly available service for displaying eurodollar rates as may be selected by the Treasury or, in the absence of such availability, by reference to the rate at which a reference institution selected by the Treasury is offered Dollar deposits at or about 11:00 a.m. (New York City time) two Business Days prior to the beginning of such Interest Period in the interbank eurodollar market where its eurodollar and foreign currency and exchange operations are then being conducted for delivery on the first day of such Interest Period for the number of days comprised therein.

"Eurodollar Loans": Loans the rate of interest applicable to which is based upon the Eurodollar Rate.

"Eurodollar Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum determined for such day in accordance with the following formula (rounded upward to the nearest 1/100th of 1%):

$$\frac{\text{Eurodollar Base Rate}}{1.00 - \text{Eurocurrency Reserve Requirements}}$$

; provided that, in no event shall the Eurodollar Rate be less than 2.00%.

"Eurodollar Tranche": the collective reference to Eurodollar Loans the then-current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

"Event of Default": as defined in Section 7.

"Exchange Act": the Securities and Exchange Act of 1934, as amended.

"Exchange Rate": for any day with respect to any currency (other than Dollars), the rate at which such currency may be exchanged into Dollars, as set forth at 11:00 a.m. (New York time) on such day on the applicable Bloomberg currency page with respect to such currency. In the event that such rate does not appear on the applicable Bloomberg currency page, the Exchange Rate with respect to such currency shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Treasury and the Borrower or, in the absence of such agreement, such Exchange Rate shall instead be the spot rate of exchange of a reference institution selected by the Treasury in the London Interbank market or other market where such reference institution's foreign currency exchange operations in respect of such currency are then being conducted, at or about 11:00 a.m. (New York time) on such day for the purchase of Dollars with such currency, for delivery two Business Days later; provided, however, that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Treasury may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

"Excluded Collateral": as defined in Section 3.28.

"Excluded Subsidiary": (i) any JV Subsidiary in which any Loan Party owns less than 80% of the voting or economic interest, (ii) any U.S. Subsidiary of the Borrower listed as one of the "Domestic Entities" on Annex 1 to Schedule 3.28 other than the Loan Parties listed therein, (iii) any Subsidiary of the Borrower existing on the Closing Date that the Borrower does not Control as of the Closing Date (including, without limitation, dealerships wholly owned by the Borrower that are operated by a third party pursuant to an agreement in effect on the Petition Date), (iv) [intentionally omitted] and (v) any Subsidiary set forth on Schedule 1.1G as such Schedule 1.1G may be amended from time to time with the consent of the Required Lenders.

"Executive Order": as defined in Section 3.19.

"Existing Agreements": the agreements of the Loan Parties and their Subsidiaries in effect on the Closing Date and any extensions, renewals and replacements thereof so long as

any such extension, renewal and replacement could not reasonably be expected to have a material adverse effect on the rights and remedies of the Lenders under any of the Loan Documents.

"Existing Credit Agreement": as defined in the recitals.

"Existing UST Term Loan Agreement": the Loan and Security Agreement, dated as of December 31, 2008, between the Borrower and the Treasury.

"Expense Policy": the Borrower's comprehensive written policy on corporate expenses maintained and implemented in accordance with Section 3.14.

~~"Extraordinary Receipts": any (i) insurance proceeds (other than the proceeds of self-insurance) that are not the proceeds of a Recovery Event, (ii) downward purchase price adjustments, (iii) tax refunds (other than tax refunds received by Canadian Subsidiaries), judgments and litigation settlements, pension plan reversions and indemnity payments, and (iv) similar receipts outside of the ordinary course of business.~~

"Federal Funds Effective Rate": for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by JPMorgan Chase Bank, N.A. from three federal funds brokers of recognized standing selected by it.

"Final Order": one or more orders of the Bankruptcy Court approving the terms and conditions of the Loan Documents substantially in the form of the Interim Order, unless provided in this Agreement or as otherwise agreed to by the Required Lenders.

"Foreign Assets Control Regulations": as defined in Section 3.19.

"Foreign Geographic Region": any of (i) the Asia Pacific region, (ii) the Latin America, Africa and Middle East region, and (iii) the European region.

"Foreign 956 Subsidiary": any Non-U.S. Subsidiary of the Borrower that is a "controlled foreign corporation" as defined in Code Section 957.

"Foreign Subsidiary": any Subsidiary that is not a Domestic Subsidiary.

"Funding Office": the office of each Lender specified in Schedule 1.1A or such other office as may be specified from time to time by such Lender as its funding office by written notice to the Borrower.

"GAAP": generally accepted accounting principles as in effect from time to time in the United States.

"Governmental Authority": any federal, state, provincial, municipal or other governmental department, commission, board, bureau, agency or instrumentality, or any federal, state or municipal court, in each case whether of the United States or a foreign jurisdiction.

"Group Members": the collective reference to the Borrower and its Subsidiaries.

"Guarantee Obligation": as to any Person, any obligation of such Person directly or indirectly guaranteeing any Indebtedness of any other Person or in any manner providing for the payment of any Indebtedness of any other Person or otherwise protecting the holder of such Indebtedness against loss (whether by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, or to take-or-pay or otherwise), provided that the term "Guarantee Obligation" shall not include (i) endorsements for collection or deposit in the ordinary course of business, or (ii) obligations to make servicing advances for delinquent taxes and insurance, or other obligations in respect of a Mortgaged Property, to the extent required by the Lenders. The amount of any Guarantee Obligation of a Person shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith. The terms "Guarantee" and "Guaranteed" used as verbs shall have correlative meanings.

"Guarantor": each Person listed on Schedule 1.1B and each other Person that becomes an Additional Guarantor.

"Guaranty": the Amended and Restated Guaranty and Security Agreement dated as of the date hereof, executed and delivered by the Borrower and each Guarantor, substantially in the form of Exhibit A.

"Indebtedness": for any Person: (a) obligations created, issued or incurred by such Person for borrowed money (whether by loan, the issuance and sale of debt securities or the sale of Property to another Person subject to an understanding or agreement, contingent or otherwise, to repurchase such Property from such Person); (b) obligations of such Person to pay the deferred purchase or acquisition price of Property or services; (c) indebtedness of others of the type referred to in clauses (a), (b), (d), (e), (f), (g) and (i) of this definition secured by a Lien on the Property of such Person, whether or not the respective indebtedness so secured has been assumed by such Person; (d) obligations (contingent or otherwise) of such Person in respect of letters of credit or similar instruments issued or accepted by banks and other financial institutions for the account of such Person; (e) Capital Lease Obligations of such Person; (f) obligations of such Person under repurchase agreements or like arrangements; (g) indebtedness of others of the type referred to in clauses (a), (b), (d), (e), (f), (h) and (i) of this definition guaranteed by such Person; (h) all obligations of such Person incurred in connection with the acquisition or carrying of fixed assets by such Person; (i) indebtedness of general partnerships of which such Person is a general partner unless the terms of such indebtedness expressly provide that such Person is not liable therefor; (j) the liquidation value of all redeemable preferred Capital Stock of such Person; and (k) any other indebtedness of such Person evidenced by a note, bond, debenture or similar instrument.

"Indemnified Liabilities": as defined in Section 8.5.

"Indemnitee": as defined in Section 8.5.

"Initial Case": as defined in the recitals.

"Initial Debtors": as defined in the recitals.

"Interest Payment Date": (a) as to any ABR Loan, the first day of each March, June, September and December to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any Eurodollar Loan, the last day of such Interest Period, and (c) as to any Loan, the date of any repayment or prepayment made in respect thereof.

"Interest Period": as to any Eurodollar Loan, (i) initially, the period commencing on the Borrowing Date (as defined in the Existing Credit Agreement) with respect to such Loan and ending three months thereafter; and (ii) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Loan and ending three months thereafter; provided that all of the foregoing provisions relating to Interest Periods are subject to the following:

(A) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(B) any Interest Period that would otherwise extend beyond the Maturity Date shall end on the Maturity Date; and

(C) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period.

"Interim Order": the Interim Order entered June 2, 2009 by the Bankruptcy Court pursuant to Bankruptcy Code sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (a) approving this Agreement and authorizing the Loan Parties to obtain Postpetition financing pursuant thereto, (b) granting related Liens and Superpriority Claims, (c) granting adequate protection to certain Prepetition secured parties, and (d) scheduling a final hearing.

"Investments": as defined in Section 6.10.

"JV Agreement": each partnership or limited liability company agreement (or similar agreement) between a North American Group Member or one of its Subsidiaries and the relevant JV Partner as the same may be amended, restated, supplemented or otherwise modified from time to time, in accordance with the terms hereof.

"JV Partner": each Person party to a JV Agreement that is not a Loan Party or one of its Subsidiaries.

"JV Subsidiary": any Subsidiary of a Group Member which is not a Wholly Owned Subsidiary and as to which the business and management thereof is jointly controlled by the holders of the Capital Stock therein pursuant to customary joint venture arrangements.

"Lenders": as defined in the preamble hereto.

"Lien": any mortgage, pledge, security interest, lien or other charge or encumbrance (in the nature of a security interest), including the lien or retained security title of a conditional vendor, upon or with respect to any property or assets.

"Loans": as defined in Section 2.1.

"Loan Documents": this Agreement, the Notes, the Environmental Indemnity Agreement, the Collateral Documents and each post-closing letter or agreement now and hereafter entered into among the parties hereto.

"Loan Parties": the Borrower, each Guarantor and the Pledgors.

"Master Transaction Agreement": that certain Amended and Restated Master Sale and Purchase Agreement, dated as of June 26, 2009, among New CarCo and the sellers party thereto.

"Material Adverse Effect": a material adverse effect on (a) the business, operations, property, condition (financial or otherwise) or prospects of the Borrower and its Subsidiaries (taken as a whole), (b) the ability of the Loan Parties (taken as a whole) to perform any of their obligations under any of the Loan Documents to which they are a party, (c) the validity or enforceability in any material respect of any of the Loan Documents to which the Loan Parties are a party, (d) the rights and remedies of the Lenders under any of the Loan Documents, or (e) the Collateral (taken as a whole); provided that, (w) the taking of any action by the Borrower and its Subsidiaries, including the cessation of production, pursuant to and in accordance with the Wind-Down Budget, (x) the filing of the Cases, and (y) any sale pursuant to any Related Section 363 Sale Transactions or any other action taken pursuant to the Orders, shall be taken into consideration.

"Material Environmental Amount": $50,000,000.

"Maturity Date": the date on which the earliest to occur of (such earliest date, which may be extended by the Lenders in their sole discretion in accordance with Section 8.1): (a) the date on which all Claims against the Debtors have been resolved such that there are no remaining disputed Claims, all assets of the Debtors (other than remaining cash) have been liquidated, all distributions on account of allowed Claims have been made, and all other actions that are required under the plan of liquidation (other than the dissolution of the last remaining Debtor) have been completed; (b) the acceleration of any Loans in accordance with the terms of this Agreement; (c) the date of the dissolution of the Borrower; and (d) December 30, 2011. On the Maturity Date occurring pursuant to clause (a), the plan administrator or other individual or entity charged with administering the liquidation plan shall be entitled to retain a de minimis amount of funds to complete the dissolution of the last remaining Debtor.

"Moody's": Moody's Investors Service, Inc. and its successors.

"Mortgage": each of the mortgages and deeds of trust made by the Borrower or any Guarantor in favor of, or for the benefit of, the Lenders, substantially in the form of Exhibit J, taking into consideration the law and jurisdiction in which such mortgage or deed of trust is to be recorded or filed, to the extent applicable.

"Mortgaged Property": each property listed on Schedule 1.1C, as to which the Lenders shall be granted a Lien pursuant to the Orders or the Mortgages.

"Net Cash Proceeds": with respect to any event, (a) the cash proceeds received in respect of such event including (i) any cash received in respect of any non cash proceeds (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but excluding any interest payments), but only as and when received, (ii) in the case of a casualty, insurance proceeds and (iii) in the case of a condemnation or similar event, condemnation awards and similar payments, net of (b) the sum of (i) all reasonable fees and out-of-pocket expenses paid or contractually committed to be paid to third parties (other than Affiliates) in connection with such event, (ii) in the case of a Disposition of an asset (including pursuant to a sale and leaseback transaction or a casualty or a condemnation or similar proceeding), the amount of all payments required to be made as a result of such event to repay Indebtedness (other than the Loans) secured by such asset or otherwise subject to mandatory prepayment as a result of such event and (iii) the amount of all taxes paid (or reasonably estimated to be payable, including under any tax sharing arrangements) and, with respect to amounts that will be expatriated as a result of any event attributable to a Non-U.S. Subsidiary, the amount of any taxes that will be payable by any Group Member as a result of the expatriation, and the amount of any reserves established to fund contingent liabilities reasonably estimated to be payable, in each case that are directly attributable to such event (as determined reasonably and in good faith by a Responsible Officer); provided that Net Cash Proceeds for any Recovery Event shall exclude any amounts required to be paid to New CarCo pursuant to the terms of the Transaction Documents, to the extent such proceeds are actually paid to New CarCo within the time period set forth for such prepayments in Section 2.5(b).

"New CarCo": NGMCO, Inc.

"New CarCo Assignment and Assumption": as defined in the recitals.

"New GM Entities": New CarCo and its subsidiaries.

"New GM Equity Interests": any stock, warrants, options or other equity interests issued to or held by any Debtor pursuant to the Related Section 363 Sale Transactions.

"Non-Debtor": each Subsidiary of the Borrower that is not a Debtor.

"Non-Excluded Taxes": as defined in Section 2.12(a).

"Non-U.S. Lender": as defined in Section 2.12(d).

"Non-U.S. Subsidiary": any Subsidiary of any Loan Party that is not a U.S. Subsidiary.

"North American Group Members": collectively, the Loan Parties and each Domestic Subsidiary that is not an Excluded Subsidiary.

"Notes": as defined in Section 4.1(a)(vi) and any promissory notes issued in connection with an assignment contemplated by Section 2.3(b).

"Obligations": the unpaid principal of and interest on (including, without limitation, interest accruing after the maturity of the Loans and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Loan Party, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of any Loan Party to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including, without limitation, all fees, charges and disbursements of counsel to any Lender that are required to be paid by any Loan Party pursuant hereto) or otherwise.

"OFAC": the Office of Foreign Assets Control of the Treasury.

"Orders": the Interim Order and the Final Order.

"Other Foreign 956 Subsidiary": any Non-U.S. Subsidiary substantially all of the value of whose assets consist of equity of one or more Foreign 956 Subsidiaries for U.S. federal income tax purposes.

"Other Taxes": any and all present or future stamp or documentary taxes and any other excise or property taxes, intangible or mortgage recording taxes, charges or similar levies imposed by the United States or any taxing authority thereof or therein arising from any payment made, or from the execution, delivery or enforcement of, or otherwise with respect to this Agreement or any other Loan Document.

"Outstanding Amount": as of any date of determination (a) with respect to Indebtedness, the aggregate outstanding principal amount thereof, (b) with respect to banker's acceptances, letters of credit or letters of guarantee, the aggregate undrawn, unexpired face amount thereof plus the aggregate unreimbursed drawn amount thereof, (c) with respect to hedging obligations, the aggregate amount recorded by the Borrower or any Subsidiary as its net termination liability thereunder calculated in accordance with the Borrower's customary accounting procedures, (d) with respect to cash management obligations or guarantees, the aggregate maximum amount thereof (i) that the relevant cash management provider is entitled to assert as such as agreed from time to time by the Borrower or any Subsidiary and such provider or (ii) the principal amount of the Indebtedness being guaranteed or, if less, the maximum amount of such guarantee set forth in the relevant guarantee and (e) with respect to any other obligations, the aggregate outstanding amount thereof.

"Participant": as defined in Section 8.6(c).

"Permitted Holders": any holder of any Capital Stock of the Borrower as of the Closing Date.

"Permitted Indebtedness":

(a) Indebtedness created under any Loan Document;

(b) [intentionally omitted];

(c) trade payables, if any, in the ordinary course of its business;

(d) Indebtedness existing on the Petition Date and any refinancings, refundings, renewals or extensions thereof (without any increase, or any shortening of the maturity, of any principal amount thereof);

(e) intercompany Indebtedness of a North American Group Member in the ordinary course of business; provided that, the right to receive any repayment of such Indebtedness (other than Indebtedness meeting the criteria of clause (d) above, or any extensions, renewals, exchanges or replacements thereof) shall be subordinated to the Lenders' rights to receive repayment of the Obligations;

(f) [intentionally omitted];

(g) [intentionally omitted];

(h) Swap Agreements permitted pursuant to Section 6.15 that are not entered into for speculative purposes;

(i) Indebtedness with respect to (x) letters of credit, bankers' acceptances and similar instruments issued in the ordinary course of business, including letters of credit, bankers' acceptances and similar instruments in respect of the financing of insurance premiums, customs, stay, performance, bid, surety or appeal bonds and similar obligations, completion guaranties, "take or pay" obligations in supply agreements, reimbursement obligations regarding workers' compensation claims, indemnification, adjustment of purchase price and similar obligations incurred in connection with the acquisition or disposition of any business or assets, and sales contracts, coverage of long-term counterparty risk in respect of insurance companies, purchasing and supply agreements, rental deposits, judicial appeals and service contracts and (y) appeal, bid, performance, surety, customs or similar bonds issued for the account of any Loan Party in the ordinary course of business;

(j) Indebtedness incurred in the ordinary course of business in connection with cash management and deposit accounts and operations, netting services, employee credit card programs and similar arrangements and Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument

drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five Business Days of its incurrence;

(k) any guarantee by any Loan Party of Permitted Indebtedness; and

(l) Indebtedness entered into under Section 136 of EISA.

"Permitted Investments":

(a) any Investment in Cash Equivalents;

(b) any Investment by a Loan Party in the Borrower, another Loan Party, or a Pledged Entity that is a Domestic Subsidiary;

(c) [intentionally omitted];

(d) any Investment (i) existing on the Closing Date, or (ii) consisting of any extension, modification or renewal of any Investment existing on the Closing Date; provided that the amount of any such Investment is not increased through such extension, modification or renewal;

(e) [intentionally omitted];

(f) [intentionally omitted];

(g) [intentionally omitted];

(h) any Investment otherwise permitted under this Agreement;

(i) ~~Investments in Indebtedness of, or Investments guaranteed by, Governmental Authorities, in connection with industrial revenue, municipal, pollution control, development or other bonds or similar financing arrangements;~~[intentionally omitted];

(j) ~~any capped call, ratio capped call or other similar derivative transaction entered into by a Loan Party on or before the Closing Date;~~[intentionally omitted];

(k) Trade Credit;

(l) [intentionally omitted];

(m) Investments (i) received in satisfaction or partial satisfaction of delinquent accounts and disputes with customers or suppliers in the ordinary course of business, or (ii) acquired as a result of foreclosure of a Lien securing an Investment or the transfer of the assets subject to such Lien in lieu of foreclosure;

(n) commercial transactions in the ordinary course of business with the Borrower or any of its Subsidiaries to the extent such transactions would constitute an Investment; and

(o) conveyance of Collateral in an arm's-length transaction to a Subsidiary that is not a Loan Party or an Affiliate of the Borrower for non-cash consideration consisting of Trade Credit or other Property to become Collateral having a fair market value equal to or greater than the fair market value of the conveyed Collateral.

"Permitted Liens": with respect to any Property of any North American Group Member:

(a) Liens created under the Loan Documents;

(b) Liens on Property of a North American Group Member existing on the date hereof (including Liens on Property of a North American Group Member pursuant to Existing Agreements; provided that such Liens shall secure only those obligations and any permitted refinancing that they secure on the date hereof);

(c) [intentionally omitted];

(d) Liens for taxes and utility charges not yet due or that are being contested in good faith, by proper proceedings diligently pursued, and as to which adequate reserves have been provided;

(e) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business and securing obligations that are not due and payable or that are being contested in compliance with Section 5.8;

(f) Liens securing reimbursement obligations with respect to letters of credit that encumber documents and other property relating to such letters of credit and the proceeds thereof;

(g) Liens securing Swap Agreements permitted pursuant to Section 6.15;

(h) Liens created in the ordinary course of business in favor of banks and other financial institutions over balances of any accounts held at such banks or financial institutions or over investment property held in a securities account, as the case may be, to facilitate the operation of cash pooling, cash management or interest set-off arrangements;

(i) customary Liens in favor of trustees and escrow agents, and netting and set-off rights, banker's liens and the like in favor of counterparties to financial obligations and instruments, including, without limitation, Swap Agreements permitted pursuant to Section 6.15;

(j) Liens securing Indebtedness incurred under Section 136 of EISA;

(k) pledges and deposits made in the ordinary course of business in compliance with workmen's compensation, unemployment or other insurance and other social security laws or regulations;

(l) deposits to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capital Lease Obligations), statutory obligations, surety, customs and appeal bonds, performance bonds and other obligations of a like nature, or to secure the payment of import or customs duties, in each case incurred in the ordinary course of business;

(m) zoning and environmental restrictions, easements, rights-of-way, restrictions on use of real property or groundwater, institutional controls and other similar encumbrances or deed restrictions incurred in the ordinary course of business that, in the aggregate, are not substantial in amount and do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of any North American Group Member;

(n) [intentionally omitted];

(o) judgment Liens securing judgments;

(p) any Lien consisting of rights reserved to or vested in any Governmental Authority by statutory provision, not securing Indebtendess;

(q) Liens securing Indebtedness described in clauses (d) and (e) of the definition of Permitted Indebtedness;

(r) pledges or deposits made to secure reimbursement obligations in respect of letters of credit issued to support any obligations or liabilities described in clauses (k) or (l) of this definition;

(s) [intentionally omitted];

(t) [intentionally omitted]; and

(u) other Liens created or assumed in the ordinary course of business of the North American Group Member; provided that the obligations secured by all such Liens shall not exceed the principal amount of $10,000,000.

"Person": any individual, corporation, company, voluntary association, partnership, joint venture, limited liability company, trust, unincorporated association or government (or any agency, instrumentality or political subdivision thereof).

"Petition Date": as defined in the recitals hereto.

"Pledged Entity": a Subsidiary of a Loan Party whose Capital Stock is subject to a security interest in favor of the Lenders pursuant to the Orders or the Collateral Documents.

"Pledgors": the parties set forth on Schedule 1.1D and each other Person that makes a pledge in favor of the Lenders under the Equity Pledge Agreement.

"Postpetition": when used with respect to any agreement or instrument, any claim or proceeding or any other matter, shall refer to an agreement or instrument that was entered into or became effective, a claim or proceeding that first arose or was first instituted, or another matter that first occurred, after the commencement of the Cases.

"Prepetition": when used with respect to any agreement or instrument, any claim or proceeding or any other matter, shall refer to an agreement or instrument that was entered into or became effective, a claim or proceeding that arose or was instituted, or another matter that occurred, prior to the Petition Date.

"Prepetition Payment": a payment (by way of adequate protection or otherwise) of principal or interest or otherwise on account of any Prepetition Indebtedness or trade payables or other Prepetition claims against any Debtor.

"Prime Rate": the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its principal office in New York City (the Prime Rate not being intended to be the lowest rate of interest charged by JPMorgan Chase Bank, N.A. in connection with extensions of credit to borrowers).

"Prohibited Jurisdiction": any country or jurisdiction, from time to time, that is the subject of a prohibition order (or any similar order or directive), sanctions or restrictions promulgated or administered by any Governmental Authority of the United States.

"Prohibited Person": any Person:

(a) subject to the provisions of the Executive Order;

(b) that is owned or controlled by, or acting for or on behalf of, any person or entity that is subject to the provisions of the Executive Order;

(c) with whom a Lender is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering law, including the Executive Order;

(d) who commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order;

(e) that is named as a "specially designated national and blocked person" on the most current list published by the OFAC at its official website, http://www.treas.goofac/t11sdn.pdf or at any replacement website or other replacement official publication of such list; or

(f) who is an Affiliate or affiliated with a Person listed above.

"Property": any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

"Quarterly Report": as defined in Section 5.1(f).

"Records": all books, instruments, agreements, customer lists, credit files, computer files, storage media, tapes, disks, cards, software, data, computer programs, printouts and other computer materials and records generated by other media for the storage of information maintained by any Person with respect to the business and operations of the Loan Parties and the Collateral.

"Recovery Event": any settlement of or payment in respect of any property or casualty insurance claim (other than the proceeds of any self-insurance) or any condemnation proceeding relating to any asset of any Group Member.

"Register": as defined in Section 8.6(b).

"Regulation D": Regulation D of the Board as in effect from time to time.

"Related Section 363 Sale Transactions": as defined in the recitals.

"Reorganization Plan": a plan of reorganization in any of the Cases of the Debtors.

"Required Lenders": at any time, Lenders with Loans constituting a majority of the Loans of all Lenders.

"Requirements of Law": as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court of competent jurisdiction or other Governmental Authority, in each case applicable to and binding upon such Person and any of its property, and to which such Person and any of its property is subject.

"Responsible Officer": as to any Person, the chief executive officer or, with respect to financial matters (including without limitation those matters set forth in Sections 5.1(f) and 5.2(h)), the chief financial officer, treasurer or assistant treasurer of such Person, an individual so designated from time to time by such Person's board of directors or, for the purposes of Section 5.2 only (other than Sections 5.1(f) and 5.2(h)), to include the secretary or an assistant secretary of the Borrower, or, in the event any such officer is unavailable at any time he or she is required to take any action hereunder, Responsible Officer shall mean any officer authorized to act on such officer's behalf as demonstrated by a certificate of corporate resolution (or equivalent); provided that the Lenders are notified in writing of the identity of such Responsible Officer.

"Restricted Payments": as defined in Section 6.5.

"S&P": Standard & Poor's Ratings Services and its successors.

"Sale/Leaseback Transaction": as defined in Section 6.17.

"SEC": the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

"Section 363 Sale Order": an order of the Bankruptcy Court approving the Related Section 363 Sale Transactions in form and substance substantially in the form attached to the Transaction Documents or otherwise satisfactory to the Required Lenders.

"Senior Employee": with respect to the Loan Parties collectively, any of the 25 most highly compensated employees (including the SEOs).

"SEO": a Senior Executive Officer as defined in the EESA and any interpretation of such term by the Treasury thereunder, including the rules set forth in 31 C.F.R. Part 30.

"Special Inspector General of the Troubled Asset Relief Program": The Special Inspector General of the Troubled Asset Relief Program, as contemplated by Section 121 of the EESA.

"Specified Benefit Plan": any employee benefit plan within the meaning of section 3(3) of ERISA and any other plan, arrangement or agreement which provides for compensation, benefits, fringe benefits or other remuneration to any employee, former employee, individual independent contractor or director, including any bonus, incentive, supplemental retirement plan, golden parachute, employment, individual consulting, change of control, bonus or retention agreement, whether provided directly or indirectly by any Group Member or otherwise.

"Subsidiary": with respect to any Person, any corporation, partnership or other entity of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or shall have the right to have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person. Unless otherwise qualified, all references to a "Subsidiary" or "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Superpriority Claim": a claim against the Borrower or any other Debtor in any of the Cases pursuant to section 364(c)(1) of the Bankruptcy Code having priority over any or all administrative expenses including administrative expenses specified in sections 503 and 507 of the Bankruptcy Code, whether or not such claim or expenses may become secured by a judgment lien or other non-consensual lien, levy or attachment.

"Swap Agreement": any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former

directors, officers, employees or consultants of the Borrower or any of its Subsidiaries shall be a "Swap Agreement."

"Taxes": as defined in Section 2.12(a).

"Trade Credit": accounts receivable, trade credit or other advances extended to, or investment made in, customers, suppliers, including intercompany, in the ordinary course of business.

"Trading With the Enemy Act": as defined in Section 3.19.

"Tranche B Term Loan": as defined in the recitals.

"Tranche C Term Loan": as defined in the recitals.

"Transaction Documents": each of, and collectively, (i) the Master Transaction Agreement, (ii) the Section 363 Sale Order, (iii) the Transition Services Agreement and (iv) the related manufacturing agreements, asset purchase agreements, organizational documents, finance support agreements and all other related documentation, each as amended, supplemented or modified from time to time in accordance with Section 6.6.

"Transferee": any Assignee or Participant.

"Transition Services Agreement": the Transition Services Agreement, dated as of the date hereof, among the Borrower, the other Initial Debtors, and New CarCo, substantially in the form of Exhibit T to the Master Transaction Agreement.

"Treasury": The United States Department of the Treasury.

"Uniform Commercial Code": the Uniform Commercial Code as in effect from time to time in the State of New York.

"United States": the United States of America.

"USA PATRIOT Act": as defined in Section 3.18(d).

"U.S. Subsidiary": any Subsidiary of any Loan Party that is organized or existing under the laws of the United States or any state thereof or the District of Columbia.

"Warrant": the Warrant to Purchase Common Stock, dated as of December 31, 2008, issued by the Borrower in favor of the Treasury pursuant to the Warrant Agreement.

"Warrant Agreement": the Warrant Agreement, dated as December 31, 2008, by and between the Borrower and the Treasury.

"Wholly Owned Subsidiary": as to any Person, any other Person all of the Capital Stock of which (other than directors' qualifying shares required by law) is owned by such Person directly and/or through other Wholly Owned Subsidiaries.

"Wind-Down": the sale or shutdown of certain businesses and properties of the Debtors and the Subsidiaries thereof.

"Wind-Down Budget": the budget, attached as Annex I hereto, setting forth in reasonable detail all anticipated receipts and disbursements of the Borrower and certain of its U.S. Subsidiaries on a calendar [year] basis from the Effective Date through and including ~~[~~December 30, ~~2011~~];2011, as amended by each Quarterly Report delivered pursuant to Section 5.1(f).

1.2. Other Definitional Provisions. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to Group Members not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP, (ii) the words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation," (iii) the word "incur" shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words "incurred" and "incurrence" shall have correlative meanings), (iv) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, (v) references to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified from time to time and (vi) references to any Person shall include its successors and assigns.

(c) The words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole (including the Schedules and Exhibits hereto) and not to any particular provision of this Agreement (or the Schedules and Exhibits hereto), and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

1.3. Conversion of Foreign Currencies. (a) For purposes of this Agreement and the other Loan Documents, with respect to any monetary amounts in a currency other than Dollars, the Dollar Equivalent thereof shall be determined based on the Exchange Rate in effect at the time of such determination (unless otherwise explicitly provided herein).

(b) The Treasury may set up appropriate rounding off mechanisms or otherwise round-off amounts hereunder to the nearest higher or lower amount in whole Dollar or cent to ensure amounts owing by any party hereunder or that otherwise need to be calculated or converted hereunder are expressed in whole Dollars or in whole cents, as may be necessary or appropriate.

SECTION 2

AMOUNT AND TERMS OF THE LOANS

2.1. Loans. On the Effective Date, the Lenders made the Tranche C Term Loans in Dollars to the Borrower in the aggregate amount of $[950,000,000] (the "Loans"). The Loans shall be non-recourse to the Borrower and recourse only to the Collateral. Nothing in this Agreement shall in any way be construed to authorize or permit the Lenders to seek recourse against any of the New GM Equity Interests at any time. The Loans may from time to time be Eurodollar Loans or, solely in the circumstances specified in Section 2.8, ABR Loans. Loans repaid or prepaid may not be reborrowed.

2.2. [Intentionally Omitted].

2.3. Repayment of Loans; Evidence of Debt. (a) ~~The Loans~~To the extent that any cash and Cash Equivalents remain after the consummation of the Wind-Down, such excess amount shall be repayable on the Maturity Date~~.~~ in accordance with Section 2.5(c).

(b) Pursuant to Section 4.1(a), the Borrower shall execute and deliver the Notes on the Effective Date. Following any assignment of the Loans pursuant to Section 8.6, the Borrower agrees that, upon the request of any Lender, the Borrower shall promptly execute and deliver to such Lender Notes reflecting the Loans assigned and the Loans retained by such Lender, if any.

2.4. Optional Prepayments. The Borrower may at any time and from time to time prepay the Loans, in whole or in part, without premium or penalty, upon irrevocable notice delivered to each Lender and the Committee no later than 12:00 noon (New York City time) three Business Days prior to the date such prepayment is requested to be made, which notice shall specify the date of such prepayment, the aggregate amount of such prepayment and such Lender's Aggregate Exposure Percentage of such payment; provided that, if a Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.10. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to such date on the amount prepaid and shall be applied as provided in Section 2.5(c). Partial prepayments of Loans shall be in an aggregate principal amount of $20,000,000 or a whole multiple thereof or, if less, the entire principal amount thereof then outstanding.

2.5. Mandatory Prepayments. (a) Unless the Required Lenders shall otherwise agree, if any Indebtedness is incurred or issued, except for Indebtedness permitted by Section 6.9, as the same may be amended, restated, supplemented or modified from time to time hereafter in accordance with the terms and conditions of this Agreement and the other Loan Documents, by any Group Member, then promptly upon such incurrence or issuance, as the case may be (and in any case not more than three (3) Business Days thereafter), the Loans shall be prepaid by an amount equal to the amount of the Net Cash Proceeds of such incurrence or issuance, as set forth in Section 2.5(c); provided that no prepayment shall be required under this Section 2.5(a) if the Indebtedness was incurred or issued by a Foreign Subsidiary for the purpose of funding operations in the jurisdiction where such Foreign Subsidiary is organized or within

the same Foreign Geographic Region as the jurisdiction of organization of such Foreign Subsidiary. With respect to any Indebtedness incurred or issued by a Non-U.S. Subsidiary, the aggregate amount of the Net Cash Proceeds thereof required to be applied pursuant to Section 2.5(c) to the prepayment of the Loans shall be subject to reduction to the extent that expatriation of such Net Cash Proceeds (1) would result in material adverse tax or legal consequences (including, without limitation, violation of contractual liabilities), (2) would be reasonably likely to result in adverse personal liability of any director of any Group Member, or (3) would result in the insolvency of the applicable Foreign Subsidiary. The provisions of this Section do not constitute a consent to the incurrence of any Indebtedness by any Group Member.

(b) Unless the Required Lenders shall otherwise agree, if on any date any Group Member shall receive Net Cash Proceeds from any Asset Sale; or Recovery Event ~~or Extraordinary Receipt~~, promptly upon receipt by such Group Member of such Net Cash Proceeds (and in any case not more than three (3) Business Days thereafter), the Loans shall be prepaid by an amount equal to the amount of such Net Cash Proceeds, as set forth in Section 2.5(c). With respect to any Net Cash Proceeds realized or received by a Non-U.S. Subsidiary in connection with any Asset Sale; or Recovery Event ~~or Extraordinary Receipt~~, the aggregate amount of such Net Cash Proceeds required to be applied pursuant to Section 2.5(c) to the prepayment of the Loans shall be subject to reduction to the extent that expatriation of such Net Cash Proceeds (1) would result in material adverse tax or legal consequences (including, without limitation, violation of contractual liabilities), (2) would be reasonably likely to result in adverse personal liability of any director of any Group Member, or (3) would result in the insolvency of the applicable Foreign Subsidiary. The provisions of this Section 2.5 do not constitute a consent to the consummation of any Disposition not permitted by Section 6.12.

(c) Unless the Required Lenders shall otherwise agree, amounts to be applied in connection with prepayments made pursuant to Section 2.4 and this Section 2.5 shall be applied, (i) first, to pay accrued and unpaid interest on, and expenses in respect of, the Loans, and (ii) second, to repay the Loans. Any such prepayment shall be accompanied by a notice to each Lender specifying the aggregate amount of such prepayment and such Lender's Aggregate Exposure Percentage of such prepayment.

~~(d) The Borrower shall apply any cash and Cash Equivalents remaining after the consummation of the Wind-Down to the prepayment of the Loans in accordance with Section 2.5(c).~~

2.6. Interest Rates and Payment Dates/Fee Payment Dates/Fees. (a) Each Eurodollar Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the Eurodollar Rate determined for such Interest Period plus the Applicable Margin.

(b) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(c) When any Event of Default has occurred and is continuing and the Required Lenders have determined in their sole discretion not to permit such continuations, no Eurodollar Loan may be continued as such.

(d) (i) At any time any Event of Default shall have occurred and be continuing, (i) all outstanding Loans shall bear interest at a rate per annum equal to the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section 2.6 plus 5% per annum, which, in the sole discretion of the Treasury, may be the rate of interest then applicable to ABR Loans, and (ii) all other outstanding Obligations shall bear interest at 5% above the rate per annum equal to the rate of interest then applicable to ABR Loans.

(e) [Intentionally Omitted].

(f) Interest shall be payable in arrears on each Interest Payment Date, provided that, (i) interest on the Loans shall not be payable on each Interest Payment Date but shall instead be added to the principal of the Loans on each Interest Payment Date and shall be payable in cash on the Maturity Date, and (ii) interest accruing pursuant to paragraph (d) of this Section 2.6 shall be payable from time to time on demand.

2.7. Computation of Interest and Fees. (a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that with respect to ABR Loans the rate of interest on which is calculated on the basis of the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-) day year for the actual days elapsed. The Treasury shall, as soon as practicable, and promptly, notify the Borrower and the other Lenders of each determination of a Eurodollar Rate. Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Treasury shall, as soon as practicable, and promptly, notify the Borrower and the other Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Treasury pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Treasury shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Treasury in determining any interest rate pursuant to Section 2.7(a).

2.8. Inability to Determine Interest Rate; Illegality. (a) If prior to the first day of any Interest Period:

(i) any Lender shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period, or

(ii) any Lender shall have determined that the Eurodollar Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lender (as conclusively certified by such Lender) of making or maintaining their affected Loans during such Interest Period;

such Lender shall give telecopy or telephonic notice thereof to the Borrower and the other Lenders as soon as practicable thereafter. If such notice is given pursuant to clause (i) or (ii) of

this Section 2.8(a) in respect of Eurodollar Loans, then (1) any Eurodollar Loans requested to be made on the first day of such Interest Period shall be made by the affected Lenders as ABR Loans, and (2) any outstanding Eurodollar Loans of the affected Lender, shall be converted, on the last day of the then-current Interest Period, to ABR Loans. Until such relevant notice has been withdrawn by such Lender, no further Eurodollar Loans by the affected Lenders shall be made or continued as such, nor shall the Borrower have the right to convert ABR Loans to Eurodollar Loans.

(b) If the adoption of or any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for any Lender to make or maintain Eurodollar Loans as contemplated by this Agreement, such Lender shall give notice thereof to the Borrower describing the relevant provisions of such Requirement of Law, following which, (i) in the case of Eurodollar Loans, (A) the commitment of such Lender hereunder to make Eurodollar Loans and continue such Eurodollar Loans as such and (B) such Lender's outstanding Eurodollar Loans shall be converted automatically on the last day of the then current Interest Periods with respect to such Loans (or within such earlier period as shall be required by law) to ABR Loans. If any such conversion or prepayment of a Eurodollar Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 2.10.

2.9. Treatment of Borrowings and Payments; Evidence of Debt. (a) [Intentionally Omitted].

(b) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Loans shall be made *pro rata* according to the respective outstanding principal amounts of the Loans then held by the Lenders. Amounts paid on account of the Loans may not be reborrowed.

(c) [Intentionally Omitted].

(d) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 3:00 p.m. (New York City time) on the due date thereof to the Lenders at their respective Funding Offices, in Dollars and in immediately available funds. If any payment hereunder (other than payments on the Eurodollar Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

2.10. Indemnity. The Borrower agrees to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense that such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of Eurodollar Loans after the

Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment after the Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment of Eurodollar Loans on a day that is not the last day of an Interest Period with respect thereto. Such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest that would have accrued on the amount so prepaid, or not so borrowed, for the period from the date of such prepayment or of such failure to borrow to the last day of such Interest Period (or, in the case of a failure to borrow the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such Lender) that would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank Eurodollar market. A certificate as to any amounts payable pursuant to this Section 2.10 submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error and shall be payable within 30 days of receipt of any such notice. The agreements in this Section 2.10 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.11. Superpriority Nature of Obligations and Lenders' Liens. The priority of Lenders' Liens on the Collateral owned by the Loan Parties shall be set forth in the Final Order entered with respect to the Cases.

2.12. Taxes. (a) All payments made by the Borrower under this Agreement or any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereinafter imposed, levied, collected, withheld or assessed by any Governmental Authority (collectively, "Taxes"), except for any deduction or withholding required by law. If the Borrower is required to withhold any Non-Excluded Taxes from any amounts payable to any Lender (i) the Borrower shall make such deductions and shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable laws and (ii) the amounts so payable to such Lender shall be increased to the extent necessary to pay to such Lender such additional amounts as may be necessary so that the Lender receives, free and clear of all such Non-Excluded Taxes, a net amount equal to the amount it would have received from the Borrower under this Agreement or any other Loan Document if no such deduction or withholding had been made. For purposes of this Agreement or any other Loan Document, "Non-Excluded Taxes" are withholding Taxes imposed by the United States or any taxing authority thereof or therein on payments made by the Borrower under this Agreement or any other Loan Document other than (a) withholding Taxes imposed on any Lender as a result of a present or former connection between such Lender and the jurisdiction of the United States or any taxing authority thereof or therein imposing such Tax (other than any such connection arising solely from such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document), (b) any branch profits taxes imposed by the United States, (c) any withholding Taxes that exist on the date the Lender becomes a Lender or that arise as a result of a change in status of the Lender as a Governmental Authority which is an agency of the Canadian federal government that is exempt from withholding under the Convention as in effect on the date the

Lender becomes a Lender, and (d) withholding Taxes that could be eliminated or reduced by the Lender providing tax forms, certifications, or other documentation.

(b) In addition, the Borrower shall pay any Other Taxes over to the relevant Governmental Authority in accordance with Applicable Law.

(c) Whenever any Non-Excluded Taxes or Other Taxes are payable by the Borrower, as promptly as possible thereafter, the Borrower shall send to the Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing payment thereof (or if an official receipt is not available, such other evidence of payment as shall be reasonably satisfactory to such Lender). If the Borrower fails to pay any Non-Excluded Taxes or Other Taxes required to be paid by the Borrower when due to the appropriate taxing authority or fails to remit to the Lender the required receipts or other required documentary evidence, in each case after receiving at least five days' advance written notice from the Lender, the Borrower shall indemnify the Lender, as the case may be, for any incremental taxes, Non-Excluded Taxes or Other Taxes, interest, additions to tax, expenses or penalties that may become payable by any Lender, as the case may be, as a result of such failure. The indemnification payments under this Section 2.12(c) shall be made within 30 days after the date such Lender, as the case may be, makes a written demand therefor (together with a reasonably detailed calculation of such amounts).

(d) Each Lender (or any Transferee) (other than the United States government (including the Treasury)) that either (i) is not incorporated under the laws of the United States, any state thereof, or the District of Columbia or (ii) whose name does not include "Incorporated," "Inc.," "Corporation," "Corp.," "P.C.," "insurance company," or "assurance company" (a "Non-U.S. Lender") shall deliver to the Borrower, so long as such Lender is legally entitled to do so, two originals of either U.S. Internal Revenue Service Form W-9, Form W-8BEN, Form W-8EXP, Form W-8ECI, or in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payment of "portfolio interest", a Form W-8BEN (along with a statement as to certain requirements in order to claim an exemption for "portfolio interest" reasonably acceptable to the Borrower), or Form W-8IMY (with applicable attachments), or any subsequent versions thereof or successors thereto, properly completed and duly executed by such Non-U.S. Lender claiming a complete exemption from (or reduced rate of) United States federal withholding tax on all payments by the Borrower under this Agreement or any other Loan Document. In addition, each Lender shall provide any other U.S. tax forms (with applicable attachments) as will reduce or eliminate United States federal withholding tax on payments by the Borrower under this Agreement or any other Loan Document. For the avoidance of doubt, the Canadian Lender shall provide a Form W-8BEN claiming exemption from withholding under the Convention between the United States of America and Canada with respect to Taxes on Income and on Capital (the "Convention") on the Closing Date. Each Lender (other than the United States government (including the Treasury)) shall provide the appropriate documentation under this clause (d) at the following times (i) prior to the first payment date after becoming a party to this Agreement, (ii) upon a change in circumstances or upon a change in law, in each case, requiring or making appropriate a new or additional form, certificate or documentation, (iii) upon or before the expiration, obsolescence or invalidity of any documentation previously provided to the Borrower and (iv) upon reasonable request by the Borrower. If a Lender is entitled to an exemption from

or a reduction of any non-U.S. withholding Tax under the laws of any jurisdiction imposing such Tax on any payments made by the Borrower under this Agreement, then the Lender shall deliver to the Borrower, at the time or times prescribed by Applicable Law and as reasonably requested by the Borrower, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate, provided that the Lender is legally entitled to complete, execute and deliver such documentation and without material adverse consequences to the Lender.

(e) If any Lender determines, in its sole good faith discretion, that it has received a refund, credit or other tax benefit in respect of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.12, it shall pay over such refund to the Borrower (but only to the extent of Non-Excluded Taxes or Other Taxes paid by the Borrower plus any interest thereon paid by the relevant Governmental Authority with respect to such refund), net of all out of pocket third-party expenses of the Lender related to claiming such refund or credit, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund) within 30 days of the date of such receipt. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, upon the request of the Lender, as the case may be, the Borrower agrees to repay any amount paid over to the Borrower by such Lender pursuant to the immediately preceding sentence if such Lender, as the case may be, is required to repay such amount to such Governmental Authority. This paragraph shall not be construed to (i) interfere with the rights of any Lender to arrange its tax affairs in whatever manner it sees fit, (ii) obligate any Lender to claim any tax refund, (iii) require any Lender to make available its tax returns (or any other information relating to its taxes or any computation with respect thereof which it deems in its sole discretion to be confidential) to the Borrower or any other Person, or (iv) require any Lender to do anything that would in its sole discretion prejudice its ability to benefit from any other refunds, credits, reliefs, remissions or repayments to which it may be entitled.

(f) Each Lender that is an Assignee shall be bound by this Section 2.12.

(g) The agreements contained in this Section 2.12 shall survive the termination of this Agreement or any other Loan Document and the payments contemplated hereunder or thereunder.

SECTION 3

REPRESENTATIONS AND WARRANTIES

To induce the Lenders to enter into this Agreement, each Loan Party represents to the Lenders, with respect to itself and each of its Subsidiaries that is a North American Group Member, in each case subject to the Wind-Down, the Orders, the Related Section 363 Sale Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court issued in connection with the Cases, that as of the Effective Date:

3.1. Existence. Each North American Group Member (a) is a corporation, limited partnership or limited liability company duly organized, validly existing and in good

standing under the laws of the jurisdiction of its organization, (b) has all requisite corporate or other power, and has all governmental licenses, authorizations, consents and approvals, necessary to own its assets and carry on its business as now being or as proposed to be conducted, except where the lack of such licenses, authorizations, consents and approvals would not be reasonably likely to have a Material Adverse Effect, (c) is qualified to do business and is in good standing in all other jurisdictions in which the nature of the business conducted by it makes such qualification necessary, except where failure so to qualify would not be reasonably likely (either individually or in the aggregate) to have a Material Adverse Effect, and (d) is in compliance in all material respects with all Requirements of Law.

3.2. [Intentionally Omitted.]

3.3. [Intentionally Omitted.]

3.4. [Intentionally Omitted.]

3.5. Action, Binding Obligations. (i) Each North American Group Member has all necessary corporate or other power, authority and legal right to execute, deliver and perform its obligations under each of the Loan Documents to which it is a party; (ii) the execution, delivery and performance by each North American Group Member of each of the Loan Documents to which it is a party has been duly authorized by all necessary corporate or other action on its part; and (iii) each Loan Document has been duly and validly executed and delivered by each North American Group Member party thereto and constitutes a legal, valid and binding obligation of all of the North American Group Members party thereto, enforceable against such North American Group Members in accordance with its terms, subject to the Bankruptcy Exceptions.

3.6. Approvals. Except as required under applicable state and federal bankruptcy rules, no authorizations, approvals or consents of, and no filings or registrations with, any Governmental Authority, or any other Person, are necessary for the execution, delivery or performance by each North American Group Member of the Loan Documents to which it is a party for the legality, validity or enforceability thereof, except with respect to North American Group Members other than the Debtors for filings and recordings or other actions in respect of the Liens pursuant to the Collateral Documents, unless the same has already been obtained and provided to the Lenders.

3.7. [Intentionally Omitted.]

3.8. Investment Company Act. None of the Loan Parties is required to register as an "investment company", or is a company "controlled" by a Person required to register as an "investment company", within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to any Federal or state statute or regulation which limits its ability to incur Indebtedness.

3.9. [Intentionally Omitted.]

3.10. Chief Executive Office; Chief Operating Office. The chief executive office and the chief operating office on the Closing Date for each North American Group Member is located at the location set forth on Schedule 3.10 hereto.

3.11. Location of Books and Records. The location where the North American Group Members keep their books and records including all Records relating to their business and operations and the Collateral are located in the locations set forth in Schedule 3.11.

3.12. [Intentionally Omitted.]

3.13. [Intentionally Omitted.]

3.14. Expense Policy. The Borrower has taken steps necessary to ensure that (a) the Expense Policy conforms to the requirements set forth herein and (b) the Borrower and its Subsidiaries are in compliance with the Expense Policy.

3.15. Subsidiaries. All of the Subsidiaries of each Loan Party at the date hereof are listed on Schedule 3.15, which schedule sets forth the name and jurisdiction of formation of each of their Subsidiaries and, as to each such Subsidiary, the percentage of each class of Capital Stock owned by each Loan Party or any of their Subsidiaries except as set forth on Schedule 3.15.

3.16. Capitalization. One hundred percent (100%) of the issued and outstanding Capital Stock of each North American Group Member (other than Borrower) is owned by the Persons listed on Schedule 3.16 and, to the knowledge of each Loan Party, such Capital Stock are owned by such Persons, free and clear of all Liens other than Permitted Liens. No Loan Party has issued or granted any options or rights with respect to the issuance of its respective Capital Stock which is presently outstanding except as set forth on Schedule 3.16 hereto.

3.17. Fraudulent Conveyance. Each North American Group Member acknowledges that it will benefit from the Loans contemplated by this Agreement. No North American Group Member is incurring Indebtedness or transferring any Collateral with any intent to hinder, delay or defraud any of its creditors.

3.18. USA PATRIOT Act. (a) Each North American Group Member represents and warrants that neither it nor any of its respective Affiliates over which it exercises management control (a "Controlled Affiliate") is a Prohibited Person, and such Controlled Affiliates are in compliance with all applicable orders, rules, regulations and recommendations of OFAC.

(b) Each North American Group Member represents and warrants that neither it nor any of its members, directors, officers, employees, parents, Subsidiaries or Affiliates: (1) are subject to U.S. or multilateral economic or trade sanctions currently in force; (2) are owned or controlled by, or act on behalf of, any governments, corporations, entities or individuals that are subject to U.S. or multilateral economic or trade sanctions currently in force; (3) is a Prohibited Person or is otherwise named, identified or described on any blocked persons list, designated nationals list, denied persons list, entity list, debarred party list, unverified list, sanctions list or other list of individuals or entities with whom U.S. persons may not conduct

business, including but not limited to lists published or maintained by OFAC, lists published or maintained by the U.S. Department of Commerce, and lists published or maintained by the U.S. Department of State.

(c) None of the Collateral are traded or used, directly or indirectly by a Prohibited Person or organized in a Prohibited Jurisdiction.

(d) Each North American Group Member has established an anti-money laundering compliance program as required by all applicable anti-money laundering laws and regulations, including without limitation the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (the "USA PATRIOT Act") (collectively, the "Anti-Money Laundering Laws").

3.19. Embargoed Person. As of the date hereof and at all times throughout the term of any Loan, (a) none of any North American Group Member's funds or other assets constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 *et seq.*, The Trading with the Enemy Act, 50 U.S.C. App. 1 *et seq.* (the "Trading With the Enemy Act"), any of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended) (the "Foreign Assets Control Regulations") or any enabling legislation or regulations promulgated thereunder or executive order relating thereto (which for the avoidance of doubt shall include but shall not be limited to (i) Executive Order No. 13224, effective as of September 24, 2001 and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the "Executive Order") and (ii) the USA PATRIOT Act, with the result that the investment in the Borrower (whether directly or indirectly), is prohibited by law or any Loan made by the Lenders is in violation of law ("Embargoed Person"); (b) no Embargoed Person has any interest of any nature whatsoever in it with the result that the investment in it (whether directly or indirectly), is prohibited by law or any Loan is in violation of law; (c) none of its funds have been derived from any unlawful activity with the result that the investment in it (whether directly or indirectly), is prohibited by law or any Loans is in violation of law; and (d) neither it nor any of its Affiliates (i) is or will become a "blocked person" as described in the Executive Order, the Trading With the Enemy Act or the Foreign Assets Control Regulations or (ii) engages or will engage in any dealings or transactions, or be otherwise associated, with any such "blocked person". For purposes of determining whether or not a representation with respect to any indirect ownership is true or a covenant is being complied with under this Section 3.19, no North American Group Member shall be required to make any investigation into (i) the ownership of publicly traded stock or other publicly traded securities or (ii) the ownership of assets by a collective investment fund that holds assets for employee benefit plans or retirement arrangements.

3.20. Use of Proceeds. (a) The proceeds of the Loans shall be used to finance working capital needs and other general corporate purposes incurred in connection with the Wind-Down, including the payment of expenses associated with the administration of the Cases; provided that, the North American Group Members may not prepay Indebtedness without the prior written consent of the Required Lenders.

(b) Notwithstanding anything to the contrary herein, none of the proceeds of the Loans shall be used in connection with (i) any investigation (including discovery proceedings), initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against any Lender, (ii) the initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against any Lender, any of their respective affiliates or other Canadian Lender Consortium Member with respect to any loans or other financial accommodations made to any North American Group Member prior to the Petition Date, or (iii) any loans, advances, extensions of credit, dividends or other investments to any person not a North American Group Member ~~except to the extent permitted pursuant to clause (c) of the Permitted Investments definition~~; provided, however, that the limitations set forth in this Section 3.20(b) shall not preclude the use of the proceeds of the Loans in connection with any claims, causes of action, adversary proceedings or other litigations against any Governmental Authority (excluding the Canadian Lender Consortium Members) with respect to the imposition or administration of any Tax laws.

(c) The North American Group Members are the ultimate beneficiaries of this Agreement and the proceeds of Loans to be received hereunder. The use of the Loans will comply with all Applicable Laws, including Anti-Money Laundering Laws. No portion of any Loan is to be used, for the "purpose of purchasing or carrying" any "margin stock" as such terms are used in Regulations U and X of the Board, as amended, and the Borrower is not engaged in the business of extending credit to others for such purpose.

3.21. Representations Concerning the Collateral. Each Loan Party represents and warrants to the Lenders that as of each day that a Loan is outstanding pursuant to this Agreement:

(a) No Loan Party has assigned, pledged, conveyed, or encumbered any Collateral to any other Person (other than Permitted Liens) and immediately prior to the pledge of any such Collateral, a Loan Party was the sole owner of such Collateral and had good and marketable title thereto, free and clear of all Liens (other than Permitted Liens), and no Person, other than the Lenders has any Lien (other than Permitted Liens) on any Collateral. No security agreement, financing statement, equivalent security or lien instrument or continuation statement covering all or any part of the Collateral which has been signed by any Loan Party or which any Loan Party has authorized any other Person to sign or file or record, is on file or of record with any public office, except such as may have been filed by or on behalf of a Loan Party in favor of the Lenders pursuant to the Loan Documents or in respect of applicable Permitted Liens.

(b) The provisions of the Loan Documents are effective to create in favor of the Lenders a valid security interest in all right, title, and interest of each Loan Party in, to and under the Collateral, subject only to applicable Permitted Liens.

(c) Upon the entry and effectiveness of the Orders and the filing of financing statements on Form UCC-1 naming the Lenders as "Secured Parties" and each Loan Party as "Debtor", and describing the Collateral, in the jurisdictions and recording offices listed on Schedule 3.21 attached hereto, the security interests granted in the Collateral pursuant to the Collateral Documents will constitute perfected first priority security interests under the Uniform Commercial Code in all right, title and interest of the applicable Loan Party in, to and under such

Collateral, which can be perfected by filing under the Uniform Commercial Code, in each case, subject to applicable Permitted Liens and as provided in Section 3.24.

(d) Each Loan Party has and will continue to have the full right, power and authority, to pledge the Collateral, subject to Permitted Liens, and the pledge of the Collateral may be further assigned without any requirement.

3.22. [Intentionally Omitted].

3.23. [Intentionally Omitted].

3.24. Lien Priority. (a) On and after the Closing Date, and the entry of the Orders and after giving effect thereto and the filing of financing statements on Form UCC-1 naming the Lenders as "Secured Parties" and each Loan Party as "Debtor", and describing the Collateral, in the jurisdictions and recording offices listed on Schedule 3.21 attached hereto subject to the Permitted Liens, the provisions of the Loan Documents are effective to create in favor of the Lenders, legal, valid and perfected Liens on and security interests (having the priority provided for herein and in the Orders) in all right, title and interest in the Collateral, enforceable against each Loan Party that owns an interest in such Collateral and any other Person.

(b) On and after the entry of the Orders and after giving effect thereto and the filing of financing statements on Form UCC-1 naming the Lenders as "Secured Parties" and each Loan Party as "Debtor", and describing the Collateral, in the jurisdictions and recording offices listed on Schedule 3.21 attached hereto, all Obligations owing by the Loan Parties will be secured by:

(i) valid, perfected, first-priority security interests in and liens (i) with respect to the Debtors, pursuant to section 364(c)(2) of the Bankruptcy Code and (ii) with respect to the Non-Debtor Loan Parties, pursuant to the Collateral Documents (other than the Orders), in each case, on the Collateral that is not subject to non avoidable, valid and perfected liens in existence as of the Petition Date (or to non avoidable valid liens in existence as of the Petition Date that are subsequently perfected as permitted by section 546(b) of the Bankruptcy Code), subject only to Permitted Liens (other than Liens permitted under clause (a) thereof) and the Carve-Out; and

(ii) valid, perfected, security, junior interests in and liens pursuant to (i) with respect to the Debtors, section 364(c)(3) of the Bankruptcy Code and (ii) with respect to the Non-Debtor Loan Parties, pursuant to the Collateral Documents (other than the Orders), in each case, on the Collateral that is subject to non avoidable, valid and perfected liens in existence as of the Petition Date, or to non avoidable valid liens in existence as of the Petition Date that are subsequently perfected as permitted by section 546(b) of the Bankruptcy Code, subject only to the Carve-Out.

(c) On and after the entry of the Orders and after giving effect thereto, all Obligations owing by the Debtors will be an allowed administrative expense claim pursuant to section 364(c)(1) of the Bankruptcy Code in each of the Cases having priority over all administrative expenses of the kind specified in sections 503 and 507 of the Bankruptcy Code

and any and all expenses and claims of the Borrower and the other Debtors, whether heretofore or hereafter incurred, including, but not limited to, the kind specified in sections 105, 326, 328, 506(c), 507(a) or 1114 of the Bankruptcy Code, subject only to the Carve-Out.

3.25. [Intentionally Omitted].

3.26. [Intentionally Omitted.].

3.27. [Intentionally Omitted].

3.28. Excluded Collateral. Set forth on Schedule 3.28 is a complete and accurate list of all (i) domestic joint ventures and Domestic Subsidiaries that comprise Excluded Collateral ~~and~~, (ii) all "first tier" foreign joint ventures and Controlled Foreign Subsidiaries that are owned by the Borrower or any of its Domestic Subsidiaries that comprise Excluded Collateral, and (iii) the New GM Equity Interests that comprise Excluded Collateral, and in each case, are described in Schedule 3.28. All such Property together with the other Property described in Schedule 3.28 shall be excluded from the Collateral (collectively, "Excluded Collateral").

3.29. [Intentionally Omitted].

3.30. [Intentionally Omitted].

3.31. The Final Order. Upon the maturity (whether by the acceleration or otherwise) of any of the Obligations, the Lenders shall, subject to the provisions of Section 7 and the applicable provisions of the Final Order, be entitled to immediate payment of such Obligations, and to enforce the remedies provided for hereunder, without further application to or order by the Bankruptcy Court.

3.32. Wind-Down Budget. All material facts in the Wind-Down Budget are accurate and the Borrower has disclosed to each Lender all assumptions in the Wind-Down Budget, it being understood that in the case of projections, such projections are based on reasonable estimates, on the date as of which such information is stated or certified.

SECTION 4

CONDITIONS PRECEDENT

4.1. Conditions to Effectiveness. The effectiveness of this Agreement is subject to the satisfaction of the following conditions precedent, satisfaction of such conditions precedent to be determined by the Required Lenders in their reasonable discretion, except as otherwise set forth below:

(a) Loan Documents. The Lenders shall have received the following documents, which shall be in form satisfactory to each Lender:

(i) this Agreement executed and delivered by the Borrower;

(ii) the Guaranty, executed and delivered by each Guarantor;

(iii) the Equity Pledge Agreement, executed and delivered by each Pledgor;

(iv) [intentionally omitted];

(v) the Environmental Indemnity Agreement, executed and delivered by each Loan Party party thereto; and

(vi) a promissory note of the Borrower evidencing the Loans of such Lender, substantially in the form of Exhibit G (the "Note"), with appropriate insertions as to date and principal amount.

(b) Related Section 363 Sale Transactions. The Lender and its counsel shall be reasonably satisfied that the terms of the Related Section 363 Sale Transactions and of the Transaction Documents are consistent in all material respects with the information provided to the Lender in advance of the date hereof or are otherwise reasonably satisfactory to the Lender (the Lender acknowledges that the form of Transaction Documents provided to it on or prior to the date hereof are satisfactory). The Transaction Documents shall have been duly executed and delivered by the parties thereto, all conditions precedent to the Related Section 363 Sale Transactions set forth in the Transaction Documents shall have been satisfied, and the Related Section 363 Sale Transactions shall have been consummated pursuant to such Transaction Documents substantially contemporaneously with the conditions precedent set forth in this Section 4.1, and no provision thereof shall have been waived, amended, supplemented or otherwise modified, in each case in a manner adverse to the Lender, without the Lender's consent.

(c) Final Order. (i) The Final Order shall have been entered by the Bankruptcy Court and shall have been in full force and effect.

(ii) The Final Order shall not have been reversed, modified, amended, stayed or vacated, in the case of any modification or amendment, in a manner, or relating to a matter, without the consent of the Lenders.

(iii) The Debtors and their respective Subsidiaries shall be in compliance in all respects with the Final Order.

(iv) [Intentionally Omitted].

(v) [Intentionally Omitted].

(d) New CarCo Assignment and Assumption. The Borrower and New CarCo shall have executed and delivered the New CarCo Assignment and Assumption, and all conditions precedent to New CarCo's $[7,072,488,605] First Lien Credit Agreement between New CarCo and the Lender shall have been satisfied or waived by the Treasury in accordance with the terms therewith substantially contemporaneously with the conditions precedent set forth in this Section 4.1.

(e) Canadian Post-Sale Facility. The Canadian Post-Sale Facility, in form and substance satisfactory to the Canadian Lender, shall have become effective and the Canadian Lender shall have received all documents, instruments and related agreements in connection with the Canadian Post-Sale Facility.

(f) Canadian PV Note. The Canadian PV Note, in form and substance satisfactory to the Canadian Lender, shall have become effective and the Canadian Lender shall have received all documents, instruments and related agreements in connection with the Canadian PV Note.

(g) [Intentionally Omitted].

(h) [Intentionally Omitted].

(i) Wind-Down Budget. The Borrower shall have delivered to the Lenders the Wind-Down Budget in form and substance satisfactory to the Required Lenders.

(j) [Intentionally Omitted].

(k) Litigation. There shall not exist any action, suit, investigation, litigation or proceeding pending (other than the Cases) or threatened in any court or before any arbitrator or Governmental Authority that, in the sole discretion of the Required Lenders, materially or adversely affects any of the transactions contemplated hereby, or that has or could be reasonably likely to have a Material Adverse Effect.

(l) [Intentionally Omitted].

(m) Consents. The Lenders shall have received all necessary third party and governmental waivers and consents, and each Loan Party shall have complied with all applicable laws, decrees and material agreements.

(n) No Default. No Default or Event of Default shall exist on the Effective Date or after giving effect to the transactions contemplated to be consummated on the Effective Date pursuant to the Transaction Documents and the Loan Documents.

(o) Accuracy of Representations and Warranties. All representations and warranties made by the North American Group Members in or pursuant to the Loan Documents shall be true and correct in all material respects.

(p) Closing Certificate; Certified Certificate of Incorporation; Good Standing Certificates. The Lenders shall have received (i) a certificate of the secretary or assistant secretary of each Loan Party, dated the Effective Date, substantially in the form of Exhibit B-1, with appropriate insertions and attachments, including the certificate of incorporation (or equivalent organizational document) of each Loan Party, certified by the relevant authority of the jurisdiction of organization of such Loan Party (provided that, to the extent applicable, in lieu of delivering the certificate of incorporation and other organizational documents, such certificate may include a certification that such documents not have been amended, supplemented or otherwise modified since the Closing Date), (ii) bring down good standing certifications for each

Loan Party from its jurisdiction of organization and (iii) a certificate of the Borrower and each Guarantor, dated the Effective Date, to the effect that the conditions set forth in this Section 4.1 have been satisfied, substantially in the form of Exhibit B-2.

(q) Legal Opinions. The Lenders shall have received the executed legal opinion of (i) Weil, Gotshal and Manges LLP, New York counsel to the Loan Parties, substantially in the form of Exhibit E-1, as to New York law, United States federal law and the Delaware General Corporation Law, and (ii) in-house counsel to the Loan Parties, substantially in the form of Exhibit E-2.

SECTION 5

AFFIRMATIVE COVENANTS

Each Loan Party covenants and agrees to, and to cause each of its Subsidiaries that is a North American Group Member to, so long as any Loan is outstanding and until payment in full of all Obligations, in each case subject to the Wind-Down, the Orders, the Related Section 363 Sale Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court issued in connection with the Cases:

5.1. Financial Statements. The Borrower shall deliver to the Lenders:

(a) as soon as reasonably possible after receipt by the subject North American Group Member, a copy of any material report that may be prepared and submitted by such North American Group Member's independent certified public accountants at any time or any other material report with respect to the North American Group Members provided to the Borrower and its Subsidiaries pursuant to the Transition Services Agreement;

(b) from time to time such other information regarding the financial condition, operations, or business of any North American Group Member as any Lender may reasonably request;

(c) promptly upon their becoming available, copies of such other financial statements and reports, if any, as any North American Group Member may be required to publicly file with the SEC or any similar or corresponding governmental commission, department or agency substituted therefor, or any similar or corresponding governmental commission, department, board, bureau, or agency, federal or state;

(d) [intentionally omitted];

(e) notice of and copies of each Debtors' pleadings filed in the Cases in connection with any material contested matter or adversary proceeding in the Cases (but the foregoing may be satisfied by including each of the Lenders and their counsel in a "core service group," to receive copies of all pleadings under any order establishing notice and service requirements in the Cases), and such additional information with respect to such matters as either of the Lenders may reasonably request, and which notice shall also include sending copies of any pleadings or other documents that the Borrower or other Debtors seek to file under seal to each

of the lenders and their counsel, provided, however, that if (in addition to the confidentiality provisions of this Agreement) additional confidentiality provisions are needed (i.e. if required by third parties), the Lenders and the Borrower shall endeavor to work out reasonable additional confidentiality terms; and

(f) no later than the twentieth Business Day following the last day of each fiscal quarter, a report (a "Quarterly Report") setting forth in reasonable detail the anticipated receipts and disbursements for the immediately succeeding twelve-~~moth~~month period and the aggregate amount of cash and Cash Equivalents as of the last day of the immediately preceding fiscal quarter, in form and substance reasonably satisfactory to the Required Lenders. Each Quarterly Report shall be accompanied by a certificate of a Responsible Officer certifying that such Quarterly Report was prepared in good faith and are based on reasonable estimates on the date as of which such information is certified.

5.2. Notices; Reporting Requirements. The relevant Loan Party shall deliver written notice to the Lenders of the following:

(a) Defaults. Promptly after a Responsible Officer or any officer of a North American Group Member with a title of at least executive vice president becomes aware of the occurrence of any Default or Event of Default, or any event of default under any publicly filed material Contractual Obligation of any Group Member;

(b) Litigation. Promptly after a Responsible Officer or an attorney in the general counsel's office of a North American Group Member obtains knowledge of any action, suit or proceeding instituted by or against such North American Group Member or any of its Subsidiaries in any federal or state court or before any commission, regulatory body or Governmental Authority (i) in which the amount in controversy, in each case, is an amount equal to $25,000,000 or more, (ii) in which injunctive or similar relief is sought, or (iii) which relates to any Loan Document, the relevant Loan Party shall furnish to the Lenders notice of such action, suit or proceeding;

(c) Material Adverse Effect on Collateral. Promptly upon any North American Group Member becoming aware of any default or any event or change in circumstances related to any Collateral which, in each case, could reasonably be expected to have a Material Adverse Effect;

(d) Judgments. Promptly upon the entry of a judgment or decree against any Loan Party or any of its Subsidiaries in an amount in excess of $15,000,000;

(e) Environmental Events. As soon as possible and in any event within seven (7) Business Days of obtaining knowledge thereof: (i) any development, event, or condition occurring after the date hereof that, individually or in the aggregate with other developments, events or conditions occurring after the date hereof, could reasonably be expected to result in the payment by the Group Members, in the aggregate, of a Material Environmental Amount; and (ii) any notice that any Governmental Authority may deny any application for an Environmental Permit sought by, or revoke or refuse to renew any Environmental Permit held by, any Group Member;

(f) Material Adverse Effect. Any development or event that has had or could reasonably be expected to have a Material Adverse Effect;

(g) Insurance. Promptly upon any material change in the insurance coverage required of any Loan Party or any other Person pursuant to any Loan Document, with copy of evidence of same attached;

(h) Compliance Certificate. On the tenth Business Day of each calendar month, beginning with the first month to occur after the Effective Date, a Compliance Certificate, executed by a Responsible Officer of the Borrower, stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate;

(i) [Intentionally Omitted];

(j) [Intentionally Omitted];

(k) [Intentionally Omitted];

(l) Expense Policy. Within 15 days after the conclusion of each calendar month, beginning with the month in which the Closing Date occurs, the Borrower shall deliver to the Lenders a certification signed by a Responsible Officer of the Borrower and its Subsidiaries that (i) the Expense Policy conforms to the requirements set forth herein; (ii) the Borrower and its Subsidiaries are in compliance with the Expense Policy; and (iii) there have been no material amendments to the Expense Policy or deviations from the Expense Policy other than those that have been disclosed to and approved by the Lenders; provided that the requirement to deliver the certification referenced in this Section 5.2(l) may be qualified as to the best of such Responsible Officer's knowledge after due inquiry and investigation;

(m) Executive Privileges and Compensation. The Borrower shall submit a certification on the last day of each month beginning July 2009, certifying that the Borrower has complied with and is in compliance with the provisions set forth in Section 5.16. Such certification shall be made to the Lenders by an SEO of the Borrower, subject to the requirements and penalties set forth in Title 18, United States Code, Section 1001;

(n) Organizational Documents. Subject to Section 6.6, each North American Group Member shall furnish prompt written notice to the Lenders of any material amendment to such entity's organizational documents and copies of such amendments; and

(o) [Intentionally Omitted].

Each notice required to be provided pursuant to this Section 5.2(a)-(f) shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Borrower proposes to take with respect thereto.

5.3. Existence. (a) Preserve and maintain its legal existence and all of its material rights, privileges, licenses and franchises;

(b) pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all their Postpetition obligations of whatever nature, except (i) where such payment, discharge or satisfaction is prohibited by the Orders, the Bankruptcy Code, the Bankruptcy Rules or an order of the Bankruptcy Court or by this Agreement or the Wind-Down Budget, or (ii) where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with GAAP with respect thereto have been provided on the books of the Borrower or its Subsidiaries, as the case may be;

(c) comply with the requirements of all Applicable Laws, rules, regulations and orders of Governmental Authorities if failure to comply with such requirements could be reasonably likely (either individually or in the aggregate) to have a Material Adverse Effect on any Loan Party or the Collateral;

(d) keep adequate records and books of account, in which complete entries will be made in accordance with GAAP consistently applied, and maintain adequate accounts and reserves for all taxes (including income taxes), all depreciation, depletion, obsolescence and amortization of its properties, all contingencies, and all other reserves;

(e) (i) change the location of its chief executive office/chief place of business from that specified in Section 3.10, (ii) change its name, identity or corporate structure (or the equivalent) or change the location where it maintains records with respect to the Collateral, or (iii) reincorporate or reorganize under the laws of another jurisdiction, it shall give the Lenders written notice thereof not later than ten (10) days after such event occurs, and shall deliver to the Lenders all Uniform Commercial Code financing statements and amendments as the Lenders shall request and take all other actions deemed reasonably necessary by the Lenders to continue its perfected status in the Collateral with the same or better priority;

(f) keep in full force and effect the provisions of its charter documents, certificate of incorporation, by-laws, operating agreements or similar organizational documents; and

(g) comply (i) in the case of each North American Group Member that is not a Debtor, with all Contractual Obligations in a manner such that a Material Adverse Effect could not reasonably be expected to result and (ii) in the case of each Debtor, with all material Postpetition Contractual Obligations (including the Transition Services Agreement).

5.4. Payments of Taxes. Except as prohibited by the Bankruptcy Code, the Borrower will and will cause each Group Member (i) to timely file or cause to be filed all federal and material state and other Tax returns that are required to be filed and all such Tax returns shall be true and correct and (ii) to timely pay and discharge or cause to be paid and discharged promptly all Taxes, assessments and governmental charges or levies arising Postpetition and imposed upon the Borrower or any of the other Group Members or upon any of their respective incomes or receipts or upon any of their respective properties before the same shall become in

default or past due, as well as all lawful claims for labor, materials and supplies or otherwise which, if unpaid, might result in the imposition of a Lien or charge upon such properties or any part thereof; provided that it shall not constitute a violation of the provisions of this Section 5.4 if the Borrower or any of the other Group Members shall fail to pay any such Tax, assessment, government charge or levy or claim for labor, materials or supplies which is being contested in good faith, by proper proceedings diligently pursued, and as to which adequate reserves have been provided.

5.5. Use of Proceeds. The Loan Parties and their Subsidiaries shall use the Loan proceeds only for the purposes set forth in Section 3.20 and in a manner generally consistent with the Wind-Down Budget.

5.6. Maintenance of Existence; Payment of Obligations; Compliance with Law. Subject to the Orders, the Related Section 363 Sale Transactions and the Cases, each Loan Party shall:

(a) keep all property useful and necessary in its business in good working order and condition; and

(b) maintain errors and omissions insurance and blanket bond coverage in such amounts as are in effect on the Closing Date (as disclosed to the Lenders in writing except in the event of self-insurance) and shall not reduce such coverage without the written consent of the Lenders, and shall also maintain such other insurance with financially sound and reputable insurance companies, and with respect to property and risks of a character usually maintained by entities engaged in the same or similar business similarly situated, against loss, damage and liability of the kinds and in the amounts customarily maintained by such entities. Notwithstanding anything to the contrary in this Section 5.6, to the extent that any North American Group Member is engaged in self-insurance with respect to any of its property as of the Closing Date, such Loan Party may, if consistent with past practices, continue to engage in such self-insurance throughout the term of this Agreement; provided, that the North American Group Members shall promptly obtain third party insurance that conforms to the criteria in this Section 5.6 at the request of the Lenders.

5.7. Further Identification of Collateral. Each Loan Party will furnish to the Lenders from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as any Lender may reasonably request, all in reasonable detail.

5.8. Defense of Title. Subject to the Wind-Down, the Orders, the Related Section 363 Sale Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court, each Loan Party warrants and will defend the right, title and interest of the Lenders in and to all Collateral against all adverse claims and demands of all Persons whomsoever, subject to (x) the restrictions imposed by the Existing Agreements to the extent that such restrictions are valid and enforceable under the applicable Uniform Commercial Code and other Requirements of Law and (y) the rights of holders of any Permitted Lien.

5.9. Preservation of Collateral. Subject to the Wind-Down, the Orders, the Related Section 363 Sale Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court, each Loan Party shall do all things necessary to preserve the Collateral so that the Collateral remains subject to a perfected security interest with the priority provided for such security interest under the Loan Documents. Without limiting the foregoing, each Loan Party will comply with all Applicable Laws, rules and regulations of any Governmental Authority applicable to such Loan Party or relating to the Collateral and will cause the Collateral to comply, with all Applicable Laws, rules and regulations of any such Governmental Authority, except where failure to so comply would not reasonably be expected to have a Material Adverse Effect. No Loan Party will allow any default to occur for which any Loan Party is responsible under any Loan Documents and each Loan Party shall fully perform or cause to be performed when due all of its obligations under the Loan Documents.

5.10. Maintenance of Papers, Records and Files.

(a) each North American Group Member will maintain all Records in good and complete condition and preserve them against loss or destruction, all in accordance with industry and customary practices;

(b) each North American Group Member shall collect and maintain or cause to be collected and maintained all Records relating to its business and operations and the Collateral in accordance with industry custom and practice, including those maintained pursuant to the preceding subsection, and all such Records shall be in the possession of the North American Group Members or reasonably obtainable upon the request of any Lender unless the Lenders otherwise approve; and

(c) for so long as any Lender has an interest in or Lien on any Collateral, each North American Group Member will hold or cause to be held all related Records in trust for such Lender. Each North American Group Member shall notify, or cause to be notified, every other party holding any such Records of the interests and Liens granted hereby.

5.11. Maintenance of Licenses. Subject to the Wind-Down, the Orders, the Related Section 363 Sale Transactions and the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court, except where the failure to do so could not reasonably be likely to have a Material Adverse Effect, each Loan Party shall (i) maintain all licenses, permits, authorizations or other approvals necessary for such Loan Party to conduct its business and to perform its obligations under the Loan Documents, (ii) remain in good standing under the laws of the jurisdiction of its organization, and in each other jurisdiction where such qualification and good standing are necessary for the successful operation of such Loan Party's business, and (iii) shall conduct its business in accordance with Applicable Law in all material respects.

5.12. Payment of Obligations. The Borrower will duly and punctually pay or cause to be paid the principal and interest on the Loans and each North American Group Member will duly and punctually pay or cause to be paid all fees and other amounts from time to time owing by it hereunder or under the other Loan Documents, all in accordance with the terms of this Agreement and the other Loan Documents. Each North American Group Member will, and will cause each of its Subsidiaries to, pay (i) with respect to each Debtor its Postpetition

obligations; and (ii) with respect to each other Group Member its obligations, in each case including tax liabilities, assessments and governmental charges or levies imposed upon such Person or upon its income and profits or upon any of its property, real, personal or mixed (including without limitation, the Collateral) or upon any part thereof, as well as any other lawful claims which, if unpaid, could reasonably be expected to become a Lien upon such properties or any part thereof, that, if not paid, could reasonably be expected to result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the relevant Loan Party, or such Subsidiary, has set aside on its books adequate reserves with respect thereto and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

5.13. OFAC. At all times throughout the term of this Agreement, each Loan Party and its Controlled Affiliates (a) shall be in full compliance with all applicable orders, rules, regulations and recommendations of OFAC and (b) shall not permit any Collateral to be maintained, insured, traded, or used (directly or indirectly) in violation of any United States statutes, rules or regulations, in a Prohibited Jurisdiction or by a Prohibited Person, and no lessee or sublessee shall be a Prohibited Person or a Person organized in a Prohibited Jurisdiction.

5.14. Investment Company. Each North American Group Member will conduct its operations in a manner which will not subject it to registration as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended from time to time.

5.15. Further Assurances. Subject to the Wind-Down, the Orders, the Related Section 363 Sale Transactions and the Cases, the Borrower shall, and shall cause each North American Group Member to, from time to time execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take such actions, as the Lenders may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, or of more fully perfecting or renewing the rights of the Lenders with respect to the Collateral (or with respect to any additions thereto or replacements or proceeds thereof or with respect to any other property or assets hereafter acquired by any Group Member which may be deemed to be part of the Collateral) pursuant hereto or thereto. Upon the exercise by any Lender of any power, right, privilege or remedy pursuant to this Agreement or the other Loan Documents that requires any consent, approval, recording, qualification or authorization of any Governmental Authority, the Borrower will execute and deliver, or will cause the execution and delivery of, all applications, certifications, instruments and other documents and papers that such Lender may be required to obtain from the Borrower or any Group Member such governmental consent, approval, recording, qualification or authorization.

5.16. Executive Privileges and Compensation. (a) Subject to the Wind-Down, the Orders, the Related Section 363 Sale Transactions and the Cases, the Borrower shall comply with the following restrictions on executive privileges and compensation:

(i) the Borrower shall take all necessary action to ensure that its Specified Benefit Plans comply in all respects with the EESA, including, without limitation, the provisions for the Capital Purchase Program, as implemented by any guidance or

regulation thereunder, including the rules set forth in 31 C.F.R. Part 30, or any other guidance or regulations under the EESA, as the same shall be in effect from time to time (collectively, the "Compensation Regulations"), and shall not adopt any new Specified Benefit Plan (x) that does not comply therewith or (y) that does not expressly state and require that such Specified Benefit Plan and any compensation thereunder shall be subject to all relevant Compensation Regulations adopted, issued or released on or after the date any such Specified Benefit Plan is adopted. To the extent that the Compensation Regulations change during the period when any Obligations remain outstanding in a manner that requires changes to then-existing Specified Benefit Plans, the Borrower shall effect such changes to its Specified Benefit Plans as promptly as practicable after it has actual knowledge of such changes in order to be in compliance with this Section 5.16(i) (and shall be deemed to be in compliance for a reasonable period within which to effect such changes);

(ii) the Borrower shall be subject to the limits on annual executive compensation deductibles imposed by section 162(m)(5) of the Code, as applicable;

(iii) the Borrower shall not pay or accrue any bonus or incentive compensation to the Senior Employees, except as may be permitted under the EESA or the Compensation Regulations;

(iv) the Borrower shall not adopt or maintain any compensation plan that would encourage manipulation of its reported earnings to enhance the compensation of any of its employees; and

(v) the Borrower shall maintain all suspensions and other restrictions of contributions to Specified Benefit Plans that are in place or initiated as of the Closing Date.

At all times throughout the term of this Agreement, the Required Lenders shall have the right to require any Group Member to claw back any bonuses or other compensation, including golden parachutes, paid to any Senior Employees in violation of any of the foregoing.

(b) On or prior to ~~June 30,~~July ___, 2009, the Borrower shall cause the principal executive officer (or person acting in a similar capacity) to certify in writing to the Treasury's Chief Compliance Officer that its compensation committee has reviewed the compensation arrangements of the SEOs with its senior risk officers and determined that the compensation arrangements do not encourage the SEOs to take unnecessary and excessive risks that threaten the value of the Borrower. The Borrower shall preserve appropriate documentation and records to substantiate such certification in an easily accessible place for a period not less than three years following the Maturity Date.

From the Closing Date until the ~~repayment of all Obligations~~Maturity Date, the Borrower shall comply with the provisions of this Section 5.16.

5.17. Aircraft. With respect to any private passenger aircraft or interest in such aircraft that is owned or held by the Borrower or any of its respective Subsidiaries immediately

prior to the Closing Date, such party shall demonstrate to the satisfaction of the Treasury that it is taking all reasonable steps to divest itself of such aircraft or interest. In addition, the Borrower shall not acquire or lease any private passenger aircraft or interest in private passenger aircraft after the Closing Date.

5.18. Restrictions on Expenses. (a) At all times throughout the term of this Agreement, the Borrower shall maintain and implement an Expense Policy and distribute the Expense Policy to all employees covered under the Expense Policy. Any material amendments to the Expense Policy shall require the prior written consent of the Treasury, and any material deviations from the Expense Policy, whether in contravention thereof or pursuant to waivers provided for thereunder, shall promptly be reported to the Treasury.

(b) The Expense Policy shall, at a minimum: (i) require compliance with all Requirements of Law, (ii) apply to the Borrower and all of its Subsidiaries, (iii) govern (A) the hosting, sponsorship or other payment for conferences and events, (B) travel accommodations and expenditures, (C) consulting arrangements with outside service providers, (D) any new lease or acquisition of real estate, (E) expenses relating to office or facility renovations or relocations, and (F) expenses relating to entertainment or holiday parties, and (iv) provide for (A) internal reporting and oversight, and (B) mechanisms for addressing non-compliance with the Expense Policy.

5.19. Employ American Workers Act. The Borrower shall comply, and the Borrower shall take all necessary action to ensure that its Subsidiaries comply, in all respects with the provisions of the EAWA in all respects.

5.20. Internal Controls; Recordkeeping; Additional Reporting. (a) The Borrower shall promptly establish internal controls to provide reasonable assurance of compliance in all material respects with each of the Borrower's covenants and agreements set forth in Sections 5.16, 5.17, 5.18, 5.19 and 5.20(b) hereof and shall collect, maintain and preserve reasonable records evidencing such internal controls and compliance therewith, a copy of which records shall be provided to the Lenders promptly upon request. On the 15th day after the last day of each calendar quarter (or, if such day is not a Business Day, on the first Business Day after such day) commencing with September 30, 2009, the Borrower shall deliver to the Treasury (at its address set forth in Section 8.2) a report setting forth in reasonable detail (x) the status of implementing such internal controls and (y) the Borrower's compliance (including any instances of material non-compliance) with such covenants and agreements. Such report shall be accompanied by a certification duly executed by an SEO of the Borrower stating that such quarterly report is accurate in all material respects to the best of such SEO's knowledge, which certification shall be made subject to the requirements and penalties set forth in Title 18, United States Code, Section 1001.

(b) The Borrower shall use its reasonable best efforts to account for the use and expected use of the proceeds from the Loans. On the 15th day after the last day of each calendar quarter (or, if such day is not a Business Day, on the first Business Day after such day) commencing with September 30, 2009, the Borrower shall deliver to the Lenders (at their respective addresses set forth in Section 8.2) a report setting forth in reasonable detail the actual use of the proceeds from the Loans. Such report shall be accompanied by a certification duly

executed by an SEO of the Borrower that such quarterly report is accurate in all material respects to the best of such SEO's knowledge, which certification shall be made subject to the requirements and penalties set forth in Title 18, United States Code, section 1001.

(c) The Borrower shall collect, maintain and preserve reasonable records relating to the implementation of all Federal support programs provided to the Borrower or any of its Subsidiaries pursuant to the EESA, the use of the proceeds thereunder and the compliance with the terms and provisions of such programs; provided that the Borrower shall have no obligation to comply with the foregoing in connection with any such program to the extent that such program independently requires, by its express terms, the Borrower to collect, maintain and preserve any records in connection therewith. The Borrower shall provide the Treasury with copy of all such reasonable records promptly upon request.

5.21. Waivers. (a) For any Person who is a Loan Party as of the Closing Date and any Person that becomes a Loan Party after the Closing Date, the Borrower shall cause a waiver, in substantially the form attached hereto as Exhibit D-1, to be duly executed by such North American Group Member and promptly delivered to the Treasury.

(b) For any Person who is an SEO as of the Closing Date and any Person that becomes an SEO after the Closing Date, the Borrower shall cause a waiver, in substantially the form attached hereto as Exhibit D-2, to be duly executed by such SEO, and promptly delivered to the Treasury.

(c) For any Person who is an SEO as of the Closing Date and any Person that becomes an SEO after the Closing Date, the Borrower shall cause a consent and waiver, in substantially the form attached hereto as Exhibit D-3, to be duly executed by such SEO, and promptly delivered to the Borrower (with a copy to the Treasury).

(d) For any Person who is a Senior Employee as of the Closing Date and any Person that becomes an Senior Employee after the Closing Date, the Borrower shall cause a waiver, in substantially the form attached hereto as Exhibit D-4, to be duly executed by such Senior Employee, and promptly delivered to the Treasury.

(e) For any Person who is a Senior Employee as of the Closing Date and any Person that becomes an Senior Employee after the Closing Date, the Borrower shall cause a consent and waiver, in substantially the form attached hereto as Exhibit D-5, to be duly executed by such Senior Employee, and promptly delivered to the Borrower (with a copy to the Treasury).

(f) For the avoidance of doubt, this requirement will be deemed satisfied for the United States with respect to Loan Parties that are party to the Existing UST Term Loan Agreement and any SEO or Senior Employee, to the extent such Loan Party, SEO or Senior Employee has previously provided such a waiver to the Treasury.

5.22. [Intentionally Omitted].

5.23. Additional Guarantors. Except as otherwise agreed to by the Required Lenders, the Borrower shall cause each Domestic Subsidiary of a North American Group Member who becomes a Debtor after the Closing Date to become a Guarantor (each, an

"Additional Guarantor") in accordance with Section 4.24 of the Guaranty, other than (i) [intentionally omitted], (ii) any Foreign 956 Subsidiary, (iii) any Other Foreign 956 Subsidiary and (iv) any Non-U.S. Subsidiary owned in whole or in part by a Foreign 956 Subsidiary, except in the case of clauses (i) through (iv), any Subsidiaries that were guarantors under the Existing UST Term Loan Agreement.

5.24. Provide Additional Information. Each North American Group Member shall, promptly, from time to time and upon request of any Lender, furnish to such Lender such information, documents, records or reports with respect to the Collateral, the Indebtedness of the North American Group Members or any Subsidiary thereof or the corporate affairs, conditions or operations, financial or otherwise, of such North American Group Member as any Lender may reasonably request, including without limitation, providing to such Lender reasonably detailed information with respect to each inquiry of such Lender raised with the North American Group Members prior to the Closing Date.

5.25. Inspection of Property; Books and Records; Discussions. Subject to the Wind-Down, the Orders, the Related Section 363 Sale Transactions and the Cases, the Borrower shall, and shall cause each Group Member to, (a) keep proper books of records and account in which full, true and correct entries in conformity with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its business and activities, and (b) permit representatives of any Lender, the Special Inspector General of the Troubled Asset Relief Program or the Comptroller General of the United States to visit and inspect any of its properties and examine and make abstracts from any of its books and records and other data delivered to them pursuant to the Loan Documents at any reasonable time and as often as may reasonably be desired and to discuss the business, operations, properties and financial and other condition of the Group Members with officers and employees of the Group Members and with its independent certified public accountants.

SECTION 6

NEGATIVE COVENANTS

Each Loan Party hereby covenants and agrees to, and to cause itself and each of its Subsidiaries that is a North American Group Member to, so long as any Loan or any interest or fee payable hereunder is owing to any Lender, each North American Group Member will abide by the following negative covenants, in each case subject to the Wind-Down, the Orders, the Related Section 363 Sale Transactions, the Cases, the Bankruptcy Code and all orders of the Bankruptcy Court issued in connection with the Cases:

6.1. Prohibition on Fundamental Changes. No North American Group Member shall, at any time, directly or indirectly, (i) enter into any transaction of merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation, winding up or dissolution) or Dispose of all or substantially all of its Property without the Lender's prior consent, provided, any Guarantor may merge, consolidate, amalgamate into, or Dispose of all or substantially all of its Property to another North American Group Member; or (ii) form or enter into any partnership, syndicate or other combination (other than joint ventures permitted by Section 6.14) that could reasonably be expected to have a Material Adverse Effect.

6.2. Lines of Business. No North American Group Member will engage to any substantial extent in any line or lines of business activity other than the businesses generally carried on by the North American Group Members as of the Closing Date or businesses reasonably related thereto.

6.3. Transactions with Affiliates. No North American Group Member will (a) enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of Property (including Collateral) or the rendering of any service, with any Affiliate unless such transaction is (i) in the ordinary course of such North American Group Member's business, and (ii) generally upon fair and reasonable terms and, with respect to any transaction with an Affiliate that is not a Group Member, no less favorable to such North American Group Member than it would obtain in an arm's length transaction with a Person which is not an Affiliate (other than any transaction that occurs pursuant to an agreement in effect as of the Petition Date), and in either case, is otherwise permitted under this Agreement, or (b) make a payment that is not otherwise permitted by this Section 6.3 to any Affiliate. Irrespective of whether such transactions comply with the provisions of this Section 6.3, but subject to the other restrictions set forth elsewhere in this Agreement, the Loan Parties shall be permitted to (x) transact business in the ordinary course with (i) the joint ventures in which the Loan Parties or their Subsidiaries participate and (ii) [intentionally omitted], and (y) make Restricted Payments permitted under Section 6.5.

6.4. Limitation on Liens. No North American Group Member will, create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except Permitted Liens.

6.5. Restricted Payments. Without the Lenders' consent, no North American Group Member shall, (i) declare or pay any dividend (other than dividends payable solely in common Capital Stock of the Person making such dividend) on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of any Capital Stock of any North American Group Member, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of any North American Group Member and (ii) optionally prepay, repurchase, redeem or otherwise optionally satisfy or defease with cash or Cash Equivalents any Indebtedness (any such payment referred to in clauses (i) and (ii), a "Restricted Payment"), other than:

(a) redemptions, acquisitions or the retirement for value or repurchases (or loans, distributions or advances to effect the same) of shares of Capital Stock from current or former officers, directors, consultants and employees, including upon the exercise of stock options or warrants for such Capital Stock, or any executive or employee savings or compensation plans, or, in each case to the extent applicable, their respective estates, spouses, former spouses or family members or other permitted transferees;

(b) any Subsidiary (including an Excluded Subsidiary) may make Restricted Payments to its direct parent or to the Borrower or any Wholly Owned Guarantor;

(c) any JV Subsidiary may make Restricted Payments required or permitted to be made pursuant to the terms of the joint venture arrangements in effect on the Closing Date (or otherwise as approved by the Required Lenders) of holders of its Capital Stock, provided that, the Borrower and its Subsidiaries have received their *pro rata* portion of such Restricted Payments; and

(d) any Subsidiary that is not a North American Group Member may make Restricted Payments to any other Subsidiary or Subsidiaries that are not North American Group Members.

~~6.6. Amendments to Transaction Documents. (a) No North American Group Member will amend, supplement or otherwise modify (pursuant to a waiver or otherwise) the terms and conditions of the indemnities and licenses furnished to New CarCo and its successors or any of its Subsidiaries pursuant to the Transaction Documents such that after giving effect thereto such indemnities or licenses, taken as a whole, shall be materially less favorable to the interests of New CarCo or the Lenders with respect thereto or (b) otherwise amend, supplement or otherwise modify the terms and conditions of the Transaction Documents.~~

6.6. ~~6.7.~~ Changes in Fiscal Periods. No North American Group Member will permit its fiscal year to end on a day other than December 31 or change its method of determining fiscal quarters, in each case, unless otherwise agreed by the Required Lenders.

6.7. ~~6.8.~~ Negative Pledge. No North American Group Member will, enter into or suffer to exist or become effective any agreement that prohibits or limits the ability of any North American Group Member to create, incur, assume or permit to exist any Lien upon any of the Collateral, whether now owned or hereafter acquired, other than this Agreement, the other Loan Documents, the Existing Agreements, and Permitted Liens; provided that the agreements excepted from the restrictions of this Section shall include customary negative pledge clauses in agreements providing refinancing Indebtedness or permitted unsecured Indebtedness.

6.8. ~~6.9.~~ Indebtedness. No North American Group Member will, create, incur, assume or suffer to exist any Indebtedness except Permitted Indebtedness.

6.9. ~~6.10.~~ Investments. No North American Group Member will make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any assets constituting a business unit of, or make any other investment in, any Person (all of the foregoing, "Investments"), except Permitted Investments.

6.10. ~~6.11.~~ Action Adverse to the Collateral. Except as permitted under any provision of this Agreement, no Loan Party shall or shall permit any Pledged Entity that is a Subsidiary to take any action that would directly or indirectly materially impair or materially adversely affect such North American Group Member's title to, or the value of, the Collateral, or materially increase the duties, responsibilities or obligation of any North American Group Member.

6.11. ~~6.12.~~ Limitation on Sale of Assets. Subject to the Wind-Down, the Orders, the Related Section 363 Sale Transactions and the Cases and any other applicable

provision of any Loan Document, each North American Group Member shall have the right to Dispose freely of any of its Property (including, without limitation, receivables and leasehold interests) whether now owned or hereafter acquired; provided that, to the extent required, the Net Cash Proceeds thereof are applied in accordance with Section 2.5.

6.12. ~~6.13.~~ [Intentionally Omitted].

6.13. ~~6.14.~~ JV Agreements. No North American Group Member or Pledged Entity shall allow any modification or amendment to any JV Agreement, except that any such party that is not a Debtor may modify or amend any JV Agreement; provided that such amendment or modification could not reasonably be expected to have a Material Adverse Effect.

6.14. ~~6.15.~~ Swap Agreements. The North American Group Members will not itself, and will not permit any of their respective Subsidiaries to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Borrower or any Subsidiary has actual or anticipated exposure (other than those in respect of Capital Stock) and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates with respect to any interest-bearing liability or investment of the Borrower or any Subsidiary.

6.15. ~~6.16.~~ Clauses Restricting Subsidiary Distributions. The Borrower will not, and will not permit any Guarantor to, enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any such Guarantor to (a) make Restricted Payments in respect of any Capital Stock of such Guarantor held by, or pay any Indebtedness owed to, the Borrower or any other Guarantor, (b) make loans or advances to, or other Investments in, the Borrower or any other Guarantor or (c) transfer any of its assets to the Borrower or any other Guarantor, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) any restrictions with respect to a Guarantor imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Guarantor, (iii) any agreement or instrument governing Indebtedness assumed in connection with the acquisition of assets by the Borrower or any Guarantor permitted hereunder or secured by a Lien encumbering assets acquired in connection therewith, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person or the properties or assets of the Person so acquired, (iv) restrictions on the transfer of assets subject to any Lien permitted by Section 6.4 imposed by the holder of such Lien or on the transfer of assets subject to a Disposition permitted by Section 6.12 imposed by the acquirer of such assets, (v) provisions in joint venture agreements and other similar agreements (in each case relating solely to the respective joint venture or similar entity or the Capital Stock therein) entered into in the ordinary course of business, (vi) restrictions contained in the terms of any agreements governing purchase money obligations, Capital Lease Obligations or attributable obligations not incurred in violation of this Agreement; provided that, such restrictions relate only to the property financed with such Indebtedness, (vii) restrictions on cash or other deposits imposed by customers under contracts or other arrangements entered into or agreed to in the ordinary course of business, or (viii) customary non-assignment provisions in leases, contracts, licenses and other agreements entered into in the ordinary course of business and consistent with past practices.

6.16. ~~6.17.~~ Sale/Leaseback Transactions. No North American Group Member will enter into any arrangement with any Person providing for the leasing by any such North American Group Member of real or personal property that has been or is to be sold or transferred by any such North American Group Member to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of any such North American Group Member (a "Sale/Leaseback Transaction") other than any Sale/Leaseback Transaction in effect on the Closing Date.

6.17. ~~6.18.~~ [Intentionally Omitted].

6.18. ~~6.19.~~ Modification of Organizational Documents. No North American Group Member will modify any organizational documents, except (i) as required by the Bankruptcy Code or (ii) in connection with a Disposition permitted by Section 6.12.

SECTION 7

EVENTS OF DEFAULT

7.1. Events of Default. Notwithstanding the provisions of section 362(c) of the Bankruptcy Code, and without notice, application or motion to, hearing before, or order of the Bankruptcy Court, or any notice to any of the North American Group Members, and subject to the provisions of this Section 7, each of the following events shall constitute an "Event of Default", provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied:

(a) the Borrower shall default in the payment of any principal of or interest on any Loan when due (whether at stated maturity, upon acceleration or upon any mandatory prepayment pursuant to Section 2.5), provided however, that the Borrower shall have two (2) Business Days' grace period for the payment of interest hereunder; or

(b) any Guarantor shall default in its payment obligations under the Guaranty; or

(c) any Loan Party shall default in the payment of any other amount payable by it hereunder or under any other Loan Document after notification by the Lenders of such default, and such default shall have continued unremedied for three (3) Business Days; or

(d) any North American Group Member shall breach any covenant contained in Section 5.16 (Executive Privileges and Compensation), Section 5.17 (Aircraft), Section 5.18 (Restrictions on Expenses), Section 5.19 (Employ American Workers Act), Section 5.20 (Internal Controls; Recordkeeping; Additional Reporting), Section 5.21 (Waivers) or Section 6 hereof; or

(e) any North American Group Member shall default in performance of or otherwise breach non-payment obligations or covenants under any of the Loan Documents not covered by another clause in this Section 7, and such default has not been remedied within the applicable grace period provided therein, or if no grace period, within ten (10) Business Days; or

(f) any representation, warranty or certification made or deemed made herein or in any other Loan Document by any North American Group Member or any certificate furnished to the Lenders pursuant to the provisions hereof or thereof, shall prove to have been false or misleading in any material respect as of the time made or furnished; or

(g) [intentionally omitted]; or

(h) [intentionally omitted]; or

(i) [intentionally omitted]; or

(j) [intentionally omitted]; or

(k) any of the Cases shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code; a trustee or interim trustee under chapter 7 or chapter 11 of the Bankruptcy Code, a receiver and manager, or an examiner with enlarged powers relating to the operation of the business (powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code) under section 1106(b) of the Bankruptcy Code shall be appointed in any of the Cases; or an application shall be filed by the Borrower or any of its Subsidiaries for the approval of any other Superpriority Claim (other than the Carve-Out) in any of the Cases which is *pari passu* with or senior to the claims of the Lenders against any Borrower or any other Loan Party hereunder or under any of the other Loan Documents, or there shall arise or be granted any such *pari passu* or senior Superpriority Claim; or

(l) except as agreed by the Required Lenders, any Debtor shall make any Prepetition Payment other than (i) Prepetition Payments authorized by the Bankruptcy Court in accordance with "first day" motions and related orders or other orders of the Bankruptcy Court, or (ii) Prepetition Payments required by the Bankruptcy Code; or

(m) ~~the Bankruptcy Court shall enter an order or orders granting relief from the automatic stay applicable under section 362 of the Bankruptcy Code to the holder or holders of any security interest to (i) permit foreclosure (or the granting of a deed in lieu of foreclosure or the like) on any assets of any of the Debtors which have a value in excess of $25,000,000 in the aggregate or (ii) permit other actions that would have a material adverse effect on the Loan Parties and in the case of the Debtors, their estates~~[intentionally omitted]; or

(n) [intentionally omitted]; or

(o) ~~any North American Group Member shall default under, or fail to perform as required under, or shall otherwise materially breach the terms of any instrument, agreement or contract for Indebtedness without the consent of the Lenders (which in the case of the Debtors only, arose Postpetition) between any North American Group Member, on the one hand, and a Lender or any Affiliate of a Lender on the other; or any North American Group Member shall default under, or fail to perform as requested under, the terms of any instrument, agreement or contract for Indebtedness (which in the case of the Debtors only, arose Postpetition) entered into by such North American Group Member and any third party, if, in either case, the effect of any such default or failure is to cause, or to permit the holder or holders of such Indebtedness or a trustee or other representative on its or their behalf (with or without the giving of notice, the~~

~~lapse of time or both) to cause, such Indebtedness to become due prior to its stated maturity;~~ provided ~~that, it shall not constitute an Event of Default pursuant to this paragraph (o) unless the aggregate amount of all such Indebtedness then outstanding exceeds $25,000,000~~[intentionally omitted]; or

(p) any Loan Document shall for whatever reason be terminated, any default or event of default shall have occurred under any Loan Document, the Loan Documents shall for any reason cease to create a valid, security interest in any of the Collateral purported to be covered hereby or thereby, or any North American Group Member's material obligations (including the Borrower's Obligations hereunder) shall cease to be in full force and effect, or the enforceability thereof shall be contested by any North American Group Member; or

(q) the filing of a motion, pleading or proceeding by any of the other Loan Parties which could reasonably be expected to result in a material impairment of the rights or interests of any Lender under any Loan Document, or a determination by a court with respect to a motion, pleading or proceeding brought by another party which results in a material impairment of the rights or interests of any Lender under any Loan Document; or

(r) (i) any order shall be entered reversing, amending, supplementing, staying for a period in excess of five days, vacating or otherwise modifying in any material respect the Final Order without the prior written consent of the Lenders, (ii) the Final Order shall cease to create a valid and perfected Lien or to be otherwise in full force and effect or (iii) any Debtor shall fail to, or fail to cause any North American Group Member to, comply with the Orders; or

(s) the North American Group Members or any other material Subsidiaries of the Borrower shall take any action in support of any of the events set forth in clauses (k), (l), (m), (q) or (s) or any person other than the North American Group Members or any other material Subsidiaries of the Borrower shall do so, and such application is not contested in good faith by the North American Group Members or any other material Subsidiaries of the Borrower and the relief requested is granted in an order that is not stayed pending appeal; or

(t) [intentionally omitted]; or

(u) any Change of Control shall have occurred without the prior consent of the Lenders other than pursuant to the Related Section 363 Transaction; or

(v) any North American Group Member shall grant, or suffer to exist, any Lien on any Collateral other than Permitted Liens; or the Liens contemplated under the Loan Documents shall cease to be perfected Liens on the Collateral in favor of the Lenders of the requisite priority hereunder with respect to such Collateral (subject to the Permitted Liens); or

(w) [intentionally omitted]; or

(x) [intentionally omitted]; or

(y) [intentionally omitted]; or

(z) [intentionally omitted]; or

(aa) [intentionally omitted]; or

(bb) any North American Group Member (other than a Debtor) shall admit its inability to, or intention not to, perform any of such party's material Obligations hereunder; or

(cc) a plan shall be confirmed in any of the Cases that does not, or any order shall be entered which dismisses any of the Cases and which order does not, comply with the repayment provisions of this Agreement; or any of the Debtors shall seek support, or fail to contest in good faith the filing or confirmation of such a plan or the entry of such an order.

7.2. Remedies upon Event of Default. If any Event of Default occurs and is continuing, without limiting the rights and remedies available to any Lender under applicable law, the Required Lenders shall, by written notice to the Borrower, take any or all of the following actions, at the same or different times, in each case without further order of or application to the Bankruptcy Court (provided that (x) with respect to clause (iii) below and the enforcement of Liens or other remedies with respect to the Collateral under clause (v) below, the Lenders shall provide the Borrower (with a copy to counsel for each Committee and to the United States Trustee for the Southern District of New York) with five Business Days' written notice prior to taking the action contemplated thereby, (y) upon receipt of any such notice, the Borrower may only make disbursements in the ordinary course of business and with respect to the Carve-Out, but may not disburse any other amounts, and (z) in any hearing after the giving of the aforementioned notice, the only issue that may be raised by any party in opposition thereto shall be whether, in fact, an Event of Default has occurred and is continuing:

(i) declare the principal of and accrued interest on the outstanding Loans to be immediately due and payable;

(ii) [intentionally omitted];

(iii) set-off any amounts held in any accounts maintained by any Loan Party with respect to which any Lender is a party to a control agreement;

(iv) compel any Debtor to or to cause any North American Group Member to sell any or all of its assets pursuant to Section 363(b) of the Bankruptcy Code or any other applicable law, and credit bid the Loans in any such sale pursuant to Section 363(k) of the Bankruptcy Code or other applicable law; or

(v) take any other action or exercise any other right or remedy (including, without limitation, with respect to the Liens in favor of the Lenders) permitted under the Loan Documents or by applicable law.

SECTION 8

MISCELLANEOUS

8.1. Amendments and Waivers. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except

in accordance with the provisions of this Section 8.1 or as otherwise expressly provided herein. The Required Lenders and the Borrower (on its own behalf and as agent on behalf of any other Loan Party party to the relevant Loan Document) may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights or obligations of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Lenders may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; except that (x) the consent of each Lender directly affected thereby shall be required with respect to (i) reductions in the amount or extensions of the Maturity Date of any Loan or any change to the definition of "Maturity Date", (ii) reductions in the rate of interest or any fee or extensions of any due date thereof, (iii) [intentionally omitted], (iv) imposition of any additional restrictions on assignments and participations, (v) [intentionally omitted] and (vi) modifications to the *pro rata* treatment and sharing provisions of the Loan Documents, and (y) the consent of 100% of the Lenders shall be required with respect to (i) modifications to this Section of any of the voting percentages, the definition of "Required Lenders", or the minimum requirement necessary for all Lenders or Required Lenders to take action hereunder, (ii) prior to the consummation of the Related Section 363 Sale Transactions, the release or subordination of any of the Guarantors or a material portion of the Collateral other than in connection with the Related Section 363 Sale Transactions, (iii) after the consummation of the Related Section 363 Sale Transactions, the release or subordination of all or substantially all of the Guarantors or all or substantially all of the Collateral, (iv) the assignment, delegation or other transfer by any Loan Party of any of its rights and obligations under this Agreement and (v) amendments, supplements, modifications or waivers of Sections 2.12 (or the rights and obligations contained therein), 4.1(a), 4.1(c)(ii) or 7.1(r), the definition of "ABR", any proviso to the definition of "Net Cash Proceeds" or the minimum notice requirements contained in Section 2.4.

Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders and all future holders of the Loans. In the case of any waiver, the Loan Parties and the Lenders shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon. Any such waiver, amendment, supplement or modification shall be effected by a written instrument signed by the parties required to sign pursuant to the foregoing provisions of this Section 8.1; provided that, delivery of an executed signature page of any such instrument by facsimile transmission shall be effective as delivery of a manually executed counterpart thereof.

8.2. Notices. (a) All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy or electronic transmission), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy notice or electronic transmission or overnight or hand delivery, when received, addressed as follows in the case of the Borrower and the Lenders, or to such other address as may be hereafter notified by the respective parties hereto:

Borrower:

General Motors Corporation
300 Renaissance Center
Detroit, MI 48265-3000
Attention: Chief Financial Officer
Telecopy: 313-667-4605

with a copy to:

General Motors Corporation
767 Fifth Avenue, 14th Floor
New York, NY 10153
Attention: Treasurer
Telecopy: 212-418-3630

and

General Motors Corporation
300 Renaissance Center
Detroit, MI 48265-3000
Attention: General Counsel
Telecopy: 248-267-4584

and:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153-0119
Attention: Stephen Karotkin
Richard Ginsburg
Soo-Jin Shim
Telecopy: 212-310-8007

Treasury:

The United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220
Attention: Chief Counsel Office of Financial Stability
Telecopy: 202-927-9225
Email: OFSChiefCounselNotices@do.treas.gov

with a copy to:

Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, NY 10281
Attention: John J. Rapisardi
Telecopy: 212-504-6666
Telephone: 212-504-6000

Canadian Lender:

Export Development Canada
151 O'Connor Street
Ottawa, Ontario
Canada K1A 1K3
Attention: Loans Services
Telecopy: 613-598-2514

with a copy to:

Export Development Canada
151 O'Connor Street
Ottawa, Ontario
Canada K1A 1K3
Attention: Asset Management/Covenants Officer
Telecopy: 613-598-3186

provided that any notice, request or demand to or upon the Lenders shall not be effective until received.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by each Lender in its sole discretion. The Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

8.3. No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

8.4. Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or

statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

8.5. Payment of Expenses. The Borrower agrees (a) to pay or reimburse the Lenders and any other Canadian Lender Consortium Member for all their (i) reasonable out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby (including the reasonable out-of-pocket costs and expenses of the advisors and counsel to each Lender and each other Canadian Lender Consortium Member, but excluding the professional fees of such advisors and counsel to each Lender and each other Canadian Lender Consortium Member), and (ii) costs and expenses incurred in connection with the enforcement or preservation of any rights or exercise of remedies under this Agreement, the other Loan Documents and any other documents prepared in connection herewith or therewith in respect of any Event of Default or otherwise, including the fees and disbursements of counsel (including the allocated fees and disbursements and other charges of in-house counsel) to each Lender and each other Canadian Lender Consortium Member, (b) to pay, indemnify, or reimburse each Lender and each other Canadian Lender Consortium Member for, and hold each Lender and each other Canadian Lender Consortium Member harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying such fees, if any, which may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (c) to pay, indemnify or reimburse each Lender and each other Canadian Lender Consortium Member, their respective affiliates, and their respective officers, directors, partners, employees, advisors, agents, controlling persons and trustees (each, an "Indemnitee") for, and hold each Indemnitee harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever incurred by an Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of, the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, including any of the foregoing relating to the use or proposed use of proceeds of the Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations or assets of any Group Member, including any of the Mortgaged Properties, and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnitee against any Loan Party under any Loan Document or any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by any third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto (all the foregoing in this clause (c), collectively, the "Indemnified Liabilities"), provided that the Borrower shall have no obligation hereunder to any Indemnitee (x) for Taxes (it being understood that the Borrower's obligations with respect to Taxes are set forth in Section 2.12) or (y) with respect to Indemnified Liabilities to the extent such Indemnified Liabilities

resulted from the gross negligence or willful misconduct of, in each case as determined by a final and nonappealable decision of a court of competent jurisdiction, such Indemnitee, any of its affiliates or its or their respective officers, directors, partners, employees, agents or controlling persons. No Indemnitee shall be liable for any damages arising from the use by unauthorized persons of information or other materials sent through electronic, telecommunications or other information transmission systems that are intercepted by such persons or for any special, indirect, consequential or punitive damages in connection with the Loans. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnitee. All amounts due under this Section 8.5 shall be payable not later than 30 days after written demand therefor. Statements payable by the Borrower pursuant to this Section 8.5 shall be submitted to the Treasurer of the Borrower as set forth in Section 8.2, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Lenders. The agreements in this Section 8.5 shall survive repayment of the Loans and all other amounts payable hereunder.

8.6. Successors and Assigns; Participations and Assignments. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, all future holders of the Loans and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 8.6.

(b) Any Lender may, without the consent of the Borrower, assign to one or more assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Loans at the time owing to it) pursuant to an Assignment and Assumption, executed by such Assignee and such Lender and delivered to the Borrower for its records, to any other branch, division or agency of the United States or Canadian governments or any government of any state, province, commonwealth or territory of the United States or Canada or to New CarCo, together with any related rights and obligations thereunder, without the consent of the Borrower. The Borrower or its agent will maintain a register ("Register") of each Lender and Assignee. The Register shall contain the names and addresses of the Lenders and Assignees and the principal amount of the loans (and stated interest thereon) held by each such Lender and Assignee from time to time. The entries in the Register shall be conclusive and binding, absent manifest error.

(c) Any Lender may, without the consent of the Borrower, sell participations to any other branch, division or agency of the United States or Canadian governments or any government of any state, province, commonwealth or territory of the United States or Canada (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible

to the other parties hereto for the performance of such obligations, (C) the Borrower and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 8.1 and (2) directly affects such Participant. Subject to paragraph (c) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Section 2.10 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section 8.6. To the extent permitted by law, and subject to paragraph (c) of this Section, each Participant also shall be entitled to the benefits of Section 8.7 as though it were a Lender. Notwithstanding anything to the contrary in this Section 8.6, each Lender shall have the right to sell one or more participations in all or any part of its Loans or other Obligations to one or more lenders or other Persons that provide financing to such Lender in the form of sales and repurchases of participations without having to satisfy the foregoing requirements. In the event that a Lender sells a participation in such Lender's rights and obligations under this Agreement, the Lender, on behalf of Borrower, shall maintain a register on which it enters the name, address and interest in this Agreement of all Participants.

8.7. Adjustments; Set-off. (a) Except to the extent that this Agreement expressly provides for payments to be allocated to a particular Lender or to the Lenders, if any Lender (a "Benefitted Lender") shall, at any time after the Loans and other amounts payable hereunder shall immediately become due and payable pursuant to Section 7, receive any payment of all or part of the Obligations owing to it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such other Lender, such Benefitted Lender shall purchase for cash in Dollars from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral or the proceeds thereof, as shall be necessary to cause such Benefitted Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) In addition to any rights and remedies of the Lenders provided by law, subject to any notice or other requirement contained in the Orders, each Lender shall have the right, without (i) further order of or application to the Bankruptcy Court, or (ii) prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon all amounts owing hereunder becoming due and payable (whether at the stated maturity, by acceleration or otherwise) to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Borrower.

Each Lender agrees promptly to notify the Borrower and the other Lenders after any such set-off and application made by such Lender; provided that, the failure to give such notice shall not affect the validity of such set off and application.

8.8. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Lenders.

8.9. Severability. Any provision of this Agreement that is held to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8.10. Integration. This Agreement and the other Loan Documents represent the entire agreement of the Borrower and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents. Subject to Section 8.18, in the event of any conflict between this Agreement or any other Loan Document and the Orders, the Orders shall control.

8.11. Governing Law. **THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK AND, TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.**

8.12. Submission to Jurisdiction; Waivers. All judicial proceedings brought against any Loan Party hereto arising out of or relating to this Agreement or any other Loan Document, or any Obligations hereunder and thereunder, may be brought in the Bankruptcy Court and, if the Bankruptcy Court does not have (or abstains from) jurisdiction, the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof. Each Loan Party hereto hereby irrevocably and unconditionally:

(a) submits for itself and its property in any such legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or

proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such party at its address set forth in Section 8.2 or at such other address of which the Lenders shall have been notified pursuant thereto; and

(d) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

8.13. Acknowledgments. The Loan Party hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) no Lender has any fiduciary relationship with or duty to any Group Member arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Lenders, on one hand, and any Group Member, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower or any Subsidiary and the Lenders.

8.14. Release of Guaranties. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Lenders hereby agree to take promptly, any action requested by the Borrower having the effect of releasing, or evidencing the release of, any guarantee by any Loan Party of the Obligations to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to in accordance with Section 8.1.

8.15. Confidentiality. Each of the Lenders agrees to keep confidential all non-public information provided to it by any Loan Party or any other Lender pursuant to this Agreement that is designated by such Loan Party as confidential; provided that nothing herein shall prevent any Lender from disclosing any such information (a) to any other Lender or any affiliate of any thereof, (b) subject to an agreement to comply with the provisions of this Section 8.15 (or other provisions at least as restrictive as this Section), to any actual or prospective Transferee or any pledgee of Loans or any direct or indirect contractual counterparty (or the professional advisors thereto) to any swap or derivative transaction relating to the Loan Party and its obligations, (c) to its affiliates, employees, directors, trustees, agents, attorneys, accountants and other professional advisors, or those of any of its affiliates for performing the purposes of a Loan Document, subject to such Lender, as the case may be, advising such Person of the confidentiality provisions contained herein, (d) upon the request or demand of any Governmental Authority or regulatory agency (including self-regulated agencies) having jurisdiction (or purporting to have jurisdiction) over it upon notice (other than in connection with routine examinations or inspections by regulators) to the Borrower thereof unless such notice is

prohibited or the Governmental Authority or regulatory agency shall require otherwise, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, after notice to the Borrower if reasonably feasible, and, if applicable, after exhaustion of the Group Members' rights and remedies under Section 1.6 of the Department of the Treasury Regulations, 31 C.F.R. Part 1, Subpart A; Sections 27-29 inclusive and 44 of the Access to Information Act, R.S.C., ch A-1 (1985) and Section 28 and Part IV (Sections 50-56 inclusive) of the Freedom of Information and Protection of Privacy Act, R.S.O., ch. F.31 (1990), after notice to the Borrower if reasonably feasible, (f) if requested or required to do so in connection with any litigation or similar proceeding, after notice to the Borrower if reasonably feasible, (g) that has been publicly disclosed, other than in breach of this Section, (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender or (i) in connection with the exercise of any remedy hereunder or under any other Loan Document.

8.16. Waivers of Jury Trial. **THE BORROWER AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.**

8.17. USA PATRIOT Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender to identify each Loan Party in accordance with the USA PATRIOT Act.

8.18. Orders. The terms and conditions hereunder shall be subject to the terms and conditions of the Final Order. In the event of any inconsistency between the terms or conditions of this Agreement and the terms and conditions of the Orders, the terms and conditions of the Orders shall control. Notwithstanding the foregoing, in the event of any inconsistency between the terms or conditions of Section 8.1 and the terms and conditions of the Orders, the terms and conditions of Section 8.1 shall control.

8.19. Effect of Amendment and Restatement of the Existing Credit Agreement. On the Effective Date, the Existing Credit Agreement shall be amended, restated and superseded in its entirety. The parties hereto acknowledge and agree that (a) this Agreement and the other Loan Documents, whether executed and delivered in connection herewith or otherwise, do not constitute a novation, payment and reborrowing, or termination of the "Obligations" (as defined in the Existing Credit Agreement) under the Existing Credit Agreement as in effect prior to the Effective Date and (b) such "Obligations" are in all respects continuing (as amended and restated hereby) with only the terms thereof being modified as provided in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

GENERAL MOTORS CORPORATION

By:_____
Name:
Title:

[GUARANTOR]

By:_____
Name:
Title:

UNITED STATES DEPARTMENT OF THE TREASURY, as a Lender

By:_____
Title: Interim Assistant Secretary of the Treasury for Financial Stability

EXPORT DEVELOPMENT CANADA, as a Lender

By: _____
Name:
Title:

Document comparison by Workshare Professional on Tuesday, June 30, 2009 5:43:39 PM

Input:	
Document 1 ID	PowerDocs://KL2/2611303/1
Description	KL2-#2611303-v1-GM:_Wind-Down_Credit_Facility_Draft_6/29
Document 2 ID	PowerDocs://KL2/2611303/2
Description	KL2-#2611303-v2-GM:_Wind-Down_Credit_Facility_Draft_6/29
Rendering set	standard

Legend:	
Insertion	
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Style change	
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Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	57
Deletions	44
Moved from	2
Moved to	2
Style change	0
Format changed	0
Total changes	105

Exhibit 11

Hearing Date/Time: October 21, 2010, 9:45 a.m.

PREET BHARARA
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Southern District of New York
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11 Case
MOTORS LIQUIDATION COMPANY, *et al*.,	:	Case No. 09-50026 (REG)
Debtors,	:	(Jointly Administered)
OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF MOTORS LIQUIDATION COMPANY f/k/a GENERAL MOTORS CORPORATION,	:	Adversary Proceeding Case No. 09-00504 (REG)
Plaintiff,	:	
vs.	:	
JPMORGAN CHASE BANK, N.A., *et al.,*	:	
Defendants.	:	

STATEMENT OF THE UNITED STATES OF AMERICA WITH RESPECT TO CROSS-MOTIONS FOR SUMMARY JUDGMENT

1. The United States of America, by its attorney Preet Bharara, United States Attorney for the Southern District of New York, respectfully submits this statement with respect to the parties' cross-motions for summary judgment in the above-captioned adversary proceeding.

2. This submission expresses no position with respect to the parties' contentions on the merits of this matter, in which plaintiff seeks relief in the form of avoidance of a lien and/or of certain transfers, as well as the "recover[y] for the Debtors' estates [of] the proceeds or value of" the transfers at issue. Complaint, July 31, 2009, at ¶ 452, see generally id. ¶¶ 438-464 (claims for relief seeking avoidance and/or return of funds to the estates); see also id. at 55-56 ("pray[ers] for judgment" seeking relief in form of avoidance and restoration of funds "for the benefit of the estates pursuant to 11 U.S.C. § 551").

3. The United States nevertheless makes this brief submission to ensure that the resolution of these motions does not prematurely determine any person or entity's entitlements with respect to the ultimate distribution of any funds that are recovered in the event that plaintiff prevails. As the Complaint properly recognizes, section 551 of the Bankrutpcy Code provides, "Any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or any lien void under section 506(d) of this title, is preserved for the benefit of the estate but only with respect to property of the estate." 11 U.S.C. § 551. Accordingly, the proper relief, should plaintiff prevail, must be entered "for the benefit of the estate," id., and not for any particular creditor(s) or class of creditors. The Court therefore need not, and should not, adjudicate any party's ultimate entitlement to any funds recovered through this adversary proceeding; rather, that question is properly reserved for determination through the plan confirmation process.

4. Plaintiff's prayers for relief in both the Complaint and their motion papers do not appear to seek relief beyond that authorized in section 551, and appear not to constitute a request for an order directing the ultimate disposition of any proceeds of this action. The United States nevertheless, in an abundance of caution, makes this filing to ensure that the ultimate distribution of any proceeds recovered through this adversary proceeding will not be decided in this

adversary proceeding, but instead will remain reserved for determination by the Court through the plan confirmation process.

New York, New York
August 26, 2010

PREET BHARARA
United States Attorney
Southern District of New York

By: /s/ David S. Jones
DAVID S. JONES
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Facsimile: (212) 637-2730

Exhibit 12

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

DEBTORS' JOINT CHAPTER 11 PLAN

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
(212) 310-8000

Attorneys for Debtors and
Debtors in Possession

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

DEBTORS' JOINT CHAPTER 11 PLAN

Motors Liquidation Company (f/k/a General Motors Corporation); MLC of Harlem, Inc. (f/k/a Chevrolet-Saturn of Harlem, Inc.); MLCS, LLC (f/k/a Saturn, LLC); MLCS Distribution Corporation (f/k/a Saturn Distribution Corporation); Remediation and Liability Management Company, Inc.; and Environmental Corporate Remediation Company, Inc., the above-captioned debtors, propose the following chapter 11 plan pursuant to section 1121(a) of title 11 of the United States Code:

ARTICLE I.

DEFINITIONS AND INTERPRETATION

DEFINITIONS. The following terms used herein shall have the respective meanings defined below (such meanings to be equally applicable to both the singular and plural):

1.1 363 Transaction means the sale of substantially all the assets of General Motors Corporation and certain of its Debtor subsidiaries, and the assumption of certain executory contracts and unexpired leases of personal property and nonresidential real property, to a U.S. Treasury-sponsored purchaser pursuant to section 363 of the Bankruptcy Code, as embodied in the MSPA.

1.2 Administrative Expenses means costs or expenses of administration of any of the Chapter 11 Cases allowed under sections 503(b), 507(a)(1), and 1114(e) of the Bankruptcy Code that have not already been paid by the Debtors, including, without limitation, any actual and necessary costs and expenses of preserving the Debtors' estates, any actual and necessary costs and expenses of operating the Debtors' businesses, any indebtedness or obligations incurred or assumed by the Debtors, as debtors in possession, during the Chapter 11 Cases, including, without limitation, for the acquisition or lease of property or an interest in property or the rendition of services, any compensation and reimbursement of expenses to the extent allowed by Final Order under sections 330 or 503 of the Bankruptcy Code, and any fees or charges assessed against the

estates of the Debtors under section 1930 of chapter 123 of title 28 of the United States Code; *provided, however*, that Administrative Expenses does not mean the Debtors' obligations and liabilities that were assumed by New GM under the MSPA, as approved by the order of the Bankruptcy Court entered July 5, 2009.

1.3 **ADR Procedures** means the alternative dispute resolution procedures, including mandatory mediation, approved by orders of the Bankruptcy Court, pursuant to section 105(a) of the Bankruptcy Code and General Order M-390 authorizing implementation of alternative dispute procedures, including mandatory mediation, entered February 23, 2010 and April 29, 2010 [Docket Nos. 5037, 5673], with respect to the following types of unliquidated and/or litigation Claims: (i) personal injury Claims, (ii) wrongful death Claims, (iii) tort Claims, (iv) products liability Claims, (v) Claims for damages arising from the rejection of executory contracts or unexpired leases of nonresidential real property (excluding Claims for damages arising from the rejection of executory contracts as they related primarily to environmental matters), (vi) indemnity Claims (excluding tax indemnity Claims relating to leveraged fixed equipment lease transactions and excluding indemnity Claims relating to asbestos liability), (vii) lemon law Claims, to the extent applicable under section 6.15 of the MSPA, (viii) warranty Claims, to the extent applicable under section 6.15 of the MSPA, and (ix) class action Claims.

1.4 **Allowed** means, (i) with reference to any Claim (other than an Asbestos Personal Injury Claim), (a) any Claim against any Debtor that has been listed by such Debtor in the Schedules, as such Schedules may be amended by the Debtors from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not disputed or contingent and for which no contrary proof of Claim has been filed, (b) any (I) timely filed Claim that is no longer subject to the ADR Procedures in the case of Unliquidated Litigation Claims or (II) Claim listed on the Schedules or timely filed proof of Claim, as to which no objection to allowance has been interposed in accordance with Section 7.1 hereof or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or as to which any objection has been determined by a Final Order to the extent such objection is determined in favor of the respective holder, or (c) any Claim expressly allowed by a Final Order, pursuant to the Claim Settlement Procedures, or hereunder, and (ii) with reference to any Asbestos Personal Injury Claim, any Asbestos Personal Injury Claim to the extent that it is Allowed in accordance with the procedures established pursuant to the Asbestos Trust Agreement and the Asbestos Trust Distribution Procedures, which shall establish the amount of legal liability against the Asbestos Trust in the amount of the liquidated value of such Asbestos Personal Injury Claim, as determined in accordance with the Asbestos Trust Distribution Procedures. The Asbestos Trust Claim shall be deemed "Allowed" when fixed by Final Order or settlement.

1.5 **Asbestos Claimants' Committee** means the official committee of unsecured creditors holding Asbestos Personal Injury Claims appointed by the U.S. Trustee in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

1.6 **Asbestos Claims** means Asbestos Personal Injury Claims and Asbestos Property Damage Claims.

1.7 **Asbestos Insurance Assets** means all rights arising under liability insurance policies issued to the Debtors with inception dates prior to 1986 with respect to liability for Asbestos Claims, including, but not limited to (i) rights (a) under insurance policies, (b) under settlement agreements made with respect to such insurance policies, (c) against the estates of insolvent insurers that issued such policies or entered into such settlements, and (d) against state insurance guaranty associations arising out of any such insurance policies issued by insolvent insurers, and (ii) the right, on behalf of MLC and its subsidiaries as of the Effective Date, to give a full release of the insurance rights of MLC and its subsidiaries as of the Effective Date under any such policy or settlement agreement with the exception of rights to coverage with respect to workers' compensation claims. The Asbestos Insurance Assets that shall be transferred to the Avoidance Action Trust shall not include the transfer of any insurance policies themselves nor any rights or claims that the Debtors have or may have against any insurers with respect to amounts the Debtors have already paid on account of Asbestos Claims.

1.8 **Asbestos Personal Injury Claim** means any Claim, remedy, liability, or Demand against the Debtors, now existing or hereafter arising, whether or not such Claim, remedy, liability, or Demand is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, whether or not the facts of or legal bases therefor are known or unknown, under any theory of law, equity, admiralty, or otherwise, for death, bodily injury, sickness, disease, medical monitoring, or other personal injuries (whether physical, emotional, or otherwise) to the extent caused or allegedly caused, directly or indirectly, by the presence of or exposure (whether prior to or after the Commencement Date) to asbestos or asbestos-containing products or things that are or were installed, engineered, designed, manufactured, fabricated, constructed, sold, supplied, produced, specified, selected, distributed, released, marketed, serviced, maintained, repaired, purchased, owned, occupied, used, removed, replaced, or disposed by any of the Debtors or an Entity for whose products or operations the Debtors allegedly have liability or for which any of the Debtors are otherwise allegedly liable, including, without express or implied limitation, any Claim, remedy, liability, or Demand for compensatory damages (such as loss of consortium, wrongful death, medical monitoring, survivorship, proximate, consequential, general, and special damages) and punitive damages, and any Claim, remedy, liability, or Demand for reimbursement, indemnification, subrogation, and contribution (including, without limitation, any Indirect Asbestos Claim with respect to an Asbestos Personal Injury Claim), and any claim under any settlement entered into by or on behalf of the Debtors prior to the Commencement Date relating to an Asbestos Personal Injury Claim.

1.9 **Asbestos Property Damage Claim** means any Claim, remedy, liability, or Demand against the Debtors, now existing or hereafter arising, whether or not such Claim, remedy, liability, or Demand is reduced to judgment, liquidated, unliquidated,

fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, whether or not the facts of or legal bases therefor are known or unknown, under any theory of law, equity, admiralty, or otherwise, for property damage, including but not limited to, the cost of inspecting, maintaining, encapsulating, repairing, decontaminating, removing, or disposing of asbestos or asbestos-containing products in buildings, other structures, or other property to the extent caused or allegedly caused, directly or indirectly, by the presence of or exposure (whether prior to or after the Commencement Date) to asbestos or asbestos-containing products or things that are or were installed, engineered, designed, manufactured, fabricated, constructed, sold, supplied, produced, specified, selected, distributed, released, marketed, serviced, maintained, repaired, purchased, owned, occupied, used, removed, replaced, or disposed by any of the Debtors or an Entity for whose products or operations the Debtors allegedly have liability or for which any of the Debtors are otherwise allegedly liable, including, without express or implied limitation, any Claim, remedy, liability, or Demand for compensatory damages (such as loss of proximate, consequential, general, and special damages) and punitive damages, and any Claim, remedy, liability, or Demand for reimbursement, indemnification, subrogation, and contribution (including, without limitation, any Indirect Asbestos Claim with respect to an Asbestos Property Damage Claim), and any claim under any settlement entered into by or on behalf of the Debtors prior to the Commencement Date relating to an Asbestos Property Damage Claim. Asbestos Property Damage Claims do not include any Claims or Causes of Action of governmental units under Environmental Laws.

1.10 **Asbestos Trust** means the trust established under the Plan in accordance with the Asbestos Trust Agreement.

1.11 **Asbestos Trust Administrator(s)** means the Person or Persons confirmed by the Bankruptcy Court to serve as administrator(s) of the Asbestos Trust, pursuant to the terms of the Asbestos Trust Agreement, or as subsequently may be appointed pursuant to the terms of the Asbestos Trust Agreement.

1.12 **Asbestos Trust Agreement** means that certain Asbestos Trust Agreement executed by the Debtors and the Asbestos Trust Administrator(s), substantially in the form included in the Plan Supplement.

1.13 **Asbestos Trust Assets** means the Debtors' assets transferred to the Asbestos Trust in accordance with the Plan and the Asbestos Trust Agreement. The Asbestos Trust Assets shall be comprised of (i) Cash in the amount of $[__] million and (ii) the Asbestos Trust Claim (or, if fixed by Final Order or settlement prior to the Effective Date, the distribution to which such Claim is entitled as an Allowed General Unsecured Claim).

1.14 **Asbestos Trust Claim** means the amount of the Debtors' aggregate asbestos liability for Asbestos Personal Injury Claims that either will be in an amount (i) mutually agreed upon by the Debtors, the Creditors' Committee, the Asbestos Claimants' Committee, and the Future Claimants' Representative or (ii) ordered by the Bankruptcy

Court, which, when fixed by Final Order or settlement, shall be treated as an Allowed General Unsecured Claim in Class 3 for purposes of distribution from the GUC Trust and the Avoidance Action Trust, as applicable. For the avoidance of doubt, prior to the determination of the Allowed amount of the Asbestos Trust Claim, the Asbestos Trust Claim is not and shall not be treated as a Disputed General Unsecured Claim.

1.15 Asbestos Trust Distribution Procedures means the distribution procedures to be implemented by the Asbestos Trust Administrator(s) pursuant to the Plan and the Asbestos Trust Agreement to process, liquidate, and pay Asbestos Personal Injury Claims, substantially in the form included in the Plan Supplement.

1.16 Asbestos Trust Transfer Date means the date on which the Asbestos Trust Assets are transferred to the Asbestos Trust, which transfer shall occur on the Effective Date, or as soon thereafter as is reasonably practicable, but shall be no later than December 15, 2011.

1.17 Avoidance Action means any action commenced, or that may be commenced, before or after the Effective Date pursuant to sections 544, 545, 547, 548, 549, 550, or 551 of the Bankruptcy Code, except to the extent purchased by New GM under the MSPA or prohibited under the DIP Credit Agreement.

1.18 Avoidance Action Trust means the trust established under the Plan in accordance with the Avoidance Action Trust Agreement.

1.19 Avoidance Action Trust Administrative Cash means the Cash held and maintained by the Avoidance Action Trust Administrator for the purpose of paying the expenses incurred by the Avoidance Action Trust Administrator (including fees and expenses for professionals retained by the Avoidance Action Trust) in connection with the Avoidance Action Trust and any obligations imposed on the Avoidance Action Trust Administrator or the Avoidance Action Trust, including expenses relating to the performance of the Avoidance Action Trust Administrator's obligations under the Avoidance Action Trust Agreement and Section 6.5 hereof. The Debtors shall reserve $___ million for the Avoidance Action Trust Administrative Cash, which shall be transferred to the Avoidance Action Trust on the Avoidance Action Trust Transfer Date.

1.20 Avoidance Action Trust Administrator means the entity appointed by the Debtors, with the consent of the U.S. Treasury and the Creditors' Committee, to serve as administrator of the Avoidance Action Trust, pursuant to the terms of the Avoidance Action Trust Agreement, or as subsequently may be appointed pursuant to the terms of the Avoidance Action Trust Agreement; *provided, however*, that if it is determined that either the holders of the DIP Credit Agreement Claims or the holders of General Unsecured Claims are not entitled to any proceeds of the Term Loan Avoidance Action and the Asbestos Insurance Assets either by (i) mutual agreement between the U.S. Treasury and the Creditors' Committee or (ii) Final Order, then the Debtors shall neither seek nor obtain the consent of the U.S. Treasury or the Creditors' Committee, as

applicable. The identity of the Avoidance Action Trust Administrator shall be disclosed in the Plan Supplement.

1.21 Avoidance Action Trust Agreement means that certain Avoidance Action Trust Agreement executed by the Debtors and the Avoidance Action Trust Administrator, substantially in the form included in the Plan Supplement.

1.22 Avoidance Action Trust Assets means the (i) Term Loan Avoidance Action transferred to the Avoidance Action Trust and any proceeds thereof, (ii) the Asbestos Insurance Assets transferred to the Avoidance Action Trust and any proceeds thereof, and (iii) the Avoidance Action Trust Administrative Cash transferred to the Avoidance Action Trust.

1.23 Avoidance Action Trust Beneficiaries means the holders of the DIP Credit Agreement Claims and/or the holders of Allowed General Unsecured Claims, as determined either by (i) mutual agreement between the U.S. Treasury and the Creditors' Committee prior to the Effective Date, (ii) mutual agreement between the U.S. Treasury and the GUC Trust Administrator on or after the Effective Date, or (iii) a Final Order.

1.24 Avoidance Action Trust Claims Reserve means the Avoidance Action Trust Assets allocable to, or retained on account of, Disputed General Unsecured Claims.

1.25 Avoidance Action Trust Monitor means the entity appointed by the Debtors, with the consent of the U.S. Treasury and the Creditors' Committee, to oversee the Avoidance Action Trust, pursuant to the terms of the Avoidance Action Trust Agreement, or as subsequently may be appointed pursuant to the terms of the Avoidance Action Trust Agreement; *provided, however*, that if it is determined that either the holders of the DIP Credit Agreement Claims or the holders of General Unsecured Claims are not entitled to any proceeds of the Term Loan Avoidance Action and the Asbestos Insurance Assets either by (i) mutual agreement between the U.S. Treasury and the Creditors' Committee or (ii) Final Order, then the Debtors shall neither seek nor obtain the consent of the U.S. Treasury or the Creditors' Committee, as applicable. The identity of the Avoidance Action Trust Monitor shall be disclosed in the Plan Supplement.

1.26 Avoidance Action Trust Transfer Date means the date selected by the Debtors, with the consent of the U.S. Treasury and (a) the Creditors' Committee prior to the Effective Date or (b) the GUC Trust Administrator on or after the Effective Date, as applicable, on which the Avoidance Action Trust Assets are transferred to the Avoidance Action Trust, which transfer shall occur on or before December 15, 2011.

1.27 Avoidance Assets means the collections realized on the settlement or resolution of the Avoidance Actions.

1.28 Ballot means the form(s) distributed to holders of impaired Claims on which is to be indicated the acceptance or rejection of the Plan.

1.29 **Bankruptcy Code** means title 11 of the United States Code, as amended from time to time, as applicable to the Chapter 11 Cases.

1.30 **Bankruptcy Court** means the United States District Court for the Southern District of New York, having jurisdiction over the Chapter 11 Cases and, to the extent of any reference made under section 157 of title 28 of the United States Code, the unit of such District Court having jurisdiction over the Chapter 11 Cases under section 151 of title 28 of the United States Code.

1.31 **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time, applicable to the Chapter 11 Cases, and any Local Rules of the Bankruptcy Court.

1.32 **Budget** means that certain budget for the post-Effective Date period agreed to by the U.S. Treasury, as lender under the DIP Credit Agreement, and the Debtors detailing the funding of, among other things, the GUC Trust, the Asbestos Trust, the Environmental Response Trust, the Avoidance Action Trust, and any other post-Effective Date obligations detailed in the Plan or in the GUC Trust Agreement, the Asbestos Trust Agreement, the Environmental Response Trust Agreement, or the Avoidance Action Trust Agreement.

1.33 **Business Day** means any day other than a Saturday, a Sunday, or any other day on which banking institutions in New York, New York are required or authorized to close by law or executive order.

1.34 **Cash** means legal tender of the United States of America.

1.35 **Causes of Action** means the Avoidance Actions and any and all actions, causes of action, liabilities, obligations, rights, suits, damages, judgments, claims, and demands whatsoever, whether known or unknown, existing or hereafter arising, in law, equity, or otherwise, based in whole or in part on any act or omission or other event occurring prior to the Commencement Date or during the course of the Chapter 11 Cases, including through the Effective Date, except to the extent the prosecution of any Causes of Action are prohibited by the DIP Credit Agreement.

1.36 **Chapter 11 Cases** means the jointly administered cases under chapter 11 of the Bankruptcy Code commenced by the Debtors on the Commencement Date in the Bankruptcy Court and currently styled *In re Motors Liquidation Company, et al. f/k/a General Motors Corp. et al,* Ch. 11 Case No. 09-50026 (REG) (Jointly Administered).

1.37 **Claim** has the meaning set forth in section 101 of the Bankruptcy Code.

1.38 **Claim Settlement Procedures** means the procedures for settling Claims approved by order of the Bankruptcy Court, pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rules 3007 and 9019(b) authorizing the Debtors to (i) file omnibus

Claims objections and (ii) establish procedures for settling certain Claims, entered October 6, 2009 [Docket No. 4180].

1.39 **Class** means any group of Claims or Equity Interests classified by the Plan pursuant to section 1122(a)(1) of the Bankruptcy Code.

1.40 **Collateral** means any property or interest in property of the estate of any Debtor subject to a lien, charge, or other encumbrance to secure the payment or performance of a Claim, which lien, charge, or other encumbrance is not subject to avoidance under the Bankruptcy Code.

1.41 **Commencement Date** means (i) June 1, 2009 with respect to Motors Liquidation Company; MLC of Harlem, Inc.; MLCS, LLC; and MLCS Distribution Corporation and (ii) October 9, 2009 with respect to Remediation and Liability Management Company, Inc. and Environmental Corporate Remediation Company, Inc.

1.42 **Confirmation Date** means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order.

1.43 **Confirmation Hearing** means the hearing to be held by the Bankruptcy Court regarding confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

1.44 **Confirmation Order** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.45 **Creditors' Committee** means the statutory committee of unsecured creditors appointed by the U.S. Trustee in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

1.46 **Debtors** means Motors Liquidation Company; MLC of Harlem, Inc.; MLCS, LLC; MLCS Distribution Corporation; Remediation and Liability Management Company, Inc.; and Environmental Corporate Remediation Company, Inc., whether prior to or on and after the Effective Date.

1.47 **Demand** means a demand for payment that (i) was not a Claim during the Chapter 11 Cases, (ii) arises out of the same or similar conduct or events that gave rise to Asbestos Personal Injury Claims addressed by the Asbestos Trust, and (iii) is to be paid or otherwise addressed by the Asbestos Trust pursuant to the Plan.

1.48 **DIP Credit Agreement** means that certain Amended and Restated Superpriority Debtor-in-Possession Credit Agreement, dated as of July 10, 2009, as amended, among Motors Liquidation Company (f/k/a General Motors Corporation), as borrower, the Guarantors (as defined therein), and the United States Department of the Treasury and Export Development Canada, as lenders, and any of the documents and instruments relating thereto or referred to therein.

1.49 **DIP Credit Agreement Claims** means all Claims arising under the DIP Credit Agreement.

1.50 **DIP Lenders' Avoidance Actions** means any actions commenced, or that may be commenced, before or after the Effective Date pursuant to sections 544, 545, 547, 548, 549, 550, or 551 of the Bankruptcy Code, except (i) to the extent purchased by New GM under the MSPA or prohibited under the DIP Credit Agreement and (ii) for the Term Loan Avoidance Action.

1.51 **DIP Lenders' Avoidance Assets** means the collections, if any, realized on the settlement or resolution of any Avoidance Actions other than the Term Loan Avoidance Actions.

1.52 **Disclosure Statement** means the disclosure statement relating to the Plan, including, without limitation, all exhibits thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code.

1.53 **Disputed** means, with respect to any Claim (other than an Asbestos Personal Injury Claim) that has not been Allowed pursuant to the Plan or a Final Order,

(a) if no proof of Claim has been filed by the applicable deadline: a Claim (other than an Asbestos Personal Injury Claim) that has been or hereafter is listed on the Schedules as other than disputed, contingent, or unliquidated, but as to which the Debtors or any other party in interest has interposed an objection or request for estimation which has not been withdrawn or determined by a Final Order; or

(b) if a proof of Claim or request for payment of an Administrative Expense has been filed by the applicable deadline: (i) a Claim for which no corresponding Claim has been or hereafter is listed on the Schedules, (ii) a Claim for which a corresponding Claim has been or hereafter is listed on the Schedules as other than disputed, contingent, or unliquidated, but the nature or amount of the Claim as asserted in the proof of Claim varies from the nature and amount of such Claim as listed on the Schedules, (iii) a Claim for which a corresponding Claim has been or hereafter is listed on the Schedules as disputed, contingent, or unliquidated, or (iv) a Claim for which a timely objection or request for estimation is interposed by the Debtors or other authorized Entity which has not been withdrawn or determined by a Final Order. Any Claim expressly allowed by a Final Order, pursuant to the Claim Settlement Procedures or hereunder, shall be an Allowed Claim, not a Disputed Claim.

For the avoidance of doubt, if no proof of Claim has been filed by the applicable deadline and the Claim (other than an Asbestos Personal Injury Claim) has been or hereafter is listed on the Schedules as disputed, contingent, or unliquidated, such Claim shall not be valid and shall be disregarded.

1.54 **Distribution Record Date** means five (5) Business Days after the Effective Date.

1.55 **District Court** means the United States District Court for the Southern District of New York having jurisdiction over the Chapter 11 Cases.

1.56 **EDC** means the Government of Canada and the Government of Ontario, through Export Development Canada, Canada's export trading agency.

1.57 **Effective Date** means a Business Day on or after the Confirmation Date specified by the Debtors on which the conditions to the effectiveness of the Plan specified in Section 9.2 hereof have been satisfied or otherwise effectively waived. The Debtors shall file a notice of the Effective Date with the Bankruptcy Court and with the Securities and Exchange Commission. The Debtors and/or the Creditors' Committee shall issue a press release regarding the Effective Date.

1.58 **ENCORE** means Environmental Corporate Remediation Company, Inc., a Delaware corporation, as debtor or debtor in possession, as the context requires.

1.59 **Encumbrance** means, with respect to any asset, any mortgage, lien, pledge, charge, security interest, assignment, or encumbrance of any kind or nature in respect of such asset (including, without limitation, any conditional sale or other title retention agreement, any security agreement, and the filing of, or agreement to give, any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction).

1.60 **Entity** means an individual, corporation, partnership, limited liability company, association, joint stock company, joint venture, estate, trust, unincorporated organization, or government or any political subdivision thereof, or other Person or entity.

1.61 **Environmental Action** means any response, removal, investigation, sampling, remediation, reclamation, closure, post-closure, corrective action, engineering controls, institutional controls, deed restrictions, oversight costs and operation, monitoring, and maintenance activities authorized or required under law with respect to a Property.

1.62 **Environmental Laws** means any federal, state, or local laws, including ordinances, statutes, common law, codes, rules, regulations, orders, or decrees, now or hereinafter in effect, relating to (i) pollution, (ii) the protection or regulation of human health, natural resources, or the environment, (iii) the management of hazardous materials, or (iv) the release of hazardous materials into the environment.

1.63 **Environmental Response Trust** means the Environmental Response Trust established under the Plan in accordance with the Environmental Response Trust Agreement and the Environmental Response Trust Consent Decree and Settlement Agreement.

1.64 Environmental Response Trust Administrative Funding Account means the funding held by the Environmental Response Trust for the administration of the Environmental Response Trust, including property taxes, liability insurance, security, demolition costs, other plant wind-down costs, and any obligations imposed on the Environmental Response Trust or the Environmental Response Trust Administrative Trustee pursuant to the Plan, including expenses relating to the performance of the Environmental Response Trust Administrative Trustee's obligations under the Environmental Response Trust Agreement and Section 6.4 hereof. The funding of the Environmental Response Trust Administrative Funding Account and the management of such funding shall be as provided in the Environmental Response Trust Consent Decree and Settlement Agreement.

1.65 Environmental Response Trust Administrative Trustee means the trustee or trustees designated to serve in a fiduciary capacity consistent with, and in furtherance of, the Environmental Response Trust, pursuant to the terms of the Environmental Response Trust Agreement or as subsequently may be appointed pursuant to the terms of the Environmental Response Trust Agreement.

1.66 Environmental Response Trust Agreement means that certain Environmental Response Trust Agreement executed by MLC, the Governmental Authorities, the United States, and the Environmental Response Trust Administrative Trustee, substantially in the form included in the Plan Supplement.

1.67 Environmental Response Trust Assets means the Environmental Response Trust Administrative Funding Account and the assets transferred to the Environmental Response Trust in accordance with the Plan, the Environmental Response Trust Agreement, and the Environmental Response Trust Consent Decree and Settlement Agreement, but shall not include any New GM Securities. The Environmental Response Trust Assets shall be comprised of (i) Cash in the amount of $____ million, (ii) the Properties, (iii) personal property, including equipment, related to certain of the Properties set forth on Attachment A to the Environmental Response Trust Consent Decree and Settlement Agreement, (iv) all leases of manufacturing facilities with New GM, and (v) all property management contracts and contracts related to the Environmental Actions relating to the Properties that the Debtors and the Environmental Response Trust Administrative Trustee agree should be assumed by the Environmental Response Trust.

1.68 Environmental Response Trust Consent Decree and Settlement Agreement means that certain Consent Decree and Settlement Agreement among the Debtors, the Environmental Response Trust Administrative Trustee, the United States, certain States, and the St. Regis Mohawk Tribe establishing an Environmental Response Trust for certain Property in Delaware, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia, and Wisconsin, executed by MLC and the Governmental Authorities, in the form included in the Plan Supplement.

1.69 **Environmental Response Trust Parties** means the Environmental Response Trust, the Environmental Response Trust Administrative Trustee, and the Environmental Response Trust's officers, directors, employees, consultants, agents, or other professionals or representatives employed by the Environmental Response Trust or the Environmental Response Trust Administrative Trustee.

1.70 **Environmental Response Trust Transfer Date** means the date on which the Environmental Response Trust Assets are transferred to the Environmental Response Trust, which transfer shall occur on the Effective Date.

1.71 **Equity Interest** means the interest of any holder of an equity security of any of the Debtors, or any direct or indirect subsidiaries of the Debtors, represented by any issued and outstanding shares of common or preferred stock or other instrument evidencing a present ownership interest in any of the Debtors, or any direct or indirect subsidiaries of the Debtors, whether or not transferable, or any option, warrant, or right, contractual or otherwise, to acquire any such interest.

1.72 **Eurobond Claim** means a Claim against any of the Debtors arising under or in connection with any of the respective notes, bonds, or debentures issued under (i) that certain Fiscal and Paying Agency Agreement, dated as of July 3, 2003, among MLC, Deutsche Bank AG London, and Banque Générale du Luxembourg S.A., (ii) that certain Fiscal and Paying Agency Agreement, dated as of July 10, 2003, among General Motors Nova Scotia Finance Company, MLC, Deutsche Bank Luxembourg S.A., and Banque Générale du Luxembourg S.A., and (iii) that certain Bond Purchase and Paying Agency Agreement, dated May 28, 1986, between General Motors Corporation and Credit Suisse.

1.73 **Final Order** means an order or judgment of the Bankruptcy Court entered by the Clerk of the Bankruptcy Court on the docket in the Chapter 11 Cases which has not been reversed, vacated, or stayed and as to which (i) the time to appeal, petition for *certiorari*, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceeding for a new trial, reargument, or rehearing shall then be pending, or (ii) if an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument, or rehearing shall have expired. The susceptibility of a Claim to a challenge under section 502(j) of the Bankruptcy Code shall not render a Final Order not a Final Order.

1.74 **Future Claimants' Representative** means Dean M. Trafalet, the Legal Representative for Future Claimants appointed pursuant to the order dated and entered by the Bankruptcy Court on April 8, 2010.

1.75 **General Unsecured Claim** means any Claim against any of the Debtors that is (i) not an Administrative Expense, Priority Tax Claim, Secured Claim, Priority

Non-Tax Claim, Asbestos Personal Injury Claim, or Property Environmental Claim or (ii) otherwise determined by the Bankruptcy Court to be a General Unsecured Claim. Upon settlement or determination by Final Order of the Asbestos Trust Claim, the Asbestos Trust Claim shall be treated as an Allowed General Unsecured Claim in Class 3 for purposes of distribution from the GUC Trust and the Avoidance Action Trust, as applicable; *provided, however*, that any General Unsecured Claims reserved in the Environmental Response Trust Consent Decree and Settlement Agreement are General Unsecured Claims.

1.76 Governmental Authorities means the United States of America, on behalf of the Environmental Protection Agency; the States of Delaware, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia, Wisconsin; and the Saint Regis Mohawk Tribe, each as parties to the Environmental Response Trust Consent Decree and Settlement Agreement.

1.77 GUC Trust means the trust established under the Plan in accordance with the GUC Trust Agreement.

1.78 GUC Trust Administrator means the entity appointed by the Creditors' Committee with the consent of the Debtors to serve as administrator of the GUC Trust, pursuant to the terms of the GUC Trust Agreement, or as subsequently may be appointed pursuant to the terms of the GUC Trust Agreement. The identity of the GUC Trust Administrator shall be disclosed in the Plan Supplement.

1.79 GUC Trust Administrative Fund means the fund established, held, and maintained by the GUC Trust Administrator for the purpose of paying the expenses incurred by the GUC Trust Administrator (including fees and expenses for professionals retained by the GUC Trust) in connection with the GUC Trust and any obligations imposed on the GUC Trust Administrator or the GUC Trust, including expenses relating to the performance of the GUC Trust Administrator's obligations under the GUC Trust Agreement and Section 6.2 hereof. The Debtors shall deposit $__ million into the GUC Trust Administrative Fund on the GUC Trust Transfer Date.

1.80 GUC Trust Agreement means that certain GUC Trust Agreement executed by the Debtors and the GUC Trust Administrator, substantially in the form included in the Plan Supplement.

1.81 GUC Trust Assets means the (i) GUC Trust Administrative Fund (comprised of Cash in the amount of $_____) and (ii) New GM Securities.

1.82 GUC Trust Monitor means the entity appointed by the Creditors' Committee with the consent of the Debtors to oversee the GUC Trust, pursuant to the terms of the GUC Trust Agreement, or as subsequently may be appointed pursuant to the terms of the GUC Trust Agreement. The identity of the GUC Trust Monitor shall be disclosed in the Plan Supplement.

1.83 **GUC Trust Transfer Date** means the date on which the GUC Trust Assets are transferred to the GUC Trust, which transfer shall occur on the Effective Date, or as soon thereafter as is reasonably practicable, but shall be no later than December 15, 2011.

1.84 **GUC Trust Units** means the units of beneficial interests in the GUC Trust.

1.85 **Indentures** means (i) the Indenture, dated as of November 15, 1990, between General Motors Corporation, as issuer, and Wilmington Trust Company, as successor-in-interest Indenture Trustee to Citibank, N.A., as such Indenture may have been amended, supplemented, or modified, pursuant to which (a) $299,795,000 of 9.40% Debentures due July 15, 2021 were issued on July 22, 1991, (b) $600,000,000 of 8.80% Notes due March 1, 2021 were issued on March 12, 1991, (c) $500,000,000 of 7.40% Debentures due September 1, 2025 were issued on September 11, 1995, (d) $15,000,000 of 9.40% Medium Term Notes due July 15, 2021 were issued on July 22, 1991, and (e) $48,175,000 of 9.45% Medium Term Notes due November 1, 2011 were issued on December 21, 1990, (ii) the Indenture, dated as of December 7, 1995, between General Motors Corporation, as issuer, and Wilmington Trust Company, as successor-in-interest Indenture Trustee to Citibank, N.A., as such Indenture may have been amended, supplemented, or modified, pursuant to which (a) $377,377,000 of 7.75% Discount Debentures due March 15, 2036 were issued on March 20, 1996, (b) $500,000,000 of 7.70% Debentures due April 15, 2016 were issued on April 15, 1996, (c) $400,000,000 of 8.10% Debentures due June 15, 2024 were issued on June 10, 1996, (d) $600,000,000 of 6.75% Debentures due May 1, 2028 were issued on April 29, 1998, (e) $1,500,000,000 of 7.20% Notes due January 15, 2011 were issued on January 11, 2001, (f) $575,000,000 of 7.25% Quarterly Interest Bonds due April 15, 2041 were issued on April 30, 2001, (g) $718,750,000 of 7.25% Senior Notes due July 15, 2041 were issued on July 9, 2001, (h) $690,000,000 of 7.375% Senior Notes due October 1, 2051 were issued on October 3, 2001, (i) $875,000,000 of 7.25% Senior Notes due February 15, 2052 were issued on February 14, 2002, (j) $1,150,000,000 of 4.50% Series A Convertible Senior Debentures due March 6, 2032 were issued on March 6, 2002, (k) $2,600,000,000 of 5.25% Series B Convertible Senior Debentures due March 6, 2032 were issued on March 6, 2002, (l) $1,115,000,000 of 7.375% Senior Notes due May 15, 2048 were issued on May 19, 2003, (m) $425,000,000 of 7.375% Senior Notes due May 23, 2048 were issued on May 23, 2003, (n) $3,000,000,000 of 8.375% Senior Debentures due July 15, 2033 were issued on July 3, 2003, (o) $4,300,000,000 of 6.25% Series C Convertible Senior Debentures due July 15, 2033 were issued on July 2, 2003, (p) $1,250,000,000 of 8.250% Senior Debentures due July 15, 2023 were issued on July 3, 2003, (q) $1,000,000,000 of 7.125% Senior Notes due July 15, 2013 were issued on July 3, 2003, (r) $ 720,000,000 of 7.50% Senior Notes due July 1, 2044 were issued on June 30, 2004, and (s) $1,500,000,000 of 1.50% Series D Convertible Senior Debentures due June 1, 2009 were issued on May 31, 2007, (iii) the Trust Indenture, dated as of July 1, 1995, between Michigan Strategic Fund and Law Debenture, as successor-in-interest Trustee to Dai-Ichi Kangyo Trust Company of New York, as such Indenture may have been amended, supplemented, or modified,

related to $58,800,000 Michigan Strategic Fund Multi-Modal Interchangeable Rate Pollution Control Refunding Revenue Bonds Series 1995, (iv) the Indenture of Trust, dated as of July 1, 1994, between City of Moraine, Ohio and Law Debenture, as successor-in-interest Trustee to Dai-Ichi Kangyo Trust Company of New York, as such Indenture may have been amended, supplemented, or modified, related to $12,500,000 Solid Waste Disposal Revenue Bonds (General Motors Corporation Project) Series 1994, (v) the Indenture, dated as of July 1, 1999, between City of Moraine, Ohio and Law Debenture, as successor-in-interest Trustee to Dai Ichi Kangyo Trust Company of New York, as such Indenture may have been amended, supplemented, or modified, related to $10,000,000 Solid Waste Disposal Revenue Bonds (General Motors Project), Series 1999, (vi) the Trust Indenture, dated as of December 1, 2002, between City of Fort Wayne, Indiana and Law Debenture, as successor-in-interest Trustee to JPMorgan Chase Bank, and Bank One Trust Company, N.A., as Co-Trustee, as such Indenture may have been amended, supplemented, or modified, related to $31,000,000 City of Fort Wayne, Indiana Pollution Control Revenue Bonds (General Motors Corporation Project), Series 2002, (vii) the Trust Indenture, dated as of March 1, 2002, between Ohio Water Development Authority and Law Debenture, as successor-in-interest Trustee to JPMorgan Chase Bank, as such Indenture may have been amended, supplemented, or modified, related to $20,040,000 State of Ohio Pollution Control Refunding Revenue Bonds (General Motors Corporation Project), Series 2002, (viii) the Indenture of Trust, dated as of December 1, 2002, between Ohio Water Development Authority and Law Debenture, as successor-in-interest Trustee to JPMorgan Chase Bank, as such Indenture may have been amended, supplemented, or modified, related to $46,000,000 State of Ohio Solid Waste Revenue Bonds, Series 2002 (General Motors Corporation Project), and (ix) the Trust Indenture, dated as of April 1, 1984, among City of Indianapolis, Indiana and Law Debenture, as successor-in-interest Trustee to Bankers Trust Company, and the Indiana National Bank, as Co-Trustee, as such Indenture may have been amended, supplemented, or modified, relating to $1,400,000 City of Indianapolis, Indiana Pollution Control Revenue Bonds (General Motors Corporation Project), Series 1984.

1.86 Indenture Trustees means the trustees, co-trustees, agents, paying agents, distribution agents, authenticating agents, registrars, and bond registrars under the respective Indentures, and any and all successors or predecessors thereto.

1.87 Indenture Trustee Reserve Cash means sufficient Cash for the Indenture Trustees to administer distributions to Registered Holders as contemplated by the Plan, including all reasonable fees and expenses related thereto (including the reasonable fees and expenses of the respective counsel, advisors, and/or agents of the Indenture Trustees), and to compensate for any loss, liability, or reasonable expenses incurred without negligence or bad faith on the part of the Indenture Trustees, arising out of or in connection with the performance of their duties under the Indentures, including the reasonable costs and expenses of defending themselves against any claim of liability, from Registered Holders or otherwise, related thereto.

1.88 Indirect Asbestos Claim means any Claim or remedy, liability, or Demand against the Debtors now existing or hereafter arising, whether or not such Claim,

remedy, liability, or Demand is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, whether or not the facts of or legal bases for such Claim, remedy, liability, or Demand are known or unknown, that is (i) (A) held by (I) any Entity (other than a director or officer entitled to indemnification pursuant to Section 12.5 hereof) who has been, is, or may be a defendant in an action seeking damages for (a) death, bodily injury, sickness, disease, or other personal injuries (whether physical, emotional, or otherwise) to the extent caused or allegedly caused, directly or indirectly, by exposure to asbestos or asbestos-containing products or (b) property damage, including but not limited to, the cost of inspecting, maintaining, encapsulating, repairing, decontaminating, removing, or disposing of asbestos or asbestos-containing products in buildings, other structures, or other property, to the extent caused or allegedly caused, directly or indirectly, by the presence of or exposure (whether prior to or after the Commencement Date) to asbestos or asbestos-containing products or things that are or were installed, engineered, designed, manufactured, fabricated, constructed, sold, supplied, produced, specified, selected, distributed, released, marketed, serviced, maintained, repaired, purchased, owned, occupied, used, removed, replaced, or disposed by the Debtors or an Entity for whose products or operations the Debtors allegedly have liability or for which the Debtors are otherwise allegedly liable, or (II) any assignee or transferee of such Entity, and (B) on account of alleged liability of the Debtors for reimbursement, indemnification, subrogation, or contribution of any portion of any damages such Entity has paid or may pay to the plaintiff in such action, or (ii) held by any Entity that is seeking reimbursement indemnification, subrogation, or contribution from the Debtors with respect to any surety bond, letter of credit, or other financial assurance issued by any Entity on account of, or with respect to, Asbestos Claims.

1.89 **Initial Debtors** means MLC; MLC of Harlem, Inc. (f/k/a Chevrolet-Saturn of Harlem, Inc.); MLCS, LLC (f/k/a Saturn, LLC); and MLCS Distribution Corporation (f/k/a Saturn Distribution Corporation).

1.90 **MLC** means Motors Liquidation Company (f/k/a General Motors Corporation), a Delaware corporation, the parent debtor or debtor in possession, as the context requires.

1.91 **MSPA** means that certain Amended and Restated Master Sale and Purchase Agreement, by and among General Motors Corporation and its debtor subsidiaries, as Sellers, and NGMCO, Inc., as successor in interest to Vehicle Acquisition Holdings LLC, a purchaser sponsored by the U.S. Treasury, as Purchaser, dated as of June 26, 2009, together with all related documents and agreements as well as all exhibits, schedules, and addenda thereto, as amended, restated, modified, or supplemented from time to time.

1.92 **New GM** means General Motors Company (formerly known as General Motors Holding Company), a Delaware corporation formed as part of that certain holding company reorganization that occurred on October 19, 2009, pursuant to which all of the outstanding shares of common stock and preferred stock of the prior General Motors

Company (now known as "**General Motors, LLC**") were exchanged on a one-for-one basis for shares of common stock and preferred stock of the newly organized holding company that now bears the name General Motors Company. General Motors Company has a 100% ownership interest in General Motors Holdings LLC, a Delaware limited liability company, and General Motors, LLC is a direct wholly-owned subsidiary of General Motors Holdings LLC.

1.93 **New GM Securities** means the New GM Stock and the New Warrants, each of which was received as consideration pursuant to the 363 Transaction as embodied in the MSPA.

1.94 **New GM Stock** means the stock of New GM, including any additional shares issued if the Bankruptcy Court determines that the estimated amount of (i) Allowed General Unsecured Claims against the Initial Debtors and (ii) the Allowed Asbestos Trust Claim against the Initial Debtors collectively exceeds $35 billion.

1.95 **New Warrants** means (i) the warrants to acquire 45,454,545 newly issued shares of New GM Stock, with an exercise price set at $30.00 per share, and (ii) the warrants to acquire 45,454,545 newly issued shares of New GM Stock, with an exercise price set at $55.00 per share.

1.96 **Note Claim** means a Claim against any of the Debtors arising under or in connection with any Indenture and the respective notes, bonds, or debentures issued thereunder, excluding the fees and expenses of the Indenture Trustees, which reasonable fees and expenses shall be paid pursuant to Section 2.5 hereof.

1.97 **Person** has the meaning set forth in section 101(41) of the Bankruptcy Code.

1.98 **Plan** means this chapter 11 plan, as the same may be amended, supplemented, or modified from time to time in accordance with the provisions of the Bankruptcy Code and the terms hereof.

1.99 **Plan Supplement** means the forms of documents, in a form reasonably acceptable to the U.S .Treasury, the Creditors' Committee, the Asbestos Claimants' Committee, and the Future Claimants' Representative, to the extent such document affects the respective party, effectuating the transactions contemplated by this Plan, which documents shall be filed with the Clerk of the Bankruptcy Court no later than ten (10) days prior to the Confirmation Hearing. Upon its filing with the Bankruptcy Court, the Plan Supplement may be inspected at the Office of the Clerk of the Bankruptcy Court during normal court hours. Holders of Claims and Equity Interests may obtain a copy of the Plan Supplement upon written request to the undersigned counsel. Copies of the Plan Supplement also are available on the Voting Agent's website, www.motorsliquidationdocket.com.

1.100 **Post-Effective Date MLC** means MLC on and after the Effective Date.

1.101 Priority Non-Tax Claim means any Claim, other than an Administrative Expense or a Priority Tax Claim, entitled to priority in payment as specified in section 507(a)(3), (4), (5), (6), (7), or (9) of the Bankruptcy Code.

1.102 Priority Order Sites means the non-owned sites, as set forth on Exhibit "A" hereto, that are subject to an order requiring performance of an Environmental Action.

1.103 Priority Order Sites Consent Decrees and Settlement Agreements means the Consent Decrees and Settlement Agreements to be filed with the Bankruptcy Court in respect of the Priority Order Sites.

1.104 Priority Tax Claim means any Claim of a governmental unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code other than Priority Tax Claims that New GM is liable for under the MSPA.

1.105 Pro Rata Share means the ratio (expressed as a percentage) of (i) the amount of any Allowed Claim in a particular Class to (ii) the sum of (x) the aggregate amount of Allowed Claims in such Class and (y) the aggregate amount of Disputed Claims in such Class.

1.106 Property or Properties means (i) the properties set forth on Attachment A to the Environmental Response Trust Consent Decree and Settlement Agreement and (ii) the Priority Order Sites.

1.107 Property Environmental Claim means any civil Claim or Cause of Action by the Governmental Authorities against the Debtors under Environmental Laws with respect to the Properties except for any General Unsecured Claim reserved in the Environmental Response Trust Consent Decree and Settlement Agreement or the Priority Order Sites Consent Decrees and Settlement Agreements.

1.108 Protected Party means (i) the Debtors, (ii) any Entity that, pursuant to the Plan or after the Effective Date, becomes a direct or indirect transferee of, or successor to, any assets of the Debtors (including, without limitation, the GUC Trust, the Environmental Response Trust, the Avoidance Action Trust, the GUC Trust Administrator, the Environmental Response Trust Administrative Trustee, the Avoidance Action Trust Administrator, the GUC Trust Monitor, the Avoidance Action Trust Monitor, and their respective professionals) or the Asbestos Trust (but only to the extent that liability is asserted to exist by reason of its becoming such a transferee or successor), (iii) the holders of DIP Credit Agreement Claims, (iv) any Entity that, pursuant to the Plan or after the Effective Date, makes a loan to the Debtors, Post-Effective Date MLC, or the Asbestos Trust, or to a successor to, or transferee of, any assets of the Debtors or the Asbestos Trust (but only to the extent that liability is asserted to exist by reason of such Entity's becoming such a lender or to the extent any pledge of assets made in connection with such a loan is sought to be upset or impaired), or (v) any Entity to the

extent he, she, or it is alleged to be directly or indirectly liable for the conduct of, Claims against, or Demands on the Debtors or the Asbestos Trust on account of Asbestos Personal Injury Claims by reason of one or more of the following: (a) such Entity's ownership of a financial interest in the Debtors, a past or present affiliate of the Debtors, or a predecessor in interest of the Debtors, (b) such Entity's involvement in the management of the Debtors or any predecessor in interest of the Debtors, (c) such Entity's service as an officer, director, or employee of the Debtors, any past or present affiliate of the Debtors, any predecessor in interest of the Debtors, or any Entity that owns or at any time has owned a financial interest in the Debtors, any past or present affiliate of the Debtors, or any predecessor in interest of the Debtors, (d) such Entity's provision of insurance to the Debtors, any past or present affiliate of the Debtors, any predecessor in interest of the Debtors, or any Entity that owns or at any time has owned a financial interest in (I) the Debtors, (II) any past or present affiliate of the Debtors, or (III) any predecessor in interest of the Debtors, but only to the extent that the Debtors or the Asbestos Trust enters into a settlement with such Entity that is approved by the Bankruptcy Court and expressly provides that such Entity shall be a Protected Party under the Plan, or (e) such Entity's involvement in a transaction changing the corporate structure, or in a loan or other financial transaction affecting the financial condition, of the Debtors, any past or present affiliate of the Debtors, any predecessor in interest of the Debtors, or any Entity that owns or at any time has owned a financial interest in the Debtors, any past or present affiliate of the Debtors, or any predecessor in interest of the Debtors.

1.109 REALM means Remediation and Liability Management Company, Inc., a Michigan corporation, as debtor or debtor in possession, as the context requires.

1.110 Registered Holder means the registered holders (or bearers, if applicable) of the securities issued pursuant to the Indentures.

1.111 Residual Wind-Down Assets means the Cash necessary to fund the resolution of Administrative Expenses, Priority Tax Claims, Priority Non-Tax Claims, and Secured Claims, and the Cash reserved to pay such Administrative Expenses and Claims. If the Debtors have not resolved and paid all of the foregoing Claims and Administrative Expenses by the date of MLC's dissolution, then the Residual Wind-Down Assets (including the power to object, settle, and or satisfy such Claims and Administrative Expenses) shall be transferred to the GUC Trust.

1.112 Schedules means the schedules of assets and liabilities and the statements of financial affairs filed by the Debtors under section 521 of the Bankruptcy Code, Bankruptcy Rule 1007, and the Official Bankruptcy Forms of the Bankruptcy Rules as such schedules and statements have been or may be supplemented or amended through the Confirmation Date.

1.113 Secured Claim means a Claim (i) secured by Collateral, to the extent of the value of such Collateral (A) as set forth in the Plan, (B) as agreed to by the holder of such Claim and the Debtors, or (C) as determined by a Final Order in accordance with

section 506(a) of the Bankruptcy Code, or (ii) secured by the amount of any valid rights of setoff of the holder thereof under section 553 of the Bankruptcy Code.

1.114 Solicitation Procedures means the procedures relating to the solicitation and tabulation of votes with respect to the Plan.

1.115 Tax Code means title 26 of the United States Code, as amended from time to time.

1.116 Term Loan Avoidance Action means the Avoidance Action commenced by the Creditors' Committee against JPMorgan Chase Bank, N.A., individually and as Administrative Agent, and various lenders party to a term loan agreement, dated as of November 29, 2006, between General Motors Corporation, as borrower, JPMorgan Chase Bank, N.A., as agent, and various institutions as lenders and agents, styled *Official Committee of Unsecured Creditors of Motors Liquidation Co. v. JPMorgan Chase Bank, N.A. et al.*, Adv. Pro. No. 09-00504 (Bankr. S.D.N.Y. July 31, 2009).

1.117 Unliquidated Litigation Claim means a General Unsecured Claim that qualifies for reconciliation pursuant to the ADR Procedures, regardless of whether the Claim is filed in an unliquidated amount, until it becomes an Allowed Claim.

1.118 U.S Treasury means the United States Department of the Treasury.

1.119 U.S. Trustee means the United States Trustee for the Southern District of New York.

1.120 Voting Deadline means the date set by the Bankruptcy Court by which all completed Ballots must be received.

INTERPRETATION; APPLICATION OF DEFINITIONS AND RULES OF CONSTRUCTION.

The words "herein," "hereof," "hereto," "hereunder," and other words of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained therein. A term used herein that is not defined herein shall have the meaning assigned to that term in the Bankruptcy Code. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the Plan. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof.

ARTICLE II.

ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS

2.1 Administrative Expenses. Except to the extent that a holder of an Allowed Administrative Expense agrees to a different treatment or as provided in the subsequent sentence of this Section, on the Effective Date, or as soon thereafter as is reasonably practicable, the Debtors shall pay to each holder of an Allowed

Administrative Expense, in full satisfaction of such Allowed Administrative Expense, an amount in Cash equal to the Allowed amount of such Administrative Expense. Notwithstanding the foregoing, any and all liabilities of the Debtors to the Governmental Authorities under Environmental Laws associated with the Properties that otherwise would constitute Administrative Expenses shall be treated and satisfied by and in accordance with the terms of the Environmental Response Trust Consent Decree and Settlement Agreement and the Priority Order Sites Consent Decrees and Settlement Agreements.

2.2 Compensation and Reimbursement Claims. All entities seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is thirty (30) days after the Confirmation Date, and (ii) shall be paid in full in such amounts as are allowed by the Bankruptcy Court (A) on the date on which the order relating to any such Administrative Expense is entered or (B) upon such other terms as may be mutually agreed upon between the holder of such an Administrative Expense and the Debtors.

2.3 Priority Tax Claims. Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a different treatment, on the Effective Date, or as soon thereafter as is reasonably practicable, the Debtors shall pay to each holder of an Allowed Priority Tax Claim, in full satisfaction of such Claim, an amount in Cash equal to the Allowed amount of such Claim. Priority Tax Claims that New GM is liable for under the MSPA shall be the responsibility of New GM and shall receive no distribution under the Plan.

2.4 DIP Credit Agreement Claims. The lenders under the DIP Credit Agreement shall have an Allowed Administrative Expense for the total amount due under the DIP Credit Agreement as of the Effective Date, ratably in accordance with their respective interests in the DIP Credit Agreement Claims, subject to any applicable provisions of paragraph 5 of the Final Order approving the DIP Credit Agreement. The Debtors shall pay on account of the amounts outstanding under the DIP Credit Agreement an amount equal to all Cash and Cash equivalents, if any, remaining after funding all obligations and amounts to be funded under the Plan (including the GUC Trust Administrative Fund, the Asbestos Trust, the Environmental Response Trust Administrative Account, the Avoidance Action Trust Administrative Cash, and the Indenture Trustee Reserve Cash, and such amounts necessary to satisfy payment of and funding to reconcile Administrative Expenses, Priority Tax Claims, Priority Non-Tax Claims, and Secured Claims) and shall distribute beneficial interests in the Environmental Response Trust to the lenders under the DIP Credit Agreement. To the extent it is determined that the lenders under the DIP Credit Agreement are entitled to any proceeds of the Term Loan Avoidance Action and the Asbestos Insurance Assets either by (i) mutual agreement between the U.S. Treasury and the Creditors' Committee prior to the Effective Date, (ii) mutual agreement between the U.S. Treasury and the GUC Trust

Administrator on or after the Effective Date, or (iii) Final Order, the lenders under the DIP Credit Agreement shall receive the proceeds of the Term Loan Avoidance Action and/or the Asbestos Insurance Assets in accordance with Sections 4.3 and 6.5 hereof and the Avoidance Action Trust Agreement. Notwithstanding anything to the contrary in the Plan, if any Collateral provided under the DIP Credit Agreement (including the DIP Lenders' Avoidance Assets) is not distributed pursuant to the Plan, such Collateral shall be distributed to lenders under the DIP Credit Agreement ratably in accordance with their respective interests in the DIP Credit Agreement Claims. Notwithstanding anything herein to the contrary, the lenders under the DIP Credit Agreement shall have the sole right to collect on, prosecute, designate another party to prosecute, assign, or waive the DIP Lenders' Avoidance Actions and the sole right to recover from or assign the DIP Lenders' Avoidance Assets.

2.5 Special Provisions Regarding Indenture Trustees' Fees and Expenses. The reasonable prepetition and postpetition fees and expenses of each of the Indenture Trustees (which includes the reasonable fees and expenses of any counsel and/or other professionals retained by the Indenture Trustees) shall be deemed Allowed Administrative Expenses and shall be paid in Cash on the Effective Date, or as soon thereafter as is reasonably practicable, upon submission of documented invoices to the Debtors and the Creditors' Committee, subject to a review for reasonableness by the Debtors and representatives of the members of the Creditors' Committee who are not Indenture Trustees, without the necessity of making application to the Bankruptcy Court. Subject to Section 6.7 hereof, each Indenture Trustee's charging lien will be discharged solely upon payment in full of the respective fees and expenses of the Indenture Trustees and termination of the respective Indenture Trustee's duties. Nothing herein shall be deemed to impair, waive, or discharge the Indenture Trustees' respective charging liens for any fees and expenses not paid by the Debtors.

ARTICLE III.

CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

The following table designates the Classes of Claims against and Equity Interests in the Debtors and specifies which of those Classes are (i) impaired or unimpaired by the Plan, (ii) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, and (iii) deemed to reject the Plan:

Class	Designation	Impairment	Entitled to Vote
Class 1	Secured Claims	Unimpaired	No (deemed to accept)
Class 2	Priority Non-Tax Claims	Unimpaired	No (deemed to accept)
Class 3	General Unsecured Claims	Impaired	Yes
Class 4	Property Environmental Claims	Unimpaired	No (deemed to accept)
Class 5	Asbestos Personal Injury Claims	Impaired	Yes
Class 6	Equity Interests in MLC	Impaired	No (deemed to reject)

For convenience of identification, the Plan classifies the Allowed Claims in Class 1 as a single Class. This Class is actually a group of subclasses, depending on the underlying property securing such Allowed Claims, and each subclass is treated hereunder as a distinct Class for voting and distribution purposes.

ARTICLE IV.

TREATMENT OF CLAIMS AND EQUITY INTERESTS

4.1 Class 1 – Secured Claims. Except to the extent that a holder of an Allowed Secured Claim agrees to a different treatment of such Claim, on the Effective Date, or as soon thereafter as is reasonably practicable, each holder of an Allowed Secured Claim shall receive, at the option of the Debtors, and in full satisfaction of such Claim, either (i) Cash in an amount equal to one hundred percent (100%) of the unpaid amount of such Allowed Secured Claim, (ii) the proceeds of the sale or disposition of the Collateral securing such Allowed Secured Claim, net of the costs of disposition of such Collateral, (iii) the Collateral securing such Allowed Secured Claim, (iv) such treatment that leaves unaltered the legal, equitable, and contractual rights to which the holder of such Allowed Secured Claim is entitled, or (v) such other distribution as necessary to satisfy the requirements of section 1129 of the Bankruptcy Code. In the event a Secured Claim is treated under clause (i) or (ii) of this Section, the liens securing such Secured Claim shall be deemed released.

4.2 Class 2 - Priority Non-Tax Claims. Except to the extent that a holder of an Allowed Priority Non-Tax Claim agrees to a different treatment of such Claim, on the Effective Date, or as soon thereafter as is reasonably practicable, each such holder shall receive, in full satisfaction of such Claim, an amount in Cash equal to the Allowed amount of such Claim.

4.3 Class 3 - General Unsecured Claims.

(a) As soon as is reasonably practicable after the Effective Date (but no earlier than the first Business Day following the Distribution Record Date), each holder of an Allowed General Unsecured Claim as of the Distribution Record Date shall receive from the GUC Trust its Pro Rata Share of (i) the New GM Securities and (ii) the GUC Trust Units, in accordance with the terms of the GUC Trust and the GUC Trust

Agreement. The GUC Trust shall make subsequent distributions of New GM Securities and GUC Trust Units to holders of Disputed General Unsecured Claims as of the Distribution Record Date whose Claims are subsequently Allowed. The GUC Trust shall make additional distributions of New GM Securities to holders of GUC Trust Units in accordance with the terms of the GUC Trust and the GUC Trust Agreement.

(b) If any proceeds of the Term Loan Avoidance Action and/or the Asbestos Insurance Assets are received prior to the Avoidance Action Trust Transfer Date, then, to the extent it is determined that the holders of Allowed General Unsecured Claims are entitled to any proceeds of the Term Loan Avoidance Action and the Asbestos Insurance Assets, either by (i) mutual agreement between the U.S. Treasury and the Creditors' Committee prior to the Effective Date, (ii) mutual agreement between the U.S. Treasury and the GUC Trust Administrator on or after the Effective Date, or (iii) Final Order, (A) each holder of an Allowed General Unsecured Claim as of the Distribution Record Date shall receive its Pro Rata Share of such proceeds, net of any expenses incurred by the Debtors on or after the Effective Date, and (B) the Debtors shall make subsequent distributions of the net proceeds of the Term Loan Avoidance Action and the Asbestos Insurance Assets to holders of Disputed General Unsecured Claims and Disputed Asbestos Personal Injury Claims as of the Distribution Record Date whose Claims are subsequently Allowed. Holders of Disputed General Unsecured Claims and Disputed Asbestos Personal Injury Claims on the Distribution Record Date whose Claims are subsequently Allowed prior to the initial distribution of proceeds of the Term Loan Avoidance Action and the Asbestos Insurance Assets shall be deemed to be holders of Allowed General Unsecured Claims as of the Distribution Record Date for the purpose of this Section 4.3(b).

(c) As soon as is reasonably practicable after the Avoidance Action Trust Transfer Date, to the extent it is determined that the holders of Allowed General Unsecured Claims are entitled to any proceeds of the Term Loan Avoidance Action and the Asbestos Insurance Assets, either by (i) mutual agreement between the U.S. Treasury and the Creditors' Committee prior to the Effective Date, (ii) mutual agreement between the U.S. Treasury and the GUC Trust Administrator on or after the Effective Date, or (iii) Final Order, (A) each holder of an Allowed General Unsecured Claim as of the Distribution Record Date shall receive from the Avoidance Action Trust, to the extent not already distributed, its Pro Rata Share of such proceeds in accordance with the terms of the Avoidance Action Trust and the Avoidance Action Trust Agreement and (B) the Avoidance Action Trust shall make subsequent distributions of any proceeds of the Term Loan Avoidance Action and the Asbestos Insurance Assets to holders of Disputed General Unsecured Claims and Disputed Asbestos Personal Injury Claims as of the Distribution Record Date whose Claims are subsequently Allowed. The Avoidance Action Trust shall make additional distributions of any proceeds of the Term Loan Avoidance Action and of the Asbestos Insurance Assets to the Avoidance Action Trust Beneficiaries in accordance with the terms of the Avoidance Action Trust and the Avoidance Action Trust Agreement. Holders of Disputed General Unsecured Claims and Disputed Asbestos Personal Injury Claims on the Distribution Record Date whose Claims

are subsequently Allowed prior to the Avoidance Action Trust Transfer Date shall be deemed to be holders of Allowed General Unsecured Claims as of the Distribution Record Date for the purpose of this Section 4.3(c).

(d) Holders of Unliquidated Litigation Claims, at the option of the Debtors or the GUC Trust Administrator, as applicable, shall be subject to the ADR Procedures in order to determine the Allowed amount of their respective General Unsecured Claims.

(e) The Note Claims shall be Allowed in the respective amounts listed next to each Indenture set forth in Exhibit "B" annexed hereto (the "**Fixed Allowed Note Claims**"). The Fixed Allowed Note Claims shall override and supersede any individual Claims filed by record or by beneficial holders of debt securities arising out of or relating to the Note Claims.

(f) The Eurobond Claims under (i) that certain Fiscal and Paying Agency Agreement, dated as of July 3, 2003, among MLC, Deutsche Bank AG London, and Banque Générale du Luxembourg S.A. shall be Allowed in the amount of $_____ , (ii) that certain Fiscal and Paying Agency Agreement, dated as of July 10, 2003, among General Motors Nova Scotia Finance Company, MLC, Deutsche Bank Luxembourg S.A., and Banque Générale du Luxembourg S.A. shall be Allowed in the amount of $_____, and (iii) that certain Bond Purchase and Paying Agency Agreement, dated May 28, 1986, between General Motors Corporation and Credit Suisse, shall be Allowed in the amount of $_____ (together, the "**Fixed Allowed Eurobond Claims**"). The Fixed Allowed Eurobond Claims shall override and supersede any individual Claims filed by record or by beneficial holders of debt securities arising out of or relating to the Eurobond Claims.

(g) Notwithstanding anything to the contrary in this Section 4.3, all proceeds of the Term Loan Avoidance Action and/or the Asbestos Insurance Assets shall be applied first to pay the U.S. Treasury (i) all amounts expended on and after the Effective Date to fund the costs and expenses associated with realizing such proceeds and (ii) without duplication, the amount of the Avoidance Action Trust Administrative Cash.

4.4 Class 4 – Property Environmental Claims. On the Effective Date, all Property Environmental Claims shall be satisfied and treated in accordance with the terms of the Environmental Response Trust Agreement, the Environmental Response Trust Consent Decree and Settlement Agreement, and the Priority Order Sites Consent Decrees and Settlement Agreements. All Property Environmental Claims are fully satisfied in accordance with the terms of the Environmental Response Trust Consent Decree and Settlement Agreement and the Priority Order Sites Consent Decrees and Settlement Agreements.

4.5 Class 5 – Asbestos Personal Injury Claims. On the Effective Date, or as soon thereafter as is reasonably practicable, all Asbestos Personal Injury Claims shall be channeled to the Asbestos Trust and all Asbestos Personal Injury Claims shall be satisfied in accordance with the terms of the Asbestos Trust, the Asbestos Trust Distribution

Procedures, and the Asbestos Trust Agreement. The sole recourse of the holders of Asbestos Personal Injury Claims shall be from the Asbestos Trust, and such holders shall have no right whatsoever at any time to assert their respective Asbestos Personal Injury Claims against any Protected Party, provided that, once Allowed, the Asbestos Trust Claim shall be entitled to the same distributions from the GUC Trust and the Avoidance Action Trust, as applicable, as an Allowed General Unsecured Claim in Class 3. Without limiting the foregoing, on the Effective Date, all Entities shall be permanently stayed, restrained, and enjoined from taking any of the following actions for the purpose of, directly or indirectly, collecting, recovering, or receiving payment of, on, or with respect to any Asbestos Personal Injury Claim (other than actions brought to enforce any right or obligation under the Plan, any Exhibits to the Plan, the Plan Supplement, or any other agreement or instrument between the Debtors and the Asbestos Trust, which actions shall be in conformity and compliance with the provisions hereof and other than the right of the Allowed Asbestos Trust Claim to receive distributions from the GUC Trust and the Avoidance Action Trust, as applicable): (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding (including, without limitation, a judicial, arbitral, administrative, or other proceeding) in any forum against any Protected Party or any property or interests in property of any Protected Party, (ii) enforcing, levying, attaching (including without limitation, any prejudgment attachment), collecting, or otherwise recovering by any means or in any manner, whether directly or indirectly, any judgment, award, decree, or other order against any Protected Party or any property or interests in property of any Protected Party, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Encumbrance against any Protected Party or any property or interests in property of any Protected Party, (iv) setting off, seeking reimbursement of, contribution from, or subrogation against, or otherwise recouping in any manner, directly or indirectly, any amount against any liability owed to any Protected Party or any property or interests in property of any Protected Party, and (v) proceeding in any manner in any place with regard to any matter that is subject to resolution pursuant to the Asbestos Trust Agreement, except in conformity and compliance therewith.

4.6 Class 6 - Equity Interests in MLC. On the Effective Date, all Equity Interests issued by MLC shall be cancelled and one new share of MLC's common stock shall be issued to a custodian to be designated by MLC, who will hold such share for the benefit of the holders of such former Equity Interests consistent with their former economic entitlements. All Equity Interests of the other Debtors shall be cancelled when such Debtors are dissolved or merged out of existence in accordance with Section 6.10 hereof. Each holder of an Equity Interest shall neither receive nor retain any property or interest in property on account of such Equity Interest; *provided, however*, that in the event all Allowed Claims have been satisfied in full, holders of Equity Interests may receive a pro rata distribution of any remaining assets of the Debtors. On or promptly after the Effective Date, but in no event later than December 15, 2011, MLC shall file with the Securities and Exchange Commission a Form 15 for the purpose of terminating the registration of any of its publicly traded securities. All Equity Interests in MLC outstanding after the Effective Date shall be cancelled on the date MLC is dissolved in

accordance with Section 6.10 hereof. The rights of a holder of an Equity Interest or former Equity Interest issued by MLC pursuant to this Section 4.6 shall be nontransferable.

ARTICLE V.

PROVISIONS GOVERNING DISTRIBUTIONS

5.1 Distribution Record Date. As of the close of business on the Distribution Record Date, the various transfer registers for each of the Classes of Claims or Equity Interests as maintained by the Debtors, or their agents, shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims or Equity Interests. The Debtors shall have no obligation to recognize any transfer of the Claims or Equity Interests occurring on or after the Distribution Record Date. The Debtors shall be entitled to recognize and deal for all purposes hereunder only with those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date, to the extent applicable. Notwithstanding the foregoing, if the GUC Trust Units are transferable as set forth in Section 6.2(h) hereof, then the GUC Trust Administrator may set additional record dates for subsequent distributions to holders of GUC Trust Units, in accordance with the GUC Trust Agreement.

5.2 Method of Distributions Under the Plan.

(a) Payments and Transfers on Effective Date. On the Effective Date, or as soon thereafter as is reasonably practicable, the Debtors shall (i) remit to holders of Allowed Administrative Expenses, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims, and, if applicable, Allowed Secured Claims an amount in Cash equal to the Allowed amount of such Claims, (ii) transfer the GUC Trust Assets to the GUC Trust free and clear of all liens, claims, and encumbrances, but subject to any obligations imposed by the Plan, on behalf of holders of General Unsecured Claims, (iii) transfer the Asbestos Trust Assets to the Asbestos Trust free and clear of all liens, claims, and encumbrances, but subject to any obligations imposed by the Plan, on behalf of holders of Asbestos Personal Injury Claims, (iv) transfer the Environmental Response Trust Assets to the Environmental Response Trust free and clear of all liens, claims, and encumbrances (except for any statutory liens for property and ad valorem taxes not yet due and payable), but subject to any obligations imposed by the Plan, on behalf of holders of Property Environmental Claims, (v) reserve Cash for the Indenture Trustee Reserve Cash, which Cash shall be distributed to the Indenture Trustees upon submission of documented invoices to the Debtors or the GUC Trust Administrator in accordance with Section 6.2(f) hereof without the necessity of making application to the Bankruptcy Court, and (vi) remit and transfer to the holders of Allowed DIP Credit Agreement Claims the payments and distributions provided for in Section 2.4 hereof.

(b) Repayment of Excess Cash to the U.S. Treasury and EDC. If the Debtors have any Cash remaining after (i) transferring the GUC Trust Assets to the GUC Trust, including the funding of the GUC Trust Administrative Fund and the transfer

of the Indenture Trustee Reserve Cash in accordance with Section 6.2 hereof, (ii) transferring the Asbestos Trust Assets to the Asbestos Trust, (iii) transferring the Environmental Response Trust Assets to the Environmental Response Trust, including the funding of the Environmental Response Trust Administrative Funding Account, (iv) transferring the Avoidance Action Trust Assets to the Avoidance Action Trust, (v) the resolution (and the payment, to the extent Allowed) of all Disputed Administrative Expenses (including compensation and reimbursement of expenses under sections 330 or 503 of the Bankruptcy Code), Disputed Priority Tax Claims, Disputed DIP Credit Agreement Claims, Disputed Priority Non-Tax Claims, and Disputed Secured Claims, (vi) the payment in full of all Allowed Administrative Expenses (including any compensation and reimbursement of expenses to the extent allowed by Final Order under sections 330 or 503 of the Bankruptcy Code), Allowed Priority Tax Claims, Allowed DIP Credit Agreement Claims, Allowed Priority Non-Tax Claims, and Allowed Secured Claims, and (vii) completing the acts described in Section 6.10 hereof, the Debtors shall pay such Cash to the U.S. Treasury and EDC by wire transfer of immediately available funds to an account designated by the U.S. Treasury and by EDC, respectively, ratably in accordance with their respective interests in the DIP Credit Agreement Claims. In the event any Cash remains in the GUC Trust Administrative Fund, the Environmental Response Trust Administrative Funding Account, the Avoidance Action Trust Administrative Cash, or the Indenture Trustee Reserve Cash after all the obligations imposed on the GUC Trust Administrator, the Environmental Response Trust Administrative Trustee, the Avoidance Action Trust Administrator, or the Indenture Trustees, respectively, and the GUC Trust, the Environmental Response Trust, and the Avoidance Action Trust, respectively, pursuant to the Plan, the GUC Trust Agreement, the Environmental Response Trust Agreement, the Environmental Response Trust Consent Decree and Settlement Agreement, and the Avoidance Action Trust Agreement, respectively, have been satisfied, the GUC Trust Administrator, the Environmental Response Trust Administrative Trustee, and the Avoidance Action Trust Administrator, respectively, shall pay such Cash to the U.S. Treasury and EDC by wire transfer of immediately available funds to an account designated by the U.S Treasury and by EDC, respectively, ratably in accordance with their respective interests in the DIP Credit Agreement Claims. If the GUC Trust Administrator determines to close the Chapter 11 Cases in accordance with Section 6.2(q) hereof, the GUC Trust Administrator shall repay the Cash from the balance of the GUC Trust Administrative Fund after reserving any amounts necessary to close the Chapter 11 Cases to the U.S. Treasury and EDC by wire transfer of immediately available funds to an account designated by the U.S. Treasury and by EDC, respectively, ratably in accordance with their respective interests in the DIP Credit Agreement Claims.

(c) Payment of Cash or Certain Assets to Charitable Organizations. In the event any Cash or property remains in the Asbestos Trust after all the obligations imposed on the Asbestos Trust Administrator(s) and the Asbestos Trust pursuant to the Plan and the Asbestos Trust Agreement have been satisfied, the Asbestos Trust Administrator(s) shall pay such Cash amounts to a charitable organization exempt from U.S. federal income tax under section 501(c)(3) of the Tax Code to be selected by,

and unrelated to, the Asbestos Trust Administrator(s). In the event any Asbestos Trust Assets remain in the Asbestos Trust after all Allowed Asbestos Personal Injury Claims have been satisfied pursuant to the Plan and the Asbestos Trust Agreement, the Asbestos Trust Administrator(s) shall transfer such Asbestos Trust Assets to a charitable organization exempt from U.S. federal income tax under section 501(c)(3) of the Tax Code to be selected by, and unrelated to, the Asbestos Trust Administrator(s).

(d) Distributions of Cash. At the option of the Debtors or the GUC Trust Administrator, the Asbestos Trust Administrator(s), the Environmental Response Trust Administrative Trustee, or the Avoidance Action Trust Administrator, as applicable, any Cash payment to be made under the Plan, the GUC Trust, the Asbestos Trust, the Environmental Response Trust, or the Avoidance Action Trust, as applicable, may be made by check or wire transfer or as otherwise required or provided in applicable agreements.

(e) Sale of New Warrants About to Expire. During the sixty (60) days preceding the expiration of the New Warrants, the GUC Trust Administrator shall have the authority to sell any New Warrants remaining in the GUC Trust, whether held in a reserve for Disputed General Unsecured Claims or otherwise, and distribute the proceeds thereof to holders of Allowed General Unsecured Claims and/or GUC Trust Units, as applicable, consistent with, and as provided in, the Plan. For the avoidance of doubt, any holder of an Allowed General Unsecured Claim and/or GUC Trust Unit, as applicable, that is entitled to receive such New Warrants shall receive only the net cash proceeds, if any, of the sold New Warrants that the GUC Trust Administrator received upon such sale. To the extent holders of Allowed Claims and/or GUC Trust Units, as applicable, have received a portion of the New Warrants to which they are entitled pursuant to the Plan, the GUC Trust Administrator shall have the authority to sell the remaining portion of New Warrants pursuant to this Section 5.2(e).

5.3 Delivery of Distributions and Undeliverable Distributions.

(a) Subject to Bankruptcy Rule 9010, all distributions to any holder of an Allowed Claim shall be made at the address of such holder as set forth on the Schedules filed with the Bankruptcy Court or on the books and records of the Debtors or their agents or in a letter of transmittal unless the Debtors or the GUC Trust Administrator, the Asbestos Trust Administrator(s), or the Avoidance Action Trust Administrator, as applicable, have been notified in writing of a change of address, including, without limitation, by the filing of a proof of Claim by such holder that contains an address for such holder different from the address reflected on such Schedules for such holder. Any distribution to be made to a holder of an Allowed General Unsecured Claim under any of the Indentures shall be made to the respective Indenture Trustee, subject to the Indenture Trustee's right to assert its charging lien against such distributions. The distribution from the Debtors, the GUC Trust, or the Avoidance Action Trust, as applicable, to any of the Indenture Trustees shall be deemed a distribution to the Registered Holders under the respective Indentures. In the event that any distribution to any holder is returned as undeliverable, no further distributions to such

holder shall be made unless and until the Debtors or the GUC Trust Administrator, the Asbestos Trust Administrator(s), or the Avoidance Action Trust Administrator, as applicable, are notified of such holder's then-current address, at which time all missed distributions shall be made to such holder, without interest. All demands for undeliverable distributions shall be made on or before ninety (90) days after the date such undeliverable distribution was initially made. Thereafter, the amount represented by such undeliverable distribution shall irrevocably revert to the Debtors or the GUC Trust, the Asbestos Trust, or the Avoidance Action Trust, as applicable, and any Claim in respect of such undeliverable distribution shall be discharged and forever barred from assertion against the Debtors, the GUC Trust, the Asbestos Trust, the Avoidance Action Trust, and their respective property.

(b) Any distribution from the Debtors, the GUC Trust, or the Avoidance Action Trust to any of the Indenture Trustees in accordance with the Plan shall be deemed a distribution to the respective Registered Holders thereunder and shall be subject to the applicable Indenture Trustee's right to assert its charging lien against such distributions. Distributions shall be made to the Registered Holders as follows:

(i) Each Indenture Trustee shall distribute, as soon as is reasonably practicable after receipt thereof and pursuant to the terms of the applicable Indenture, the New GM Securities and the GUC Trust Units it receives from the GUC Trust in accordance with Section 4.3(a) hereof to the Registered Holders as of the Distribution Record Date. The GUC Trust shall make additional distributions of New GM Securities to holders of GUC Trust Units in accordance with the GUC Trust Agreement and Section 4.3(a) hereof.

(ii) To the extent that it is determined that the holders of Allowed General Unsecured Claims are entitled to any proceeds of the Term Loan Avoidance Action and/or the Asbestos Insurance Assets either by (i) mutual agreement between the U.S. Treasury and the Creditors' Committee or (ii) Final Order, then each Indenture Trustee shall distribute, as soon as is reasonably practicable after receipt thereof and pursuant to the terms of the applicable Indenture, the net proceeds of the Term Loan Avoidance Action and the Asbestos Insurance Assets it receives from either (i) the Debtors in accordance with Section 4.3(b) hereof or (ii) the Avoidance Action Trust in accordance with Section 4.3(c) hereof, to the Registered Holders as of the Distribution Record Date.

5.4 Withholding and Reporting Requirements. In connection with the Plan and all instruments issued in connection therewith and distributed thereon, any party issuing any instrument or making any distribution under the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all distributions under the Plan and all related agreements shall be subject to any such withholding or reporting requirements. In the case of a non-Cash distribution that is subject to withholding, the distributing party may withhold an appropriate portion of such distributed property and sell such withheld property to generate Cash necessary to pay over the withholding tax. Notwithstanding the foregoing,

each holder of an Allowed Claim or Equity Interest (other than the Indenture Trustees) that receives a distribution under the Plan shall have responsibility for any taxes imposed by any governmental unit, including income, withholding, and other taxes, on account of such distribution.

5.5 Time Bar to Cash Payments. Checks issued by the Debtors, the GUC Trust Administrator, the Asbestos Trust Administrator(s), or the Avoidance Action Trust Administrator, as applicable, in respect of Allowed Claims shall be null and void if not negotiated within one hundred eighty (180) days after the date of issuance thereof. Requests for re-issuance of any check shall be made to the Debtors, the GUC Trust Administrator, the Asbestos Trust Administrator(s), or the Avoidance Action Trust Administrator, as applicable, by the holder of the Allowed Claim to whom such check originally was issued. Any Claim in respect of such a voided check shall be made on or before thirty (30) days after the expiration of the one hundred eighty (180) day period following the date of issuance of such check. Thereafter, the amount represented by such voided check shall irrevocably revert to the Debtors, the GUC Trust, the Asbestos Trust, or the Avoidance Action Trust, as applicable, and any Claim in respect of such voided check shall be discharged and forever barred.

5.6 Minimum Distributions and Fractional Shares or Units. No payment of Cash less than $25 shall be made by the Debtors, the GUC Trust Administrator, or the Avoidance Action Trust Administrator, as applicable, to any holder of an Allowed Claim. No fractional shares of New GM Securities shall be distributed. For purposes of distribution, fractional shares of New GM Securities shall be rounded down to the next whole number or zero, as applicable; *provided, however*, that if an Entity's fractional shares are rounded down to zero, such Entity shall receive one share of New GM Securities. If an Entity holds more than one Allowed Claim, such Entity's Allowed Claims shall be aggregated for purposes of rounding down pursuant to this Section 5.6. After all distributions under the Plan have been made, any New GM Securities that are undistributable as a result of the foregoing shall be sold by the GUC Trust Administrator, and the GUC Trust Administrator shall distribute the Cash proceeds to holders of Allowed General Unsecured Claims and/or GUC Trust Units, as applicable; *provided, however*, that if the Cash proceeds from the sale of the New GM Securities is less than $150,000, such Cash shall be distributed to a charitable organization exempt from U.S. federal income tax under section 501(c)(3) of the Tax Code to be selected by, and unrelated to, the GUC Trust Administrator.

5.7 Setoffs. The Debtors and/or the GUC Trust Administrator, the Asbestos Trust Administrator(s), and the Avoidance Action Trust Administrator, as applicable, may, but shall not be required to, set off against any Claim (for purposes of determining the Allowed amount of such Claim on which distribution shall be made), any claims of any nature whatsoever that the Debtors may have against the holder of such Claim, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors and/or the GUC Trust Administrator, the Asbestos Trust Administrator(s), or the Avoidance Action Trust Administrator, as applicable, of any such claim the Debtors may have against the holder of such Claim. Nothing in the Plan

shall limit or affect any right of the United States to offset (subject to obtaining Bankruptcy Court approval to the extent required) any obligation owed by the United States to the Debtors against any obligation owed by the Debtors to the United States.

5.8 Transactions on Business Days. If the Effective Date or any other date on which a transaction may occur under the Plan shall occur on a day that is not a Business Day, the transactions contemplated by the Plan to occur on such day shall instead occur on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

5.9 Allocation of Plan Distribution Between Principal and Interest. All distributions in respect of any Allowed Claim shall be allocated first to the principal amount of such Allowed Claim, as determined for U.S. federal income tax purposes, and thereafter, to the remaining portion of such Claim, if any.

ARTICLE VI.

MEANS FOR IMPLEMENTATION AND EXECUTION OF THE PLAN

6.1 Substantive Consolidation.

(a) Entry of the Confirmation Order shall constitute the approval, pursuant to section 105(a) of the Bankruptcy Code, effective as of the Effective Date, of the substantive consolidation of MLC of Harlem, Inc.; MLCS, LLC; MLCS Distribution Corporation; Remediation and Liability Management Company, Inc.; and Environmental Corporate Remediation Company, Inc., and their respective estates, into MLC for voting, confirmation, and distribution purposes under the Plan. Solely for such purposes, on and after the Effective Date, (i) all assets and all liabilities of the Debtors shall be deemed merged into MLC, (ii) all guaranties of any Debtor of the payment, performance, or collection of obligations of another Debtor shall be eliminated and cancelled, (iii) any obligation of any Debtor and all guaranties thereof executed by one or more of the other Debtors shall be treated as a single obligation, and such guaranties shall be deemed a single Claim against the consolidated Debtors, (iv) all joint obligations of two or more Debtors and all multiple Claims against such entities on account of such joint obligations shall be treated and allowed only as a single Claim against the consolidated Debtors, (v) all Claims between or among the Debtors shall be cancelled, and (vi) each Claim filed in the Chapter 11 Case of any Debtor shall be deemed filed against the consolidated Debtors and a single obligation of the consolidated Debtors on and after the Effective Date.

(b) The substantive consolidation and deemed merger effected pursuant to Section 6.1(a) hereof shall not affect (other than for purposes related to funding distributions under the Plan and as set forth in Section 6.1(a) hereof) (i) the legal and organizational structure of the Debtors, (ii) defenses to any Causes of Action or requirements for any third party to establish mutuality to assert a right of setoff, and (iii) distributions out of any insurance policies or proceeds of such policies.

6.2 The GUC Trust.

(a) Execution of GUC Trust Agreement. On or before the Effective Date, the GUC Trust Agreement, in a form acceptable to the Debtors, the Creditors' Committee, the U.S. Treasury, as lender under the DIP Credit Agreement, and the GUC Trust Administrator, shall be executed, and all other necessary steps shall be taken to establish the GUC Trust and the beneficial interests therein, which shall be for the benefit of the holders of Allowed General Unsecured Claims. This Section 6.2 sets forth certain of the rights, duties, and obligations of the GUC Trust Administrator. In the event of any conflict between the terms of this Section 6.2 and the terms of the GUC Trust Agreement, the terms of the GUC Trust Agreement shall govern.

(b) Purpose of GUC Trust. The GUC Trust shall be established to administer certain post-Effective Date responsibilities under the Plan, including, but not limited to, distributing New GM Securities and resolving outstanding Disputed General Unsecured Claims to determine the amount of Allowed General Unsecured Claims that will be eligible for distribution of their Pro Rata Share of New GM Securities under the Plan. If the Residual Wind-Down Assets are transferred to the GUC Trust upon dissolution of MLC, then the GUC Trust shall administer the resolution of all Disputed Administrative Expenses, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims, and Disputed Secured Claims. The GUC Trust has no objective to continue or engage in the conduct of a trade or business.

(c) GUC Trust Assets. The GUC Trust shall consist of the GUC Trust Assets. On the GUC Trust Transfer Date, the Debtors shall transfer all the GUC Trust Assets to the GUC Trust free and clear of all liens, claims, and encumbrances, except to the extent otherwise provided herein.

(d) Governance of GUC Trust. The GUC Trust shall be governed by the GUC Trust Administrator and the GUC Trust Monitor.

(e) The GUC Trust Administrator and the GUC Trust Monitor. The GUC Trust Administrator and the GUC Trust Monitor shall be designated by the Creditors' Committee with the consent of the Debtors and the U.S. Treasury, as lender under the DIP Credit Agreement, and the identities of the GUC Trust Administrator and the GUC Trust Monitor shall be disclosed in the Plan Supplement.

(f) Role of the GUC Trust Administrator. In furtherance of and consistent with the purpose of the GUC Trust and the Plan, the GUC Trust Administrator shall (i) have the power and authority to hold, manage, sell, invest, and distribute to the holders of Allowed General Unsecured Claims the GUC Trust Assets, (ii) hold the GUC Trust Assets for the benefit of the holders of Allowed General Unsecured Claims, (iii) have the power and authority to hold, manage, sell, invest, and distribute the GUC Trust Assets obtained through the exercise of its power and authority, (iv) have the power and authority to prosecute and resolve objections to Disputed General Unsecured Claims, (v) have the power and authority to perform such other functions as are provided in the Plan

and the GUC Trust Agreement, (vi) have the power and authority to administer the closure of the Chapter 11 Cases in accordance with the Bankruptcy Code and the Bankruptcy Rules, and (vii) if the Residual Wind-Down Assets are transferred to the GUC Trust upon the dissolution of MLC, then the GUC Trust Administrator shall have the authority to prosecute, resolve objections, and satisfy the Disputed Administrative Expenses, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims, and Disputed Secured Claims. The GUC Trust Administrator shall be responsible for all decisions and duties with respect to the GUC Trust and the GUC Trust Assets and shall file periodic public reports on the status of claims reconciliation and distributions. In all circumstances, the GUC Trust Administrator shall act in the best interests of all beneficiaries of the GUC Trust and in furtherance of the purpose of the GUC Trust, and in accordance with the GUC Trust Agreement. Upon the dissolution of MLC, the Indenture Trustee Reserve Cash shall be transferred to the GUC Trust and the GUC Trust Administrator shall distribute funds to the Indenture Trustees from the Indenture Trustee Reserve Cash as required.

(g) Role of the GUC Trust Monitor. In furtherance of and consistent with the purpose of the GUC Trust and the Plan, the GUC Trust Monitor shall oversee the activities of the GUC Trust Administrator as set forth in the GUC Trust Agreement. The GUC Trust Administrator shall report material matters to, and seek approval for material decisions from, the GUC Trust Monitor, as and to the extent set forth in the GUC Trust Agreement. Without limiting the foregoing, the GUC Trust Administrator shall obtain the approval of the GUC Trust Monitor with respect to settlements of Disputed General Unsecured Claims above a certain threshold and present periodic reports to the GUC Trust Monitor on the GUC Trust distributions and budget. In all circumstances, the GUC Trust Monitor shall act in the best interests of all beneficiaries of the GUC Trust, in furtherance of the purpose of the GUC Trust, and in accordance with the GUC Trust Agreement.

(h) Transferability of GUC Trust Interests. Beneficial interests in the GUC Trust shall be transferable to the extent that the transferability thereof would not require the GUC Trust to register the beneficial interests under Section 12(g) of the Securities Exchange Act of 1934, as amended, and otherwise shall not be transferable except as provided in the GUC Trust Agreement.

(i) Cash. The GUC Trust Administrator may invest Cash (including any earnings thereon or proceeds therefrom) as would be permitted by section 345 of the Bankruptcy Code were the GUC Trust a debtor under the Bankruptcy Code, or as otherwise permitted by an order of the Bankruptcy Code, which may include the Confirmation Order.

(j) Costs and Expenses of the GUC Trust Administrator. The costs and expenses of the GUC Trust, including the fees and expenses of the GUC Trust Administrator and its retained professionals, shall be paid out of the GUC Trust Administrative Fund, subject to the provisions of the Budget and the terms of the GUC Trust Agreement.

(k) Compensation of the GUC Trust Administrator. The GUC Trust Administrator shall be entitled to reasonable compensation, subject to the provisions of the Budget and the terms of the GUC Trust Agreement, in an amount consistent with that of similar functionaries in similar types of bankruptcy cases. Such compensation shall be payable solely from the GUC Trust Administrative Fund.

(l) Distribution of GUC Trust Assets. The GUC Trust Administrator shall distribute at least quarterly and in accordance with the GUC Trust Agreement, beginning on the first Business Day following the Distribution Record Date, or as soon thereafter as is practicable, (i) the appropriate amount of New GM Securities (and other distributions of Cash, if any) to holders of Allowed General Unsecured Claims and/or GUC Trust Units, as applicable, and (ii) Cash from the GUC Trust Administrative Fund (a) in amounts as reasonably necessary to meet contingent liabilities and otherwise address the expenses of the GUC Trust, (b) to pay reasonable expenses (including, but not limited to, any taxes imposed on the GUC Trust or in respect of the GUC Trust Assets), and (c) to satisfy other liabilities incurred by the GUC Trust in accordance with the Plan or the GUC Trust Agreement.

(m) Retention of Professionals by the GUC Trust Administrator and the GUC Trust Monitor. The GUC Trust Administrator and the GUC Trust Monitor may retain and reasonably compensate counsel and other professionals to assist in their duties as GUC Trust Administrator and GUC Trust Monitor on such terms as the GUC Trust Administrator and the GUC Trust Monitor deem appropriate without Bankruptcy Court approval, but subject to the consent of the U.S. Treasury, as lender under the DIP Credit Agreement, and to the provisions of the GUC Trust Agreement. The GUC Trust Administrator and the GUC Trust Monitor may retain any professional who represented parties in interest, including the Debtors or the Creditors' Committee, in the Chapter 11 Cases. All fees and expenses incurred in connection with the foregoing shall be payable solely from the GUC Trust Administrative Fund and shall be subject to the provisions of the Budget and the terms of the GUC Trust Agreement.

(n) U.S. Federal Income Tax Treatment of GUC Trust.

(i) **Tax Status of GUC Trust.** For all U.S. federal and applicable state and local income tax purposes, all parties (including, without limitation, the Debtors, the GUC Trust Administrator, and the holders of General Unsecured Claims) shall treat the GUC Trust as a "disputed ownership fund" within the meaning of Treasury Regulation section 1.468B-9.

(ii) **Delivery of Statement of Transfers.** Following the funding of the GUC Trust (and in no event later than February 15th of the calendar year following the funding of the GUC Trust), MLC shall provide a "§ 1.468B-9 Statement" to the GUC Trust Administrator in accordance with Treasury Regulation section 1.468B-9(g).

(iii) **Tax Reporting.**

(1) The GUC Trust shall file (or cause to be filed) any other statements, returns, or disclosures relating to the GUC Trust that are required by any governmental unit.

(2) The GUC Trust Administrator shall be responsible for payment, out of the GUC Trust Assets, of any taxes imposed on the GUC Trust or the GUC Trust Assets.

(3) The GUC Trust Administrator may request an expedited determination of taxes of the GUC Trust under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the GUC Trust for all taxable periods through the dissolution of the GUC Trust.

(o) Dissolution. The GUC Trust Administrator and the GUC Trust shall be discharged or dissolved, as applicable, at such time as (i) all Disputed General Unsecured Claims have been resolved, (ii) all GUC Trust Assets have been liquidated, (iii) all distributions required to be made by the GUC Trust Administrator under the Plan and the GUC Trust Agreement have been made, and (iv) if the Residual Wind-Down Assets are transferred to the GUC Trust upon dissolution of MLC, all Disputed Administrative Expenses, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims, and Disputed Secured Claims have been resolved, but in no event shall the GUC Trust be dissolved later than five (5) years from the Effective Date or such shorter or longer period authorized by the Bankruptcy Court in order to resolve all Disputed General Unsecured Claims.

(p) Indemnification of the GUC Trust Administrator and the GUC Trust Monitor. The GUC Trust Administrator and the GUC Trust Monitor (and their agents and professionals) shall not be liable for actions taken or omitted in its or their capacity as, or on behalf of, the GUC Trust Administrator, the GUC Trust Monitor, or the GUC Trust, except those acts arising out of its or their own willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty, or *ultra vires* acts, and each shall be entitled to indemnification and reimbursement for fees and expenses in defending any and all of its actions or inactions in its or their capacity as, or on behalf of, the GUC Trust Administrator, the GUC Trust Monitor, or the GUC Trust, except for any actions or inactions involving willful misconduct, gross negligence, bad faith, self-dealing, or *ultra vires* acts. Any indemnification claim of the GUC Trust Administrator, the GUC Trust Monitor, and the other parties entitled to indemnification under this subsection shall be satisfied first from the GUC Trust Administrative Fund and then from the GUC Trust Assets. The GUC Trust Administrator and the GUC Trust Monitor shall be entitled to rely, in good faith, on the advice of its retained professionals.

(q) Closing of Chapter 11 Cases. When all Disputed Claims (other than Asbestos Personal Injury Claims) filed against the Debtors have become Allowed Claims or have been disallowed by Final Order, and all of the GUC Trust Assets and all Avoidance Action Trust Assets, if applicable, have been distributed in accordance with the Plan, the GUC Trust Administrator shall seek authority from the Bankruptcy Court to

close the Chapter 11 Cases in accordance with the Bankruptcy Code and the Bankruptcy Rules. If at any time the GUC Trust Administrator determines that the expense of administering the GUC Trust so as to make a final distribution to its beneficiaries is likely to exceed the value of the GUC Trust Assets remaining in the GUC Trust, the GUC Trust Administrator shall apply to the Bankruptcy Court for authority to (i) reserve any amounts necessary to close the Chapter 11 Cases, (ii) repay any Cash balance from the GUC Trust Administrative Fund to the U.S. Treasury and EDC in accordance with Section 5.2(b) of the Plan, and (iii) unless the Chapter 11 Cases have been closed, close the Chapter 11 Cases in accordance with the Bankruptcy Code and Bankruptcy Rules. Notice of such application shall be given electronically, to the extent practicable, to those parties who have filed requests for notices and whose electronic addresses remain current and operating.

6.3 The Asbestos Trust.

(a) Execution of Asbestos Trust Agreement. On the Effective Date, the Asbestos Trust Agreement, in a form reasonably acceptable to the Debtors, the Creditors' Committee, the Asbestos Claimants' Committee, the Future Claimants' Representative, and the U.S. Treasury, as lender under the DIP Credit Agreement, shall be executed, and all other necessary steps shall be taken to establish the Asbestos Trust and the beneficial interests therein, which shall be for the benefit of the holders of Allowed Asbestos Personal Injury Claims. In the event of any conflict between the terms of this Section 6.3 and the terms of the Asbestos Trust Agreement, the terms of the Asbestos Trust Agreement shall govern.

(b) Purpose of Asbestos Trust. The Asbestos Trust shall be established to, among other things, (i) direct the processing, liquidation, and payment of all Asbestos Personal Injury Claims in accordance with the Plan, the Asbestos Trust Distribution Procedures, and the Confirmation Order and (ii) preserve, hold, manage, and maximize the assets of the Asbestos Trust for use in paying and satisfying Asbestos Personal Injury Claims.

(c) Assumption of Certain Liabilities by Asbestos Trust. In consideration of the Asbestos Trust Assets transferred to the Asbestos Trust under the Plan and in furtherance of the purposes of the Asbestos Trust and the Plan, the Asbestos Trust shall assume all liability and responsibility for all Asbestos Personal Injury Claims and the Debtors shall have no further financial or other responsibility or liability therefor. The Asbestos Trust also shall assume all liability for premiums, deductibles, retrospective premium adjustments, security or collateral arrangements, or any other charges, costs, fees, or expenses (if any) that become due to any insurer in connection with the Asbestos Insurance Assets with respect to Asbestos Personal Injury Claims, asbestos-related claims against Entities insured under policies included in the Asbestos Insurance Assets by reason of vendor's endorsements, or under the indemnity provisions of settlement agreements that the Debtors made with various insurers prior to the Commencement Date to the extent that those indemnity provisions relate to Asbestos Personal Injury Claims,

and the Debtors shall have no further financial or other responsibility for any of the foregoing.

(d) Asbestos Trust Assets. The Asbestos Trust shall consist of the Asbestos Trust Assets. On the Asbestos Trust Transfer Date, the Debtors shall transfer all the Asbestos Trust Assets to the Asbestos Trust free and clear of all liens, claims, and encumbrances, except to the extent otherwise provided herein.

(e) Governance of Asbestos Trust. The Asbestos Trust shall be governed by the Asbestos Trust Administrator(s).

(f) The Asbestos Trust Administrator(s). The Asbestos Trust Administrator(s) shall be designated on or before the Effective Date by the Debtors, with the consent of the Asbestos Claimants' Committee, the Future Claimants' Representative, and the U.S. Treasury, as lender under the DIP Credit Agreement, and such designation shall be confirmed by the Bankruptcy Court.

(g) Role of the Asbestos Trust Administrator(s). In furtherance of and consistent with the purpose of the Asbestos Trust and the Plan, the Asbestos Trust Administrator(s) shall (i) have the power and authority to hold, manage, sell, invest, and distribute the Asbestos Trust Assets to the holders of Allowed Asbestos Personal Injury Claims, (ii) hold the Asbestos Trust Assets for the benefit of the holders of Allowed Asbestos Personal Injury Claims, (iii) have the power and authority to hold, manage, sell, and distribute the Asbestos Trust Assets obtained through the exercise of its power and authority, (iv) have the power and authority to prosecute and resolve objections to Asbestos Personal Injury Claims, and (v) have the power and authority to perform such other functions as are provided in the Plan and the Asbestos Trust Agreement. The Asbestos Trust Administrator(s) shall be responsible for all decisions and duties with respect to the Asbestos Trust and the Asbestos Trust Assets. In all circumstances, the Asbestos Trust Administrator(s) shall act in the best interests of all beneficiaries of the Asbestos Trust and in furtherance of the purpose of the Asbestos Trust.

(h) Nontransferability of Asbestos Trust Interests. The beneficial interests in the Asbestos Trust shall not be certificated and are not transferable (except as otherwise provided in the Asbestos Trust Agreement).

(i) Cash. The Asbestos Trust Administrator(s) may invest Cash (including any earnings thereon or proceeds therefrom).

(j) Costs and Expenses of the Asbestos Trust Administrator(s). The costs and expenses of the Asbestos Trust, including the fees and expenses of the Asbestos Trust Administrator(s) and its retained professionals, shall, subject to the provisions of the Budget and the terms of the Asbestos Trust Agreement, be paid first out of the $__ million in Cash in the Asbestos Trust Assets and then out of the other Asbestos Trust Assets.

(k) Allowance of Asbestos Personal Injury Claims. With respect to any Asbestos Personal Injury Claim that is Allowed by the Asbestos Trust in accordance with the Asbestos Trust Agreement and the Asbestos Trust Distribution Procedures, such allowance shall establish the amount of legal liability against the Asbestos Trust in the amount of the liquidated value of such Asbestos Personal Injury Claim, as determined in accordance with the Asbestos Trust Distribution Procedures.

(l) Distribution of Asbestos Trust Assets. In accordance with the Asbestos Trust Agreement and the Asbestos Trust Distribution Procedures, the Asbestos Trust shall operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of Asbestos Personal Injury Claims and Demands, or other comparable mechanisms, that provide reasonable assurance that the Asbestos Trust shall value, and be in a financial position to pay, Asbestos Personal Injury Claims and Demands that involve similar Claims in substantially the same manner.

(m) Retention of Professionals by the Asbestos Trust Administrator(s). The Asbestos Trust Administrator(s) may retain and reasonably compensate counsel and other professionals to assist in its or their duties as Asbestos Trust Administrator(s) on such terms as the Asbestos Trust Administrator(s) deem(s) appropriate without Bankruptcy Court approval, but subject to the provisions of the Budget and the terms of the Asbestos Trust Agreement. The Asbestos Trust Administrator(s) may retain any professional who represented parties in interest in the Chapter 11 Cases.

(n) U.S. Federal Income Tax Treatment of Asbestos Trust.

(i) **Tax Status of Asbestos Trust.** For all U.S. federal and applicable state and local income tax purposes, all parties (including, without limitation, the Debtors, the Asbestos Trust Administrator(s), and the holders of Asbestos Personal Injury Claims) shall treat the Asbestos Trust as a "qualified settlement fund" within the meaning of Treasury Regulation section 1.468B-1.

(ii) **Delivery of Statement of Transfers.** Following the funding of the Asbestos Trust (and in no event later than February 15th of the calendar year following the funding of the Asbestos Trust), MLC shall provide a "§ 1.468B-3 Statement" to the Asbestos Trust Administrator(s) in accordance with Treasury Regulation section 1.468B-3(e)

(iii) **Other Statements.** The Asbestos Trust shall file (or cause to be filed) any other statements, returns, or disclosures relating to the Asbestos Trust that are required by any governmental unit.

(iv) **Tax Payments.** The Asbestos Trust Administrator(s) shall be responsible for payment, out of the Asbestos Trust Assets, of any taxes imposed on the Asbestos Trust or the Asbestos Trust Assets.

(v) **Expedited Determination.** The Asbestos Trust Administrator(s) may request an expedited determination of taxes of the Asbestos Trust under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Asbestos Trust for all taxable periods through the dissolution of the Asbestos Trust.

(o) Dissolution. The Asbestos Trust Administrator(s) and the Asbestos Trust shall be discharged or dissolved, as applicable, at such time as (i) all Asbestos Personal Injury Claims have been resolved, (ii) all Asbestos Trust Assets have been liquidated, and (iii) all distributions required to be made by the Asbestos Trust Administrator(s) under the Plan and the Asbestos Trust Agreement have been made.

(p) Indemnification of the Asbestos Trust Administrator(s). The Asbestos Trust Administrator(s) and its or their agents and professionals shall not be liable for actions taken or omitted in its or their capacity as, or on behalf of, the Asbestos Trust Administrator(s) or the Asbestos Trust, except those acts arising out of its or their own willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty, or *ultra vires* acts, and each shall be entitled to indemnification and reimbursement for fees and expenses in defending any and all of its actions or inactions in its or their capacity as, or on behalf of, the Asbestos Trust Administrator(s) or the Asbestos Trust, except for any actions or inactions involving willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty, or *ultra vires* acts. Any indemnification claim of the Asbestos Trust Administrator(s) (and the other parties entitled to indemnification under this subsection (p)) shall be satisfied first from the $____ million in Cash in the Asbestos Trust Assets and then from the Asbestos Trust Assets. The Asbestos Trust Administrator(s) shall be entitled to rely, in good faith, on the advice of its retained professionals.

6.4 The Environmental Response Trust.

(a) Environmental Response Trust Agreement and Environmental Response Trust Consent Decree and Settlement Agreement. On the Effective Date, the Environmental Response Trust Agreement and the Environmental Response Trust Consent Decree and Settlement Agreement shall become effective and the Environmental Response Trust shall be established and funded. Entry of the Confirmation Order shall constitute approval of the Environmental Response Trust Consent Decree and Settlement Agreement pursuant to section 1123(b) of the Bankruptcy Code and Bankruptcy Rule 9019. The establishment and funding of the Environmental Response Trust and the transfer of Environmental Response Trust Assets to the Environmental Response Trust shall be in full settlement and satisfaction of all present and future civil environmental liabilities or obligations of the Debtors to the Governmental Authorities, other than the General Unsecured Claims reserved in the Environmental Response Trust Consent Decree and Settlement Agreement and the Priority Order Sites Consent Decrees and Settlement Agreements, with respect to any of the Properties listed on Attachment A to the Environmental Response Trust Consent Decree and Settlement Agreement, whether prepetition or postpetition, in accordance with this Section 6.4 and the Environmental Response Trust Consent Decree and Settlement Agreement; *provided, however*, that

nothing in this sentence shall preclude additional payments to the Environmental Response Trust in the event that any of the Priority Order Sites Consent Decrees and Settlement Agreements are not approved as provided in the Priority Order Sites Consent Decrees and Settlement Agreements. In the event of any conflict between the terms of the Plan and the terms of the Environmental Response Trust Consent Decree and Settlement Agreement, the terms of the Environmental Response Trust Consent Decree and Settlement Agreement shall govern.

(b) Purpose of Environmental Response Trust. The purpose of the Environmental Response Trust shall be to conduct, manage, and/or fund Environmental Actions with respect to certain of the Properties, including the migration of hazardous substances emanating from certain of the Properties, in accordance with the provisions of the Environmental Response Trust Agreement and the Environmental Response Trust Consent Decree and Settlement Agreement; to reimburse the lead agency for Environmental Actions it conducts or has agreed to pay for with respect to the Properties; to own certain of the Properties, carry out administrative and property management functions related to the Properties, and pay associated administrative costs; and to try to sell or transfer the Properties owned by the Environmental Response Trust with the objective that the Properties be put to productive or beneficial use. After the establishment and funding of, and the conveyance of the Properties owned by the Debtors to, the Environmental Response Trust as provided in the Environmental Response Trust Consent Decree and Settlement Agreement, the Debtors shall have no further liability, role, or residual interest with respect to the Environmental Response Trust or the Properties.

(c) Environmental Response Trust Assets. The Environmental Response Trust shall consist of the Environmental Response Trust Assets, as described in the Environmental Response Trust Consent Decree and Settlement Agreement. On the Effective Date, the Debtors shall transfer all the Environmental Response Trust Assets to the Environmental Response Trust, as provided in and subject to the provisions of the Environmental Response Trust Consent Decree and Settlement Agreement. Such transfer shall include the transfer of Environmental Response Trust Cash in the amount of $____ million, which represents the aggregate amounts approved by the Bankruptcy Court to pay the costs that will be incurred by the Environmental Response Trust with respect to Environmental Actions and the costs of administering the Environmental Response Trust. In settlement and full satisfaction of the Property Environmental Claims, on or before the Effective Date, the Environmental Response Trust Administrative Trustee shall create, and the Debtors shall make payments to, accounts held by or within the Environmental Response Trust as specified and in the amounts provided in the Environmental Response Trust Consent Decree and Settlement Agreement, and the Debtors shall make the payments required under the Priority Order Sites Consent Decrees and Settlement Agreements. The Environmental Response Trust Administrative Trustee shall deposit, maintain, and use the funding in accordance with the terms of the Environmental Response Trust Agreement and the Environmental Response Trust Consent Decree and Settlement Agreement for the purposes described therein. Any Property may be sold or

transferred by the Environmental Response Trust Administrative Trustee in the circumstances and in light of the considerations described in the Environmental Response Trust Consent Decree and Settlement Agreement.

(d) Governance of Environmental Response Trust. The Environmental Response Trust shall be governed by the Environmental Response Trust Administrative Trustee according to the terms set forth in the Environmental Response Trust Agreement and the Environmental Response Trust Consent Decree and Settlement Agreement.

(e) Role of Environmental Response Trust Administrative Trustee. The Environmental Response Trust Administrative Trustee shall be responsible for implementing the purpose of the Environmental Response Trust, including overseeing the development of budgets, retaining and overseeing professionals to conduct Environmental Actions, entering into and overseeing the implementation of all contracts binding the Environmental Response Trust, executing agreements, preparing and filing all required plans and reports with the applicable Governmental Authorities, handling accounting and legal matters for the Environmental Response Trust, establishing funding objectives, monitoring the performance of the staff, and other administrative tasks, and shall carry out and implement the Environmental Response Trust Agreement and the Environmental Response Trust Consent Decree and Settlement Agreement. The Environmental Response Trust Administrative Trustee shall not be authorized to engage in any trade or business with respect to the Environmental Response Trust Assets.

(f) Nontransferability of Environmental Response Trust Interests. The beneficial interests in and powers under the Environmental Response Trust shall not be certificated and are not transferable (except as otherwise provided in the Environmental Response Trust Agreement or the Environmental Response Trust Consent Decree and Settlement Agreement).

(g) Cash. The Environmental Response Trust Administrative Trustee may invest Cash (including any earnings thereon or proceeds therefrom) as would be permitted by (i) section 345 of the Bankruptcy Code were the Environmental Response Trust a debtor under the Bankruptcy Code and (ii) the Environmental Response Trust Agreement and the Environmental Response Trust Consent Decree and Settlement Agreement.

(h) Indemnification of Environmental Response Trust Administrative Trustee. The potential liability of each Environmental Response Trust Party shall be limited as set forth in the Environmental Response Trust Agreement and the Environmental Response Trust Consent Decree and Settlement Agreement. Each Environmental Response Trust Party shall be indemnified and protected from litigation-related expenses as set forth in the Environmental Response Trust Agreement and the Environmental Response Trust Consent Decree and Settlement Agreement.

(i) U.S. Federal Income Tax Treatment of Environmental Response Trust.

(i) **Tax Status of Environmental Response Trust.** Except as provided in the following sentence, for all U.S. federal and applicable state and local income tax purposes, all parties (including, without limitation, the Debtors, the Environmental Response Trust Administrative Trustee, the lenders under the DIP Credit Agreement, and the holders of Property Environmental Claims) shall treat the Environmental Response Trust as a "qualified settlement fund" within the meaning of Treasury Regulation section 1.468B-1. This provision shall not be binding on the Internal Revenue Service as to the application of Treasury Regulation section 1.468B-1 or any other tax issue with respect to the Environmental Response Trust.

(ii) **Delivery of Statement of Transfers.** Following the funding of the Environmental Response Trust (and in no event later than February 15th of the calendar year following the funding of the Environmental Response Trust), MLC shall provide a "§ 1.468B-3 Statement" to the Environmental Response Trust Administrative Trustee in accordance with Treasury Regulation section 1.468B-3(e).

(iii) **Other Statements.** The Environmental Response Trust shall file (or cause to be filed) any other statements, returns, or disclosures relating to the Environmental Response Trust that are required by any governmental unit.

(iv) **Tax Payments**. The Environmental Response Trust Administrative Trustee shall be responsible for payment, out of the Environmental Response Trust Assets, of any taxes imposed on the Environmental Response Trust or the Environmental Response Trust Assets.

(v) **Expedited Determination.** The Environmental Response Trust Administrative Trustee may request an expedited determination of taxes of the Environmental Response Trust under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Environmental Response Trust for all taxable periods through the dissolution of the Environmental Response Trust.

6.5 The Avoidance Action Trust.

(a) Execution of Avoidance Action Trust Agreement. On or before the Effective Date, the Avoidance Action Trust Agreement, in a form acceptable to the Debtors, the U.S. Treasury, and the Creditors' Committee, and the Avoidance Action Trust Administrator, shall be executed, and all other necessary steps shall be taken to establish the Avoidance Action Trust and the beneficial interests therein, which shall be for the benefit of the Avoidance Action Trust Beneficiaries; *provided, however*, that the Avoidance Action Trust Assets shall not be transferred to the Avoidance Action Trust until the Avoidance Action Trust Transfer Date; and *further provided,* that if it is determined that the U.S. Treasury or the holders of General Unsecured Claims are not entitled to any proceeds of the Term Loan Avoidance Action and the Asbestos Insurance

Assets either by (i) mutual agreement between the U.S. Treasury and the Creditors' Committee or (ii) Final Order, then the Avoidance Action Trust Agreement need not be in a form acceptable to the U.S. Treasury or the Creditors' Committee, as applicable. In the event of any conflict between the terms of this Section 6.5 and the terms of the Avoidance Action Trust Agreement, the terms of the Avoidance Action Trust Agreement shall govern. The Avoidance Action Trust Agreement may provide powers, duties, and authorities in addition to those explicitly stated in the Plan, but only to the extent that such powers, duties, and authorities do not adversely affect the status of the Avoidance Action Trust (or any applicable portion thereof) as a liquidating trust for federal income tax purposes, subject only to the federal income tax treatment of amounts held by the Avoidance Action Trust in respect of Disputed Claims (which amounts may comprise all or part of the assets of the Avoidance Action Trust, depending on the nature of the dispute).

(b) Purpose of Avoidance Action Trust. The Avoidance Action Trust shall be established for the sole purpose of liquidating and distributing its assets, in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

(c) Avoidance Action Trust Assets. The Avoidance Action Trust shall consist of the Avoidance Action Trust Assets. On the Avoidance Action Trust Transfer Date, if the Term Loan Avoidance Action is still pending or if there is any remaining balance in the Asbestos Insurance Assets, the Debtors shall transfer all of the Avoidance Action Trust Assets to the Avoidance Action Trust. Upon delivery of the Avoidance Action Trust Assets to the Avoidance Action Trust, the Debtors and their successors and assigns shall be released from all liability with respect to the delivery of such assets. In connection with the administration of the Avoidance Action Trust, any and all proceeds realized from the Term Loan Avoidance Action shall at all times be segregated from any and all proceeds realized from the Asbestos Insurance Assets.

(d) Governance of Avoidance Action Trust. The Avoidance Action Trust shall be governed by the Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor.

(e) The Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor. The Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor shall be designated by the Debtors with the consent of the U.S. Treasury and the Creditors' Committee, and the identities of the Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor shall be disclosed in the Plan Supplement, *provided, however*, that if it is determined that the U.S. Treasury or the holders of General Unsecured Claims are not entitled to any proceeds of the Term Loan Avoidance Action and/or the Asbestos Insurance Assets either by (i) mutual agreement between the Creditors' Committee and the U.S. Treasury or (ii) Final Order, then the Debtors shall neither seek nor obtain the consent of the U.S. Treasury or the Creditors' Committee, as applicable.

(f) Role of the Avoidance Action Trust Administrator. In furtherance of and consistent with the purpose of the Avoidance Action Trust and the Plan, the Avoidance Action Trust Administrator shall (i) have the power and authority to hold and manage the Avoidance Action Trust Assets, (ii) hold the Avoidance Action Trust Assets for the benefit of the Avoidance Acton Trust Beneficiaries, (iii) have the power and authority to prosecute and resolve, in the name of the Debtors and/or the names of the Avoidance Action Trust Administrator, the Term Loan Avoidance Action, and the Asbestos Insurance Assets, (iv) have the power and authority to invest and distribute to the Avoidance Action Trust Beneficiaries any proceeds of the Term Loan Avoidance Action and the Asbestos Insurance Assets, and (v) have the power and authority to perform such other functions as are provided in the Plan and the Avoidance Action Trust Agreement. The Avoidance Action Trust Administrator shall be responsible for all decisions and duties with respect to the Avoidance Action Trust and the Avoidance Action Trust Assets. In all circumstances, the Avoidance Action Trust Administrator shall act in the best interests of the Avoidance Action Trust Beneficiaries and in furtherance of the purpose of the Avoidance Action Trust. Prior to the Avoidance Action Trust Transfer Date, the Term Loan Avoidance Action shall be prosecuted, resolved, and administered by the GUC Trust Administrator. All expenses incurred in connection with the prosecution of the Term Loan Avoidance Action (whether prior to or after the Avoidance Action Trust Transfer Date) shall be funded by the Avoidance Action Trust Administrative Cash, subject to the provisions of the Budget and the terms of the Avoidance Action Trust Agreement.

(g) Role of the Avoidance Action Trust Monitor. In furtherance of and consistent with the purpose of the Avoidance Action Trust and the Plan, the Avoidance Action Trust Monitor shall oversee the activities of the Avoidance Action Trust Administrator as set forth in the Avoidance Action Trust Agreement. The Avoidance Action Trust Administrator shall report material matters to, and seek approval for material decisions from, the Avoidance Action Trust Monitor, as and to the extent set forth in the Avoidance Action Trust Agreement. Without limiting the foregoing, the Avoidance Action Trust Administrator shall obtain the approval of the Avoidance Action Trust Monitor with respect to settlements of the Avoidance Action Trust Assets and present periodic reports to the Avoidance Action Trust Monitor on the Avoidance Action Trust distributions and budget. In all circumstances, the Avoidance Action Trust Monitor shall act in the best interests of the Avoidance Action Trust Beneficiaries, in furtherance of the purpose of the Avoidance Action Trust, and in accordance with the Avoidance Action Trust Agreement.

(h) Nontransferability of Avoidance Action Trust Interests. The beneficial interests in the Avoidance Action Trust shall not be certificated and shall not be transferable (except as otherwise provided in the Avoidance Action Trust Agreement).

(i) Cash. The Avoidance Action Trust Administrator may invest Cash (including any earnings thereon or proceeds therefrom) as permitted by section 345 of the Bankruptcy Code; *provided, however*, that such investments are investments permitted to be made by a liquidating trust within the meaning of Treasury Regulation

section 301.7701-4(d), as reflected therein, or under applicable Internal Revenue Service guidelines, rulings, or other controlling authorities.

(j) Distribution of Avoidance Action Trust Assets. The Avoidance Action Trust shall distribute at least annually and in accordance with the Avoidance Action Trust Agreement any amount of Cash proceeds from the Term Loan Avoidance Action to the Avoidance Action Trust Beneficiaries (treating as Cash for purposes of this Section 6.5(j) any permitted investments under Section 6.5(i) hereof) except such amounts, if any, as would be distributable to a holder of a Disputed General Unsecured Claim or Disputed Asbestos Personal Injury Claim if such Disputed General Unsecured Claim or Disputed Asbestos Personal Injury Claim had been Allowed prior to the time of such distribution (but only until such Claim is resolved). The Avoidance Action Trust shall distribute in accordance with the Avoidance Action Trust Agreement funds (i) as are reasonably necessary to meet contingent liabilities and maintain the value of the Avoidance Action Trust Assets during liquidation, (ii) necessary to pay reasonable incurred and anticipated expenses (including, but not limited to, any taxes imposed on the Avoidance Action Trust or in respect of the Avoidance Action Trust Assets), and (iii) necessary to satisfy other liabilities incurred and anticipated by the Avoidance Action Trust in accordance with the Plan or the Avoidance Action Trust Agreement.

(k) Costs and Expenses of Avoidance Action Trust. The costs and expenses of the Avoidance Action Trust, including the fees and expenses of the Avoidance Action Trust Administrator and its retained professionals, shall be paid out of the Avoidance Action Trust Assets, subject to the provisions of the Budget and the terms of the Avoidance Action Trust Agreement. Fees and expenses incurred in connection with the prosecution and settlement of any Claims shall be considered costs and expenses of the Avoidance Action Trust, subject to the provisions of the Budget and the terms of the Avoidance Action Trust Agreement.

(l) Compensation of the Avoidance Action Trust Administrator. The Entities serving as or comprising the Avoidance Action Trust Administrator shall be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar roles, subject to the provisions of the Budget and the terms of the Avoidance Action Trust Agreement.

(m) Retention of Professionals by the Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor. The Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor may retain and compensate attorneys and other professionals to assist in their duties as Avoidance Action Trust Administrator and Avoidance Action Trust Monitor on such terms as the Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor deem appropriate without Bankruptcy Court approval, subject to the provisions of the Budget and the terms of the Avoidance Action Trust Agreement. Without limiting the foregoing, the Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor may retain any professional that represented parties in interest in the Chapter 11 Cases.

(n) U.S. Federal Income Tax Treatment of Avoidance Action Trust.

(i) **Treatment of Avoidance Action Trust Assets.** For all U.S. federal and applicable state and local income tax purposes, all parties (including, without limitation, the Debtors, the Avoidance Action Trust Administrator, the holders of the DIP Credit Agreement Claims, and the holders of Allowed General Unsecured Claims) shall treat the transfer of the Avoidance Action Trust Assets to the Avoidance Action Trust in a manner consistent with the remainder of this Section 6.5(n)(i).

(1) If the Avoidance Action Trust Beneficiaries have not been identified on or prior to the Avoidance Action Trust Transfer Date either by (x) mutual agreement between the U.S. Treasury and the Creditors' Committee or (y) Final Order, then the Avoidance Action Trust Administrator shall treat the Avoidance Action Trust as either (A) a "disputed ownership fund" governed by Treasury Regulation section 1.468B-9 (including, if required, timely so electing) or (B) if permitted under applicable law and at the option of the Avoidance Action Trust Administrator, a "complex trust" for U.S. federal income tax purposes.

(2) If the Avoidance Action Trust Beneficiaries have been identified on or prior to the Avoidance Action Trust Transfer Date, or upon identification of the Avoidance Action Trust Beneficiaries after the Avoidance Action Trust Transfer Date, the Avoidance Action Trust Assets shall be treated as being transferred (A) directly to the Avoidance Action Trust Beneficiaries and, to the extent Avoidance Action Trust Assets are allocable to Disputed Claims, to the Avoidance Action Trust Claims Reserve, followed by (B) the transfer by such Avoidance Action Trust Beneficiaries of the Avoidance Action Trust Assets (other than the Avoidance Action Trust Assets allocable to the Avoidance Action Trust Claims Reserve) in exchange for beneficial interests in the Avoidance Action Trust. Accordingly, the Avoidance Action Trust Beneficiaries receiving beneficial interests in the Avoidance Action Trust shall be treated for U.S. federal income tax purposes as the grantors and owners of their respective share of the Avoidance Action Trust Assets (other than any Avoidance Action Trust Assets allocable to the Avoidance Action Trust Claims Reserve). Any determination made pursuant to this Section 6.5(n)(i) shall be conclusive and binding on all parties (including the Debtors, the Avoidance Action Trust Administrator, the holders of the DIP Credit Agreement Claims, and the holders of Allowed General Unsecured Claims) for U.S. federal, state, and local income tax purposes. Accordingly, to the extent permitted by applicable law, all parties shall report consistently with the federal treatment of the Avoidance Action Trust by the Avoidance Action Trust Administrator for state and local income tax purposes. For the avoidance of doubt, the Avoidance Action Trust Administrator shall, to the fullest extent permitted by law, be

indemnified from all liability for any and all consequences resulting from its determination under this Section 6.5(n)(i).

(ii) Tax Reporting.

(1) If the Avoidance Action Trust Administrator elects to treat the Avoidance Action Trust in its entirety or, if otherwise applicable, the Avoidance Action Trust Claims Reserve as a disputed ownership fund within the meaning of Treasury Regulation section 1.468B-9, then following the Avoidance Action Trust Transfer Date (but in no event later than February 15th of the calendar year following the funding of the Avoidance Action Trust), MLC shall provide a "§ 1.468B-9 Statement" to the Avoidance Action Trust Administrator in accordance with Treasury Regulation section 1.468B-9(g).

(2) From and after the date at which Section 6.5(n)(i)(2) hereof applies, the Avoidance Action Trust Administrator shall file returns for the Avoidance Action Trust treating the Avoidance Action Trust (except the Avoidance Action Trust Claims Reserve) as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with the applicable provisions of this Section 6.5(n). The Avoidance Action Trust Administrator also shall annually send to each Avoidance Action Trust Beneficiary a separate statement setting forth the holder's share of items of income, gain, loss, deduction, or credit and shall instruct all such Avoidance Action Trust Beneficiaries to report such items on their respective U.S. federal income tax returns or to forward the appropriate information to their respective beneficial holders with instructions to report such items on their U.S. federal income tax returns. The Avoidance Action Trust Administrator also shall file (or cause to be filed) any other statements, returns, or disclosures relating to the Avoidance Action Trust that are required by any governmental unit.

(A) Allocations of the Avoidance Action Trust's taxable income among the Avoidance Action Trust Beneficiaries shall be determined by reference to the manner in which an amount of Cash equal to such taxable income would be distributed (without regard to any restrictions on distributions described herein) if, immediately prior to such deemed distribution, the Avoidance Action Trust had distributed all of its other assets (valued at their tax book value and other than assets attributable to the Avoidance Action Trust Claims Reserve) to the Avoidance Action Trust Beneficiaries, in each case up to the tax book value of the assets treated as contributed by such Avoidance Action Trust Beneficiaries, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Avoidance Action Trust. Similarly, taxable loss of the Avoidance

Action Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining Avoidance Action Trust Assets. The tax book value of the Avoidance Action Trust Assets for this purpose shall equal their fair market value on the date at which Section 6.5(n)(i)(2) hereof applies, adjusted in accordance with tax accounting principles prescribed by the Tax Code, applicable Treasury regulations, and other applicable administrative and judicial authorities and pronouncements.

(B) If the Avoidance Action Trust previously was treated as a disputed ownership fund within the meaning of Treasury Regulation section 1.468B-9 or a complex trust for U.S. federal income tax purposes pursuant to Section 6.5(n)(i) hereof, the Avoidance Action Trust Administrator shall continue to treat the Avoidance Action Trust Claims Reserve in the same manner. If Section 6.5(n)(i)(2) hereof is applicable as of the Avoidance Action Trust Transfer Date, the Avoidance Action Trust Administrator shall (x) treat the Avoidance Action Trust Claims Reserve as either (i) a "disputed ownership fund" governed by Treasury Regulation section 1.468B-9 by timely making an election or (ii) a "complex trust" for U.S. federal income tax purposes and (y) to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes. Any determination made pursuant to this Section 6.5(n)(ii)(2)(B) shall be conclusive and binding on all parties (including the Debtors, the Avoidance Action Trust Administrator, the holders of the DIP Credit Agreement Claims, and the holders of Allowed General Unsecured Claims) for U.S. federal, state, and local income tax purposes. For the avoidance of doubt, the Avoidance Action Trust Administrator shall, to the fullest extent permitted by law, be indemnified from all liability for any and all consequences resulting from its making such election.

(C) As soon as practicable after the Avoidance Action Trust Transfer Date, and, if applicable, at any later date at which Section 6.5(n)(i)(2) hereof applies, the Avoidance Action Trust Administrator shall make a good-faith valuation of the Avoidance Action Trust Assets, and such valuation shall be made available from time to time, to the extent relevant, and shall be used consistently by all parties (including, without limitation, the Debtors, the Avoidance Action Trust Administrator, the holders of the DIP Credit Agreement Claims, and the holders of Allowed General Unsecured Claims) for all U.S. federal and applicable state and local income tax purposes.

(3) The Avoidance Action Trust Administrator shall be responsible for payment, out of the Avoidance Action Trust Assets, of any taxes imposed on the Avoidance Action Trust or the Avoidance Action Trust Assets, including the Avoidance Action Trust Claims Reserve. In the event, and to the extent, any Cash retained on account of Disputed Claims in the Avoidance Action Trust Claims Reserve is insufficient to pay the portion of any such taxes attributable to the taxable income arising from the assets allocable to, or retained on account of, Disputed Claims, such taxes shall be (i) reimbursed from any subsequent Cash amounts retained on account of Disputed Claims or (ii) to the extent such Disputed Claims subsequently have been resolved, deducted from any amounts otherwise distributable by the Avoidance Action Trust Administrator as a result of the resolution of such Disputed Claims.

(4) The Avoidance Action Trust Administrator may request an expedited determination of taxes of the Avoidance Action Trust, including the Avoidance Action Trust Claims Reserve, under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Avoidance Action Trust for all taxable periods through the dissolution of the Avoidance Action Trust.

(o) Dissolution. The Avoidance Action Trust Administrator and the Avoidance Action Trust shall be discharged or dissolved, as applicable, at such time as (i) all of the Avoidance Action Trust Assets have been distributed pursuant to the Plan and the Avoidance Action Trust Agreement, (ii) the Avoidance Action Trust Administrator determines, in its sole discretion, that the administration of the Avoidance Action Trust Assets is not likely to yield sufficient additional Avoidance Action Trust Assets to justify further pursuit, and (iii) all distributions required to be made by the Avoidance Action Trust Administrator under the Plan and the Avoidance Action Trust Agreement have been made, but in no event shall the Avoidance Action Trust be dissolved later than three (3) years from the Effective Date unless the Bankruptcy Court, upon motion within the six (6) month period prior to the third (3rd) anniversary (or at least six (6) months prior to the end of an extension period), determines that a fixed period extension (not to exceed three (3) years, together with any prior extensions, without a favorable private letter ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the Avoidance Action Trust as a liquidating trust for U.S. federal income tax purposes) is necessary to facilitate or complete the recovery and liquidation of the Avoidance Action Trust Assets. If at any time the Avoidance Action Trust Administrator determines, in reliance upon such professionals as the Avoidance Action Trust Administrator may retain, that the expense of administering the Avoidance Action Trust so as to make a final distribution to the Avoidance Action Trust Beneficiaries is likely to exceed the value of the Avoidance Action Trust Assets remaining in the Avoidance Action Trust, the Avoidance Action Trust Administrator may apply to the Bankruptcy Court for authority to (i) reserve any amounts necessary to dissolve the Avoidance Action Trust, (ii) transfer the balance to the U.S. Treasury and EDC and/or

the GUC Trust as determined either by (A) mutual agreement between the U.S. Treasury and the Creditors' Committee prior to the Effective Date, (B) mutual agreement between the U.S. Treasury and the GUC Trust Administrator on or after the Effective Date, or (C) Final Order, or donate any balance to a charitable organization described in section 501(c)(3) of the Tax Code and exempt from U.S. federal income tax under section 501(a) of the Tax Code that is unrelated to the Debtors, the Avoidance Action Trust, and any insider of the Avoidance Action Trust Administrator, and (iii) dissolve the Avoidance Action Trust.

(p) Indemnification of the Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor. The Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor (and their agents and professionals) shall not be liable for actions taken or omitted in its or their capacity as, or on behalf of, the Avoidance Action Trust Administrator, the Avoidance Action Trust Monitor, or the Avoidance Action Trust, except those acts arising out of its or their own willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty, or *ultra vires* acts, and each shall be entitled to indemnification and reimbursement for reasonable fees and expenses in defending any and all of its actions or inactions in its or their capacity as, or on behalf of, the Avoidance Action Trust Administrator, the Avoidance Action Trust Monitor, or the Avoidance Action Trust, except for any actions or inactions involving willful misconduct, gross negligence, bad faith, self-dealing, or *ultra vires* acts. Any indemnification claim of the Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor (and the other parties entitled to indemnification under this subsection) shall be satisfied first from the Avoidance Action Trust Administrative Cash and then from the Avoidance Action Trust Assets. The Avoidance Action Trust Administrator and the Avoidance Action Trust Monitor shall be entitled to rely, in good faith, on the advice of their retained professionals.

(q) Cooperation Regarding Insurance Matters. The Debtors shall cooperate with the Avoidance Action Trust and the Avoidance Action Trust Administrator and use commercially reasonable efforts to take or cause to be taken all appropriate actions and do or cause to be done all things necessary or appropriate to effectuate the transfer of the Asbestos Insurance Assets to the Avoidance Action Trust. By way of enumeration and not of limitation, the Debtors shall be obligated, to the extent practicable, to (i) provide the Avoidance Action Trust with copies of insurance policies and settlement agreements included within or relating to the Asbestos Insurance Assets and (ii) execute further assignments or allow the Avoidance Action Trust to pursue claims relating to the Asbestos Insurance Assets in its name (subject to appropriate disclosure of the fact that the Avoidance Action Trust is doing so and the reasons why it is doing so), including by means of arbitration, alternative dispute resolution proceedings, or litigation, to the extent necessary or helpful to the efforts of the Avoidance Action Trust to obtain insurance coverage under the Asbestos Insurance Assets.

6.6 Securities Law Matters. In reliance upon section 1145(a) of the Bankruptcy Code, the offer and/or issuance of the New GM Securities by either MLC or the GUC Trust, as a successor of MLC under the Plan, is exempt from registration under

the Securities Act of 1933, as amended (the "**Securities Act**"), and any equivalent securities law provisions under state law. The exemption from Securities Act registration provided by section 1145(a) of the Bankruptcy Code (as well as any equivalent securities law provisions under state law) also is available for the offer and/or issuance by the GUC Trust of (i) beneficial interests in the GUC Trust and (ii) New GM Securities in exchange for such beneficial interests as outstanding Disputed General Unsecured Claims are resolved in accordance with the Plan. The offer and/or issuance of beneficial interests by any of the following successors of the Debtors – the Asbestos Trust, the Environmental Response Trust, and the Avoidance Action Trust – is exempt from Securities Act registration (along with equivalent securities law provisions under state law) in reliance upon section 1145(a) of the Bankruptcy Code.

6.7 Cancellation of Existing Securities and Agreements. Except for purposes of evidencing a right to distributions under the Plan or otherwise provided hereunder, on the Effective Date all the agreements and other documents evidencing the Claims or rights of any holder of a Claim against the Debtors, including all Indentures and bonds, debentures, and notes issued thereunder evidencing such Claims, all Note Claims, and any options or warrants to purchase Equity Interests, or obligating the Debtors to issue, transfer, or sell Equity Interests or any other capital stock of the Debtors, shall be cancelled and discharged; *provided, however*, that the Indentures shall continue in effect solely for the purposes of (i) allowing the Indenture Trustees to make any distributions on account of Allowed General Unsecured Claims in Class 3 pursuant to the Plan and perform such other necessary administrative functions with respect thereto, (ii) permitting the Indenture Trustees to receive payment from the Indenture Trustee Reserve Cash, and (iii) permitting the Indenture Trustees to maintain any rights or liens they may have for fees, costs, expenses, and indemnities under the Indentures, against or recoverable from the Registered Holders.

6.8 Equity Interests in MLC Subsidiaries Held by the Debtors. On the Effective Date, at the option of the Debtors, each respective Equity Interest in a direct or indirect subsidiary of MLC shall be unaffected by the Plan, in which case the Debtor holding such Equity Interests shall continue to hold such Equity Interests and shall cause any such subsidiaries to be dissolved prior to December 15, 2011. An amount equal to any net proceeds realized from such dissolutions shall be distributed to the lenders under the DIP Credit Agreement on account of amounts outstanding.

6.9 Administration of Taxes. Subject to the MSPA and the GUC Trust Agreement, MLC shall be responsible for all tax matters of the Debtors until a certificate of cancellation or dissolution for MLC shall have been filed in accordance with Section 6.10 hereof.

6.10 Dissolution of the Debtors. Within thirty (30) days after its completion of the acts required by the Plan, or as soon thereafter as is practicable, but no later than December 15, 2011, each Debtor shall be deemed dissolved for all purposes without the necessity for any other or further actions to be taken by or on behalf of each Debtor; *provided, however,* that each Debtor shall file with the office of the Secretary of State or

other appropriate office for the state of its organization a certificate of cancellation or dissolution.

6.11 Determination of Tax Filings and Taxes.

(a) Following the filing of a certificate of cancellation or dissolution for MLC, subject to Section 6.16(a) of the MSPA and the GUC Trust Agreement, the GUC Trust Administrator shall prepare and file (or cause to be prepared and filed) on behalf of the Debtors, all tax returns, reports, certificates, forms, or similar statements or documents (collectively, "**Tax Returns**") required to be filed or that the GUC Trust Administrator otherwise deems appropriate, including the filing of amended Tax Returns or requests for refunds, for all taxable periods ending on, prior to, or after the Effective Date.

(b) Each of the Debtors and the GUC Trust Administrator shall cooperate fully with each other regarding the implementation of this Section 6.11 (including the execution of appropriate powers of attorney) and shall make available to the other as reasonably requested all information, records, and documents relating to taxes governed by this Section 6.11 until the expiration of the applicable statute of limitations or extension thereof or at the conclusion of all audits, appeals, or litigation with respect to such taxes. Without limiting the generality of the foregoing, the Debtors shall execute on or prior to the filing of a certificate of cancellation or dissolution for MLC a power of attorney authorizing the GUC Trust Administrator to correspond, sign, collect, negotiate, settle, and administer tax payments and Tax Returns for the taxable periods described in Section 6.11(a) hereof.

(c) The Debtors and the GUC Trust Administrator shall have the right to request an expedited determination of the tax liability of the Debtors, if any, under section 505(b) of the Bankruptcy Code with respect to any tax returns filed, or to be filed, for any and all taxable periods ending after the Commencement Date through the filing of a certificate of cancellation or dissolution for MLC.

(d) Following the filing of a certificate of cancellation or dissolution for MLC, subject to Section 6.16(a) and (d) of the MSPA, the GUC Trust Administrator shall have the sole right, at its expense, to control, conduct, compromise, and settle any tax contest, audit, or administrative or court proceeding relating to any liability for taxes of the Debtors and shall be authorized to respond to any tax inquiries relating to the Debtors (except with respect to any property and ad valorem taxes relating to the Environmental Response Trust Assets).

(e) Following the filing of a certificate of cancellation or dissolution for MLC, subject to the MSPA, the GUC Trust Administrative Fund shall be entitled to the entire amount of any refunds and credits (including interest thereon) with respect to or otherwise relating to any taxes of any Debtors, including for any taxable period ending on, prior to, or after the Effective Date (except with respect to any property and ad valorem tax refunds and credits relating to the Environmental Response Trust Assets).

(f) The Environmental Response Trust shall be responsible for the payment of any property and ad valorem taxes relating to the Environmental Response Trust Assets that become due after the Environmental Response Trust Transfer Date.

(g) Following the Environmental Response Trust Transfer Date, subject to Section 6.16(a) and (d) of the MSPA, the Environmental Response Trust Administrative Trustee shall have the sole right, at its expense, to control, conduct, compromise, and settle any tax contest, audit, or administrative or court proceeding relating to any liability for property and ad valorem taxes attributable to the Environmental Response Trust Assets and shall be authorized to respond to any such tax inquiries relating to the Environmental Response Trust Assets.

(h) Following the Environmental Response Trust Transfer Date, subject to the MSPA, the Environmental Response Trust Administrative Trustee shall be entitled to the entire amount of any refunds and credits (including interest thereon) with respect to or otherwise relating to any property and ad valorem taxes attributable to the Environmental Response Trust Assets, including for any taxable period ending on, prior to, or after the Effective Date.

(i) Each of the Debtors and the Environmental Response Trust Administrative Trustee shall cooperate fully with each other regarding the implementation of this Section 6.11 (including the execution of appropriate powers of attorney) and shall make available to the other as reasonably requested all information, records, and documents relating to property and ad valorem taxes governed by this Section 6.11 until the expiration of the applicable statute of limitations or extension thereof or at the conclusion of all audits, appeals, or litigation with respect to such taxes. Without limiting the generality of the foregoing, the Debtors shall execute on or prior to the Environmental Response Trust Transfer Date a power of attorney authorizing the Environmental Response Trust Administrative Trustee to correspond, sign, collect, negotiate, settle, and administer tax payments and Tax Returns for the taxes described in Section 6.11(f) hereof.

6.12 Books and Records. MLC shall comply with its obligations under the Environmental Response Trust Consent Decree and Settlement Agreement to provide documents, other records, and/or information to the Environmental Response Trust Administrative Trustee. Upon the Effective Date, MLC shall transfer and assign to the GUC Trust full title to, and the GUC Trust shall be authorized to take possession of, all of the books and records of the Debtors, with the exception of those books and records that are necessary for the implementation of the Asbestos Trust, the Environmental Response Trust, or the Avoidance Action Trust, as applicable, which books and records MLC shall transfer and assign to the Asbestos Trust, the Environmental Response Trust, or the Avoidance Action Trust, respectively. Upon the Effective Date, the Creditors' Committee shall transfer and assign to the GUC Trust Monitor the books and records related to the administration of the GUC Trust and any relevant information prepared by the Creditors' Committee during the Chapter 11 Cases. Upon the Avoidance Action Trust Transfer Date, (i) MLC shall transfer and assign to the Avoidance Action Trust full

title to, and the Avoidance Action Trust shall be authorized to take possession of, all of the books and records of the Debtors relating to the Avoidance Action Trust Assets and (ii) the Creditors' Committee shall transfer and assign to the Avoidance Action Trust Monitor the books and records related to the administration of the Avoidance Action Trust and any relevant information prepared by the Creditors' Committee during the Chapter 11 Cases. Any such books and records transferred by either the Debtors or the Creditors' Committee shall be protected by the attorney client privilege. The GUC Trust, the Asbestos Trust, the Environmental Response Trust, or the Avoidance Action Trust, as applicable, shall have the responsibility of storing and maintaining the books and records transferred hereunder until one year after the date MLC is dissolved in accordance with Section 6.10 hereof, after which time such books and records may be abandoned or destroyed without further Bankruptcy Court order; *provided, however*, that any tax-related books and records transferred hereunder shall be stored and maintained until the expiration of the applicable statute of limitations. The Debtors shall cooperate with the GUC Trust Administrator, the Asbestos Trust Administrator(s), the Environmental Response Trust Administrative Trustee, or the Avoidance Action Trust Administrator, as applicable, to facilitate the delivery and storage of their books and records in accordance herewith. The Debtors (as well as their current and former officers and directors) shall be entitled to reasonable access to any books and records transferred in accordance with this Section 6.12 for all necessary corporate purposes, including, without limitation, defending or prosecuting litigation, determining insurance coverage, filing tax returns, and addressing personnel matters. For purposes of this Section, books and records include computer-generated or computer-maintained books and records and computer data, as well as electronically-generated or maintained books and records or data, along with books and records of the Debtors maintained by or in possession of third parties and all the claims and rights of the Debtors in and to their books and records, wherever located.

6.13 Corporate Action. Upon the Effective Date, the Debtors shall perform each of the actions and effect each of the transfers required by the terms of the Plan, in the time period allocated therefor, and all matters provided for under the Plan that would otherwise require approval of the stockholders, partners, members, directors, or comparable governing bodies of the Debtors shall be deemed to have occurred and shall be in effect from and after the Effective Date pursuant to the applicable general corporation law (or other applicable governing law) of the states in which the Debtors are incorporated or organized, without any requirement of further action by the stockholders, members, or directors (or other governing body) of the Debtors. Each of the Debtors shall be authorized and directed, following the completion of all disbursements, other transfers, and other actions required of the Debtors by the Plan, to file its certificate of cancellation or dissolution as contemplated by Section 6.10 hereof. The filing of such certificates of cancellation or dissolution shall be authorized and approved in all respects without further action under applicable law, regulation, order, or rule, including, without express or implied limitation, any action by the stockholders, members, or directors (or other governing body) of the Debtors.

6.14 Effectuating Documents and Further Transactions. Each of the officers of each of the Debtors is authorized and directed to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

ARTICLE VII.

PROCEDURES FOR DISPUTED CLAIMS

7.1 Objections to Claims and Resolution of Disputed Claims.

(a) Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, on and after the Effective Date and through the dissolution of MLC, the Debtors shall have the right to the exclusion of all others (except as to applications for allowances of compensation and reimbursement of expenses under sections 330 and 503 of the Bankruptcy Code) to object to Administrative Expenses, Priority Tax Claims, DIP Credit Agreement Claims, Priority Non-Tax Claims, and Secured Claims.

(b) On and after the Effective Date, the GUC Trust Administrator shall have the exclusive right to object, and/or continue prosecution of objections, to General Unsecured Claims (other than the Asbestos Trust Claim). If the Residual Wind-Down Assets are transferred to the GUC Trust upon the dissolution of MLC, after such transfer, the GUC Trust Administrator shall have the exclusive right to object to any remaining Administrative Expenses, Priority Tax Claims, DIP Credit Agreement Claims, Priority Non-Tax Claims, and Secured Claims.

(c) The Debtors or the GUC Trust Administrator, as applicable, shall serve a copy of each objection upon the holder of the Claim to which the objection is made as soon as practicable, but in no event later than one hundred eighty (180) days after (i) the Effective Date for all Claims (with the exception of Unliquidated Litigation Claims as set forth in this Section 7.1, and (ii) such date as may be fixed by the Bankruptcy Court, whether fixed before or after the dates specified in clause (i) above. The Bankruptcy Court shall have the authority on request of the Debtors or the GUC Trust Administrator, as applicable, to extend the foregoing dates ex parte. On and after the Effective Date, the Debtors shall continue to have the power and authority to prosecute and resolve objections to Disputed Administrative Expenses, Disputed Priority Tax Claims, Disputed DIP Credit Agreement Claims, Disputed Priority Non-Tax Claims, and Disputed Secured Claims. All objections shall be litigated to a Final Order except to the extent the Debtors or the GUC Trust Administrator, as applicable, elects to withdraw any such objection or the Debtors or the GUC Trust Administrator, as applicable, and the holder of a Claim elect to compromise, settle, or otherwise resolve any such objection, in which event they may compromise, settle, or otherwise resolve any Disputed Claim without approval of the Bankruptcy Court.

(d) Notwithstanding the foregoing, holders of Unliquidated Litigation Claims (other than the United States, including its agencies and instrumentalities) shall be subject to the ADR Procedures and Unliquidated Litigation Claims shall be channeled to the GUC Trust and resolved in accordance with the ADR Procedures. If the Debtors or the GUC Trust Administrator, as applicable, terminate the ADR Procedures with respect to an Unliquidated Litigation Claim, the Debtors or the GUC Trust Administrator, as applicable, shall have one hundred eighty (180) days from the date of termination of the ADR Procedures to file and serve an objection to such Unliquidated Litigation Claim. If the Debtors or the GUC Trust Administrator terminate the ADR Procedures with respect to an Unliquidated Litigation Claim and such Unliquidated Litigation Claim is litigated in a court other than the Bankruptcy Court, the Debtors or the GUC Trust Administrator, as applicable, shall have ninety (90) days from the date of entry of a Final Order adjudicating such Claim to file and serve an objection to such Claim for purposes of determining the treatment of such Claim under the Plan.

(e) The resolution of Asbestos Personal Injury Claims shall be dealt with by the Asbestos Trust in accordance with the Asbestos Trust Distribution Procedures.

7.2 No Distribution Pending Allowance. Notwithstanding any other provision hereof, if any portion of a Claim is a Disputed Claim, no payment or distribution provided hereunder to the holder thereof shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim. Until such time, with respect to General Unsecured Claims, the GUC Trust Administrator or the Avoidance Action Trust Administrator, as applicable, shall withhold from the property to be distributed to holders of beneficial interests in the GUC Trust or the Avoidance Action Trust, as applicable, the portion of such property allocable to Disputed General Unsecured Claims and Disputed Asbestos Claims and shall hold such property in the GUC Trust or the Avoidance Action Trust Claims Reserve, as applicable. If any Disputed General Unsecured Claims are disallowed, the GUC Trust Assets held in the GUC Trust or the Avoidance Action Trust Assets held in the Avoidance Action Trust Claims Reserve, as applicable, shall be released as and to the extent the GUC Trust Administrator or the Avoidance Action Trust Administrator, as applicable, determines such property is no longer necessary to fund unresolved Disputed General Unsecured Claims, and such GUC Trust Assets or Avoidance Action Trust Assets, as applicable, shall be distributed in accordance with Sections 6.2 and 6.5 hereof, respectively. All Unliquidated Litigation Claims shall be deemed Disputed Claims unless and until they are Allowed after resolution by settlement or Final Order. This Section 7.2 shall not apply to Property Environmental Claims.

7.3 Estimation. The Debtors or the GUC Trust Administrator, as applicable, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtors or the GUC Trust Administrator previously objected to such Claim, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation,

during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtors or the GUC Trust Administrator, as applicable, may pursue supplementary proceedings to object to the allowance of such Claim. All the aforementioned objection, estimation, and resolution procedures are intended to be cumulative and not exclusive of one another. On and after the Confirmation Date, Claims that have been estimated may be compromised, settled, withdrawn, or otherwise resolved subsequently, without further order of the Bankruptcy Court. This Section 7.3 shall not apply to Property Environmental Claims.

7.4 Allowance of Disputed Claims. If, on or after the Effective Date, any Disputed Claim becomes, in whole or in part, an Allowed Claim, the Debtors, the GUC Trust Administrator, or the Avoidance Action Trust Administrator, as applicable, shall, on the next applicable distribution date following when the Disputed Claim becomes an Allowed Claim, distribute to the holder thereof the distributions, if any, that such holder would have received had its Claim been Allowed on the Effective Date, except as otherwise provided herein.

7.5 Dividends. In the event that dividend distributions have been made with respect to the New GM Securities that are in the GUC Trust, such dividends shall be distributed to holders of Allowed Claims in the same manner and at the same time as the New GM Securities to which such dividends relate are distributed.

ARTICLE VIII.

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

8.1 Executory Contracts and Unexpired Leases. On the Effective Date, all executory contracts and unexpired leases to which any of the Debtors are parties shall be deemed rejected as of the Effective Date, except for an executory contract or unexpired lease that (i) has been assumed or rejected pursuant to Final Order of the Bankruptcy Court entered prior to the Effective Date, (ii) is the subject of a separate motion to assume or reject filed under section 365 of the Bankruptcy Code by the Debtors prior to the Effective Date, or (iii) constitute Environmental Trust Assets.

8.2 Approval of Rejection of Executory Contracts and Unexpired Leases. Entry of the Confirmation Order shall constitute the approval, pursuant to section 365(a) of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases rejected as of the Effective Date pursuant to the Plan.

8.3 Rejection Claims. In the event that the rejection of an executory contract or unexpired lease by any of the Debtors pursuant to the Plan results in damages to the other party or parties to such contract or lease, a Claim for such damages, if not heretofore evidenced by a filed proof of Claim, shall be forever barred and shall not be

enforceable against the Debtors, the GUC Trust Administrator, the Asbestos Trust Administrator(s), the Environmental Response Trust Administrative Trustee, and the Avoidance Action Trust Administrator, or any property to be distributed under the Plan, the GUC Trust, the Asbestos Trust, the Environmental Response Trust, and the Avoidance Action Trust unless a proof of Claim is filed with the Bankruptcy Court and served upon the Debtors, the GUC Trust Administrator, the Asbestos Trust Administrator(s), the Environmental Response Trust Administrative Trustee, and the Avoidance Action Trust Administrator on or before the date that is thirty (30) days after the Confirmation Date.

ARTICLE IX.

EFFECTIVENESS OF THE PLAN

9.1 Condition Precedent to Confirmation of Plan. The following is a condition precedent to the confirmation of the Plan:

(a) The Bankruptcy Court shall have entered the Confirmation Order in form and substance satisfactory to the Debtors.

9.2 Conditions Precedent to Effective Date. The following are conditions precedent to the Effective Date of the Plan:

(a) The Confirmation Order shall be in full force and effect, and no stay thereof shall be in effect;

(b) The GUC Trust Agreement, the Asbestos Trust Agreement, the Environmental Response Trust Agreement, and the Avoidance Action Trust Agreement shall have been executed;

(c) The GUC Trust Assets shall have been transferred to the GUC Trust;

(d) The Environmental Response Trust Consent Decree and Settlement Agreement shall have been approved by order of the Bankruptcy Court, such order shall be in full force and effect, and no stay thereof shall be in effect, and the Environmental Response Trust Assets shall have been transferred to the Environmental Response Trust; and

(e) The Debtors shall have sufficient Cash to pay the sum of (i) Allowed Administrative Expenses, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims, and, if applicable, Allowed Secured Claims, and the professional fees of the Debtors, the Creditors' Committee, the Asbestos Claimants' Committee, and the Future Claimants' Representative that have not been paid, (ii) an amount that would be required to distribute to the holders of Disputed Administrative Expenses, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims, and, if applicable, Disputed Secured Claims

if all such Claims are subsequently Allowed, as set forth more fully in Article VII hereof, and (iii) the amounts required to fund the GUC Trust Administrative Fund, the Asbestos Trust, the Environmental Response Trust Administrative Funding Account, the Avoidance Action Trust, and the Indenture Trustee Reserve Cash.

9.3 Satisfaction and Waiver of Conditions. Any actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously, and no such action shall be deemed to have occurred prior to the taking of any other such action. If the Debtors decide that any of the conditions precedent set forth in Section 9.2 hereof cannot be satisfied and the occurrence of such conditions is not waived or cannot be waived, then the Debtors shall file a notice of the failure of the Effective Date with the Bankruptcy Court. Notwithstanding the foregoing, the Debtors reserve, in their sole discretion, the right, with the written consent of the Creditors' Committee, the Asbestos Claimants' Committee, and the Future Claimants' Representative, to waive the occurrence of any of the conditions precedent set forth in Section 9.2(b) or (c) hereof or to modify any of such conditions precedent. Any such written waiver of such condition precedents may be effected at any time, without notice or leave or order of the Bankruptcy Court, and without any formal action other than proceeding to consummate the Plan.

9.4 Effect of Nonoccurrence of Conditions to Consummation. If each of the conditions to the occurrence of the Effective Date has not been satisfied or duly waived on or before the first Business Day that is one hundred eighty (180) days after the Confirmation Date, or such later date as shall be agreed by the Debtors and the Creditors' Committee, the Asbestos Claimants' Committee, the Future Claimants' Representative, and the U.S. Treasury, the Confirmation Order may be vacated by the Bankruptcy Court. If the Confirmation Order is vacated pursuant to this Section, the Plan shall be null and void in all respects, and nothing contained in the Plan shall constitute a waiver or release of any Claims against any of the Debtors.

ARTICLE X.

EFFECT OF CONFIRMATION

10.1 Vesting of Assets. As of the Effective Date, the property of the Debtors' estates shall vest in the Debtors and, in accordance with Article VI hereof and subject to the exceptions contained therein, (i) the GUC Trust Assets shall be transferred to the GUC Trust, (ii) the Asbestos Trust Assets shall be transferred to the Asbestos Trust, (iii) the Environmental Response Trust Assets shall be transferred to the Environmental Response Trust, and (iv) if the Term Loan Avoidance Action is still pending on the Avoidance Action Trust Transfer Date, the Avoidance Action Trust Assets shall be transferred to the Avoidance Action Trust. From and after the Effective Date, (i) the GUC Trust Administrator may dispose of the GUC Trust Assts free of any restrictions of the Bankruptcy Code, but in accordance with the provisions of the Plan and the GUC Trust Agreement, (ii) the Asbestos Trust Administrator(s) may dispose of the Asbestos Trust Assets free of any restrictions of the Bankruptcy Code, but in accordance with the

provisions of the Plan and the Asbestos Trust Agreement, (iii) the Environmental Response Trust Administrative Trustee may dispose of the Environmental Response Trust Assets free of any restrictions of the Bankruptcy Code, but in accordance with the provisions of the Plan, the Environmental Response Trust Agreement, and the Environmental Response Trust Consent Decree and Settlement Agreement, and (iv) if the Term Loan Avoidance Action is still pending on the Asbestos Trust Transfer Date, the Avoidance Action Trust Administrator may dispose of the Avoidance Action Trust Assets free of any restrictions of the Bankruptcy Code, but in accordance with the provisions of the Plan and the Avoidance Action Trust Agreement. As of the Effective Date, all assets of the Debtors, the GUC Trust, the Asbestos Trust, the Environmental Response Trust, and the Avoidance Action Trust shall be free and clear of all Claims and Encumbrances, except as provided in the Plan or the Confirmation Order.

10.2 Release of Assets. Until the Effective Date, the Bankruptcy Court shall retain jurisdiction of the Debtors and their assets and properties. Thereafter, jurisdiction of the Bankruptcy Court shall be limited to the subject matters set forth in Article XI hereof.

10.3 Binding Effect. Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Confirmation Date, the provisions of the Plan shall bind any holder of a Claim against, or Equity Interest in, the Debtors and their respective successors and assigns, whether or not the Claim or Equity Interest of such holder is impaired under the Plan and whether or not such holder has accepted the Plan.

10.4 Term of Injunctions or Stays. Unless otherwise expressly provided herein, all injunctions or stays arising under or entered during the Chapter 11 Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the closing of the Chapter 11 Cases.

10.5 Term Loan Avoidance Action; Offsets. If the Term Loan Avoidance Action is still pending on the Avoidance Action Trust Transfer Date, the Avoidance Action Trust Administrator may pursue, abandon, settle, or release the Term Loan Avoidance Action transferred to the Avoidance Action Trust as it deems appropriate, without the need to obtain approval or any other or further relief from the Bankruptcy Court. The Debtors, the GUC Trust Administrator, or the Avoidance Action Trust Administrator, as applicable, may, in their sole discretion, offset any claim held against a person against any payment due such person under the Plan; *provided, however*, that any claims of the Debtors arising before the Commencement Date shall first be offset against Claims against the Debtors arising before the Commencement Date.

10.6 Injunction. On and after the Confirmation Date, all persons are permanently enjoined from commencing or continuing in any manner any action or proceeding (whether directly, indirectly, derivatively, or otherwise) on account of or respecting any claim, debt, right, or cause of action of the Debtors for which the Debtors

or the GUC Trust Administrator retains sole and exclusive authority to pursue in accordance with the Plan.

10.7 Injunction Against Interference with Plan. Upon the entry of the Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

10.8 Special Provisions for the United States. Except as provided in the Environmental Response Trust Consent Decree and Settlement Agreement and the Priority Order Sites Consent Decrees and Settlement Agreements, as to the United States, the States of Delaware, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia, Wisconsin, the Saint Regis Mohawk Tribe, Canada, and their respective agencies, departments, or agents (collectively for purposes of this Section 10.8, the "**United States**"), nothing in the Plan, including Sections 12.5 and 12.6 hereof, shall discharge, release, enjoin, or otherwise bar (i) any liability of the Debtors, their Estates, any successors thereto, the GUC Trust, the Asbestos Trust, the Environmental Response Trust, or the Avoidance Action Trust, arising on or after the Confirmation Date, (ii) any liability that is not a "claim" within the meaning of section 101(5) of the Bankruptcy Code, (iii) any valid right of setoff or recoupment, (iv) any police or regulatory action, (v) any environmental liability that the Debtors, their Estates, any successors thereto, the GUC Trust, the Asbestos Trust, the Environmental Response Trust, the Avoidance Action Trust, or any other Person or Entity may have as an owner or operator of real property after the Effective Date, and (vi) any liability to the United States on the part of any Persons or Entities other than the Debtors, their Estates, the GUC Trust, the Asbestos Trust, the Environmental Response Trust, the Avoidance Action Trust, the GUC Trust Administrator, the Asbestos Trust Administrator(s), the Environmental Response Trust Administrative Trustee, or the Avoidance Action Trust Administrator, except with respect to the parties as specifically provided for in Sections 12.5 and 12.6 hereof.

ARTICLE XI.

RETENTION OF JURISDICTION

11.1 Jurisdiction of Bankruptcy Court. The Bankruptcy Court shall retain jurisdiction of all matters arising under, arising out of, or related to the Chapter 11 Cases and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

(a) To hear and determine motions for the assumption, assumption and assignment, or rejection of executory contracts or unexpired leases and the allowance of Claims resulting therefrom;

(b) To determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date, including, without limitation, any proceeding with respect to a Cause of Action or Avoidance Action (including the Term Loan Avoidance Action);

(c) To ensure that distributions to holders of Allowed Claims are accomplished as provided herein;

(d) To consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim;

(e) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(f) To issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any person with the consummation, implementation, or enforcement of the Plan, the Confirmation Order, or any other order of the Bankruptcy Court;

(g) To hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) To hear and determine all applications under sections 330, 331, and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred prior to the Confirmation Date;

(i) To hear and determine disputes arising in connection with or related to the interpretation, implementation, or enforcement of the Plan, the Confirmation Order, the GUC Trust, the Asbestos Trust, the Environmental Response Trust, the Avoidance Action Trust, the GUC Trust Agreement, the Asbestos Trust Agreement, the Environmental Response Trust Agreement, the Environmental Response Trust Consent Decree and Settlement Agreement, and the Avoidance Action Trust Agreement, any transactions or payments contemplated hereby, or any agreement, instrument, or other document governing or relating to any of the foregoing, including to formulate and enforce alternative dispute resolution procedures with respect to the Environmental Response Trust Agreement or the Environmental Response Trust Consent Decree and Settlement Agreement;

(j) To take any action and issue such orders as may be necessary to construe, enforce, implement, execute, and consummate the Plan or to maintain the integrity of the Plan following consummation;

(k) To recover all assets of the Debtors, property of the Debtors' estates, the GUC Trust Assets, the Asbestos Trust Assets, and the Avoidance Action Trust Assets, wherever located;

(l) To hear and determine all objections to the termination of the Asbestos Trust;

(m) To determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(n) To hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including, without limitation, matters with respect to any taxes payable by a trust or reserve established in furtherance of the Plan);

(o) To resolve all matters related to the 363 Transaction;

(p) To enforce all orders previously entered by the Bankruptcy Court;

(q) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code; and

(r) To enter a final decree closing the Chapter 11 Cases.

To the extent that the Bankruptcy Court is not permitted under applicable law to preside over any of the forgoing matters, the reference to the "Bankruptcy Court" in this Article XI shall be deemed to be replaced by the "District Court." Notwithstanding anything in this Article XI to the contrary, (i) the allowance of Asbestos Personal Injury Claims and the forum in which such allowance will be determined shall be governed by and in accordance with the Asbestos Trust Distribution Procedures and the Asbestos Trust Agreement and (ii) the Bankruptcy Court and/or the District Court shall have concurrent, rather than exclusive, jurisdiction with respect to disputes relating to (a) rights under insurance policies issued to the Debtors that are included in the Asbestos Insurance Assets, and (b) the Debtors' rights to insurance with respect to workers' compensation claims.

ARTICLE XII.

MISCELLANEOUS PROVISIONS

12.1 Dissolution of Committees. Except in connection with the Term Loan Avoidance Action prior to the Avoidance Action Trust Transfer Date, on the Effective Date, the Creditors' Committee shall dissolve; *provided, however*, that, following the Effective Date, the Creditors' Committee shall continue to have standing and a right to be heard with respect to (i) Claims and/or applications for compensation by professionals and requests for allowance of Administrative Expenses for substantial contribution

pursuant to section 503(b)(3)(D) of the Bankruptcy Code, (ii) any appeals of the Confirmation Order that remain pending as of the Effective Date to which the Creditors' Committee is a party, (iii) responding to creditor inquiries for one hundred twenty (120) days following the Effective Date, and (iv) the settlement or determination by Final Order of the Asbestos Trust Claim (including through any appeals). On the Effective Date, the Asbestos Claimants' Committee shall dissolve. Upon the dissolution of the Creditors' Committee and the Asbestos Claimants' Committee, the current and former members of the Creditors' Committee, the members of the Asbestos Claimants' Committee, and the Future Claimants' Representative, and their respective officers, employees, counsel, advisors, and agents, shall be released and discharged of and from all further authority, duties, responsibilities, and obligations related to and arising from and in connection with the Chapter 11 Cases, and the retention or employment of the Creditors' Committee's, the Asbestos Claimants' Committee's, and the Future Claimant's Representative's respective attorneys, accountants, and other agents shall terminate, except that the Creditors' Committee, the Asbestos Claimants' Committee, the Future Claimants' Representative, and their respective professionals shall have the right to pursue, review, and object to any applications for compensation and reimbursement of expenses filed in accordance with Section 2.2 hereof. The Creditors' Committee shall continue to serve through the Avoidance Action Trust Transfer Date to prosecute the Term Loan Avoidance Action. The Future Claimants' Representative shall continue to serve through the termination of the Asbestos Trust in order to perform the functions required under the Asbestos Trust Agreement. The fees and expenses of the Future Claimants' Representative from and after the Effective Date relating to the role of the Future Claimants' Representative in the Asbestos Trust, pursuant to the Asbestos Trust Agreement and the Asbestos Trust Distribution Procedures (including, without limitation, the fees and expenses of any professionals retained by the Future Claimants' Representative), shall be the sole responsibility of the Asbestos Trust.

12.2 Substantial Consummation. On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

12.3 Effectuating Documents and Further Transactions. An officer of each of the Debtors is authorized and directed to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be reasonably necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan and any securities issued pursuant to the Plan.

12.4 Exemption from Transfer Taxes. Pursuant to section 1146(a) of the Bankruptcy Code, the assignment or surrender of any lease or sublease, or the delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition of assets contemplated by the Plan (including transfers of assets to and by the GUC Trust, the Asbestos Trust, the Environmental Response Trust, and the

Avoidance Action Trust) shall not be subject to any stamp, real estate transfer, mortgage recording, sales, use, or other similar tax.

12.5 Release. As of the Effective Date, the Debtors release (i) all present and former directors and officers of the Debtors who were directors and/or officers, respectively, on or after the Commencement Date, and any other Persons who serve or served as members of management of the Debtors on or after the Commencement Date, (ii) all post-Commencement Date advisors, consultants, or professionals of or to the Debtors, the lenders under the DIP Credit Agreement, the Creditors' Committee, the Asbestos Claimants' Committee, the Future Claimants' Representative, and the Indenture Trustees, and (iii) all members (current and former) of the Creditors' Committee and of the Asbestos Claimants' Committee, in their capacity as members of such Committees, the Future Claimants' Representative, and the Indenture Trustees from any and all Causes of Action held by, assertable on behalf of, or derivative from the Debtors, in any way relating to the Debtors, the Chapter 11 Cases, the Plan, negotiations regarding or concerning the Plan, and the ownership, management, and operation of the Debtors, except for willful misconduct (including, but not limited to, conduct that results in a personal profit at the expense of the Debtors' estates) or gross negligence; *provided, however,* that the foregoing shall not operate as a waiver of or release from any Causes of Action arising out of any express contractual obligation owing by any former director, officer, or employee of the Debtors or any reimbursement obligation of any former director, officer, or employee with respect to a loan or advance made by the Debtors to such former director, officer, or employee.

12.6 Exculpation. Neither the Debtors, the GUC Trust Administrator, the Asbestos Trust Administrator(s), the Environmental Response Trust Administrative Trustee, the Avoidance Action Trust Administrator, the lenders under the DIP Credit Agreement, the Creditors' Committee, the Asbestos Claimants' Committee, the Future Claimants' Representative, and the Indenture Trustees, nor any of their respective members (current and former), officers, directors, employees, counsel, advisors, professionals, or agents, shall have or incur any liability to any holder of a Claim or Equity Interest for any act or omission in connection with, related to, or arising out of the Chapter 11 Cases, negotiations regarding or concerning the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for willful misconduct or gross negligence, and, in all respects, the Debtors, the GUC Trust Administrator, the Asbestos Trust Administrator(s), the Environmental Response Trust Administrative Trustee, the Avoidance Action Trust Administrator, the Creditors' Committee, the Asbestos Claimants' Committee, the Future Claimants' Representative, the Indenture Trustees, and each of their respective members (current or former), officers, directors, employees, counsel, advisors, professionals, and agents shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

12.7 Post-Confirmation Date Fees and Expenses.

(a) Fees and Expenses of Professionals. The Debtors shall, in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court (but subject to the review by and approval of the lenders under the DIP Credit Agreement), pay the reasonable fees and expenses, incurred after the Confirmation Date, of the professional persons employed by the Debtors, the Creditors' Committee, the Asbestos Claimants' Committee, and the Future Claimants' Committee in connection with the implementation and consummation of the Plan, the claims reconciliation process, and any other matters as to which such professionals may be engaged.

(b) Fees and Expenses of GUC Trust Administrator, Asbestos Trust Administrator(s), Environmental Response Trust Administrative Trustee, and Avoidance Action Trust Administrator. The fees and expenses of the GUC Trust Administrator, the Asbestos Trust Administrator(s), the Environmental Response Trust Administrative Trustee, and the Avoidance Action Trust Administrator shall be paid in accordance with the terms of the GUC Trust Agreement, the Asbestos Trust Agreement, the Environmental Response Trust Agreement, and the Avoidance Action Trust Agreement, respectively, and shall be subject to the provisions of the Budget.

12.8 Payment of Statutory Fees. On the Effective Date, and thereafter as may be required, the Debtors, and after the Effective Date, the GUC Trust Administrator, the Asbestos Trust Administrator(s), the Environmental Response Trust Administrative Trustee, and the Avoidance Action Trust Administrator shall each (i) pay all the respective fees payable pursuant to section 1930 of chapter 123 of title 28 of the United States Code and (ii) be responsible for the filing of postconfirmation quarterly status reports with the Bankruptcy Court in accordance with Rule 3021-1 of the Southern District of New York Local Bankruptcy Rules.

12.9 Modification of Plan. Upon reasonable notice to the Creditors' Committee, the Asbestos Claimants' Committee, and the Future Claimants' Representative, the Plan may be amended, modified, or supplemented by the Debtors in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy Court may otherwise direct. In addition, after the Confirmation Date, so long as such action does not materially adversely affect the treatment of holders of Claims or Equity Interests under the Plan, the Debtors (and as of the Effective Date, the GUC Trust Administrator) may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan. Prior to the Effective Date, the Debtors may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Bankruptcy Court; *provided, however,* that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Equity Interests.

12.10 Revocation or Withdrawal of Plan. The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date. If the Debtors

take such action, the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any Claim by or against the Debtors or any other person or to prejudice in any manner the rights of the Debtors or any other person in any further proceedings involving the Debtors.

12.11 Courts of Competent Jurisdiction. If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of the Plan, such abstention, refusal, or failure of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

12.12 Severability. If, prior to the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

12.13 Governing Law. Except to the extent the Bankruptcy Code or other U.S. federal law is applicable, or to the extent an Exhibit to the Plan or a schedule in the Plan Supplement provides otherwise, the rights, duties, and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflicts of law thereof.

12.14 Exhibits. The Exhibits to the Plan and the Plan Supplement are incorporated into and as part of the Plan as if set forth herein.

12.15 Successors and Assigns. All the rights, benefits, and obligations of any person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors, and/or assigns of such person.

12.16 Time. In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

12.17 Notices. To be effective, all notices, requests, and demands to or upon the Debtors, the Creditors' Committee, the U.S. Treasury, the GUC Trust Administrator, the Asbestos Trust Administrator(s), the Environmental Response Trust Administrative Trustee, or the Avoidance Action Trust Administrator shall be in writing (including by facsimile or electronic transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Debtors, to:

Motors Liquidation Company
500 Renaissance Center, Suite 1400
Detroit, Michigan 48243
Attn: Ted Stenger
Telephone: (313) 486-4044
Telecopier: (313) 486-4259
E-mail: tstenger@alixpartners.com

AlixPartners LLP
40 West 57th Street
New York, New York 10019
Attn: Ted Stenger
Telephone: (212) 490-2500
Telecopier: (212) 490-1344
E-mail: tstenger@alixpartners.com

-and-

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attn: Stephen Karotkin, Esq.
Joseph H. Smolinsky, Esq.
Telephone: (212) 310-8000
Telecopier: (212) 310-8007
E-mail: stephen.karotkin@weil.com
joseph.smolinsky@weil.com

If to the Creditors' Committee, to:

Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, New York 10036
Attn: Thomas Moers Mayer, Esq.
Robert Schmidt, Esq.
Telephone: (212) 715-9100
Telecopier: (212) 715-8000
E-mail: tmayer@kramerlevin.com
rschmidt@kramerlevin.com

If to the Asbestos Claimants' Committee, to:

Caplin & Drysdale, Chartered
375 Park Avenue, 35th Floor
New York, New York 10152-3500
Attn: Elihu Inselbuch, Esq.
Rita C. Tobin, Esq.
Telephone: (212) 319-7125
Telecopier: (212) 644-6755
E-mail: ei@capdale.com
rct@capdale.com

-and-

Caplin & Drysdale, Chartered
One Thomas Circle, N.W., Suite 1100
Washington, DC 20005
Attn: Trevor W. Swett III, Esq.
Kevin C. Maclay, Esq.
Telephone: (202) 862-5000
Telecopier: (202) 429-3301
E-mail: tws@capdale.com
kcm@capdale.com

If to the Future Claimants' Representative, to:

Stutzman, Bromberg, Esserman & Plifka,
A Professional Corporation
2323 Bryan Street, Suite 2200
Dallas, Texas 75201
Attn: Sander L. Esserman, Esq.
Robert T. Brousseau, Esq.
Telephone: (214) 969-4900
Telecopier: (214) 969-4999
E-mail: esserman@sbep-law.com
brousseau@sbep-law.com

If to the U.S. Treasury, to:

United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220
Attn: Chief Counsel, Office of Financial Stability
Telecopier: (202) 927-9225
E-mail: OFSChiefCounselNotices@do.treas.gov

If to the GUC Trust Administrator,
the Asbestos Trust Administrator(s),
the Environmental Response Trust Administrative Trustee, or
the Avoidance Action Trust Administrator,
to the address(es)
designated in the Confirmation Order

Dated: New York, New York
August 31, 2010

Respectfully submitted,

MOTORS LIQUIDATION COMPANY

By: /s/ Ted Stenger
Name: Ted Stenger
Title: Executive Vice President

MLC OF HARLEM, INC.
MLCS, LLC
MLCS DISTRIBUTION CORPORATION
REMEDIATION AND LIABILITY MANAGEMENT COMPANY, INC.
ENVIRONMENTAL CORPORATE REMEDIATION COMPANY, INC.

BY: MOTORS LIQUIDATION COMPANY, as agent for each of the foregoing entities

By: /s/ Ted Stenger
Name: Ted Stenger
Title: Executive Vice President

EXHIBIT A

PRIORITY ORDER SITES

Wheeler Pit, Intersection of County Highway O and County Highway J, LaPrairie Township, WI

Scatterfield Road/Columbus Avenue, 2900 South Scatterfield Road, 2401 Columbus Avenue, Anderson, IN

Harvey & Knott, Old County Road, Kirkwood, DE

Sioux City, 1805 Zenith Drive, Sioux City, IA

Delphi Dayton, 300 Taylor Street, Dayton, OH

Garland Road, Frederick Garland Road, West Milton, OH

EXHIBIT B

FIXED ALLOWED NOTE CLAIMS

[TO BE PROVIDED]

EXHIBIT C

KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
Telephone: (212) 715-9100
Facsimile: (212) 715-8000
Thomas Moers Mayer
Timothy P. Harkness

Counsel for the Official Committee of Unsecured Creditors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

DECLARATION OF ANNA PHILLIPS IN SUPPORT OF THE MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF MOTORS LIQUIDATION COMPANY TO ENFORCE (A) THE FINAL DIP ORDER, (B) THE WIND-DOWN ORDER, AND (C) THE AMENDED DIP FACILITY

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ANNA PHILLIPS, under the penalty of perjury, deposes and says that:

1. I am a Senior Managing Director with FTI Consulting, Inc. (together with its wholly owned subsidiaries, agents, independent contractors and employees "**FTI**"), a financial advisory services firm with numerous offices throughout the country. I submit this Declaration on behalf of FTI (the "**Phillips Declaration**") in support of the motion (the

"**Motion**") of the Official Committee of Unsecured Creditors (the "**Committee**") appointed in the chapter 11 cases of Motors Liquidation Company, *et al*., (f/k/a General Motors Corp., *et al*.,) the debtors and debtors-in-possession herein (collectively, the "**Debtors**"), for the entry of an order enforcing the Final DIP Order, the Wind-Down Order and the DIP Credit Agreement, as such documents are defined in the Motion.[1] Unless otherwise stated in this Declaration, I have personal knowledge of the facts hereinafter set forth.

2. At the request of counsel to the Committee, I prepared the chart (the "**Dilution Chart**") attached hereto as **Schedule 1**, which demonstrates the dilution of the general unsecured creditors' total recovery value that would occur should the Committee prevail in the Term Loan Litigation – thereby leaving the Prepetition Term Lenders with an unsecured claim of $1.5 billion – without the unsecured creditors receiving the benefit of the proceeds of the litigation. This Chart demonstrates why the Committee would not initiate the Term Loan Litigation unless its constituents were to receive the potential proceeds thereof.

3. As reflected on the Dilution Chart, should the unsecured creditors receive the potential proceeds of the Term Loan Litigation, unsecured creditors stand to increase their overall percentage recovery by anywhere from 2.2% to 2.9%. Conversely, initiating the Term Loan Litigation without receiving the potential proceeds would result in as much as a 0.4% reduction to the general unsecured creditors' recovery.

1 Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Motion.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed: New York, New York
October 4, 2010

/s/ *Anna Phillips*
Anna Phillips

Schedule 1

Motors Liquidation Company

Unsecured Creditors Recovery Calculations from Term Loan Lenders

In $ millions		Scenario A. Term Loan Cash Proceeds go to Unsecured Creditors				Scenario B. Treasury Takes Priority Over Term Loan Cash Proceeds			
		Base Claim Amount $35B		Base Claim Amount $42B		Base Claim Amount $35B		Base Claim Amount $42B	
		Zero Recovery	Full Recovery	Zero Recovery	Full Recovery	Zero Recovery	Full Recovery	Zero Recovery	Full Recovery
Calculation of Cash to Unsecured Creditors from Term Loan Recovery									
Amount recovered from Term Loan Lenders	(1)	-	$1,500	-	$1,500	-	$1,500	-	$1,500
less: Treasury Loan amount due as of 2/28/11	(2)					($1,140)	($1,140)	($1,140)	($1,140)
Net Cash Proceeds to Unsecured Creditors from Term Loan Recovery		-	$1,500	-	$1,500	-	$360	-	$360
Calculation of the Total Claim Amount									
Unsecured Claim Amount (pre Term Loan claim)	(3)	$35,000	$35,000	$42,000	$42,000	$35,000	$35,000	$42,000	$42,000
Plus: Amount recovered from Term Loan Lenders	(4)	-	$1,500	-	$1,500	-	$1,500	-	$1,500
Total Claim Amount		$35,000	$36,500	$42,000	$43,500	$35,000	$36,500	$42,000	$43,500
Calculation of Unsecured Creditors Ownership Stake									
Unsecured Creditors Shares		50,000,000	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000
Unsecured Creditors Warrants		90,909,090	90,909,090	90,909,090	90,909,090	90,909,090	90,909,090	90,909,090	90,909,090
Unsecured Creditors Adjustment Shares	(5)	-	2,142,857	10,000,000	10,000,000	-	2,142,857	10,000,000	10,000,000
Total Unsecured Creditors Shares		140,909,090	143,051,947	150,909,090	150,909,090	140,909,090	143,051,947	150,909,090	150,909,090
Other Shares (Treasury, EDC, Unions)		450,000,000	450,000,000	450,000,000	450,000,000	450,000,000	450,000,000	450,000,000	450,000,000
Total Shares		590,909,090	593,051,947	600,909,090	600,909,090	590,909,090	593,051,947	600,909,090	600,909,090
% Unsecured Creditors Ownership Stake	(6)	23.8%	24.1%	25.1%	25.1%	23.8%	24.1%	25.1%	25.1%
Calculation of Total Unsecured Creditors Recovery Value									
Assumed New GM Equity Value	(7)	$55,500	$55,500	$55,500	$55,500	$55,500	$55,500	$55,500	$55,500
Plus: Cash from Warrants Exercised	(8)	$3,864	$3,864	$3,864	$3,864	$3,864	$3,864	$3,864	$3,864
Adjusted New GM Equity Value		$59,364	$59,364	$59,364	$59,364	$59,364	$59,364	$59,364	$59,364
% Unsecured Creditors Ownership Stake		23.8%	24.1%	25.1%	25.1%	23.8%	24.1%	25.1%	25.1%
Total Value to Unsecured Creditors before cash from Term Loan Lenders		$14,156	$14,319	$14,908	$14,908	$14,156	$14,319	$14,908	$14,908
Plus: Net Cash Proceeds to Unsecured Creditors from Term Loan Recovery		-	$1,500	-	$1,500	-	$360	-	$360
Total Unsecured Creditors Recovery Value		$14,156	$15,819	$14,908	$16,408	$14,156	$14,679	$14,908	$15,268
% Unsecured Creditors Recovery		40.4%	43.3%	35.5%	37.7%	40.4%	40.2%	35.5%	35.1%
Change in Unsecured Creditors Recovery (vs. no Term Loan recovery)			2.9%		2.2%		-0.2%		-0.4%

Notes:

(1) Assumes two hypothetical recovery amounts from Term Loan lenders: (i) zero and (ii) full ($1,500 million)

(2) Based on $1,175 million of original DIP loan, plus 5% quarterly PIK interest from 7/10/2009 through 2/28/2011 (assumed Effective Date for these calculations), less $135 million of repayment to Treasury per the Budget discussed with MLC on August 3, 2010.

(3) Assumes two scenarios for total allowed unsecured claims (before any claims from Term Loan lenders), one at $35 billion and the other at $42 billion.

(4) For purposes of this analysis, any amount recovered from Term Loan lenders would be added to the $35 billion and $42 billion of claims.

(5) Up to additional 10,000,000 shares issued by New GM if claims exceed $35 billion up to $42 billion, per MSPA

(6) Assumes full dilution for Warrants A and B

(7) Assumes $55.5 billion based on the mid point for equity values based on recent bond pricing, as discussed in the report to Kramer Levin dated August 13, 2010.

(8) Includes cash received by New GM from exercise of Warrants A and B