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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	**Chapter 11**
MOTORS LIQUIDATION COMPANY, *et al.*, f/k/a General Motors Corp., *et al.*	:	**Case No.: 09-50026 (REG)**
Debtors.	:	**(Jointly Administered)**
DONNA M. TRUSKY, GAYNELL COLE PATRICIA DICKERSON, on behalf of themselves and all others similarly situated,	:	**Adv. Proc. No.: 12-09803(REG)**
Plaintiffs,	:	
v.	:	
GENERAL MOTORS COMPANY,	:	
Defendant.	:	

MOTION OF GENERAL MOTORS LLC TO DISMISS PLAINTIFFS' SECOND AMENDED COMPLAINT OR, AT A MINIMUM, TO STRIKE THE CLASS ALLEGATIONS

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CASES

STATUTES AND RULES

General Motors LLC, f/k/a General Motors Company (**"New GM"**), respectfully submits this motion ("**Motion**") to dismiss the second amended class action complaint ("**SAC**"),[1] dated May 16, 2012, filed by Donna M. Trusky ("**Trusky**"), Patricia Dickerson ("**Dickerson**") and Gaynell Cole ("**Cole**," and with Trusky and Jeffries, "**Plaintiffs**"). If such relief is not granted in full, at a minimum, New GM requests that the Court strike the class action allegations and transfer the matter back to the United States District Court for the Eastern District of Michigan (*Trusky et al., v. General Motors Company,* Case No. 2:11-cv-12815-SFC-LJM (J. Cox)), where Plaintiffs' individual claims may be resolved consistent with this Court's rulings on the core bankruptcy issues presented in this Motion.

In support of this Motion, New GM respectfully states as follows:

PRELIMINARY STATEMENT

1. This putative class action concerns an alleged latent design defect in the rear wheel spindle rods of 2007 and 2008 Chevrolet Impalas (the "**Vehicles**") that were designed, assembled and manufactured by Motors Liquidation Company f/k/a General Motors Corporation's ("**Old GM**"). Plaintiffs allege that the latent defect can cause increased wear and tear on the Vehicles' tires, and that New GM is somehow liable for its failure to correct this latent defect. They request that the Court order New GM to replace the spindle rods with a different design, and pay damages to the putative class.

2. The SAC is Plaintiffs' fourth effort to plead a claim that "shoehorns" inside the carefully defined and limited scope of New GM's "Assumed Liabilities" (defined below) and the injunction against successor liability contained in this Court's Order, dated July 5, 2009 ("**Sale**

[1] A copy of the SAC is annexed hereto as Exhibit "A."

Order"),[2] which authorized and approved the sale of substantially all of the Debtors' assets to New GM, free and clear of all of the Debtors' liabilities, except for those expressly assumed by New GM under the MSPA (defined below). Plaintiffs' continued effort at wordsmithing their complaint is futile; the claims asserted and relief sought are in derogation of the Sale Order.

3. New GM only assumed obligations of Old GM in connection with certain "express written warranties of [the Debtors] that are specifically identified as warranties and delivered in connection with the sale of" specified vehicles. Amended and Restated Master Sale and Purchase Agreement, dated as of June 26, 2009 ("**MSPA**") § 2.3(a)(vii)).[3] This is commonly referred to as the "Glove Box Warranty" offered by Old GM to its customers upon sale. The Glove Box Warranty is a typical "repair and replacement" warranty. If one of the Vehicles were to manifest a defect in materials or workmanship that is covered, and its owner presented the vehicle to a New GM dealer within the warranty period, then the owner would receive repairs or replacement parts.

4. The SAC is clearly not premised on the Glove Box Warranty. It is based on a theory that Old GM should have fixed the spindle design defect in the Vehicles manufactured by Old GM, and compensated consumers for their losses. *See* SAC, ¶ 54. Whatever Old GM's failures were, they clearly did not become "Assumed Liabilities" of New GM under the MSPA. These types of claims, even if they were liabilities against Old GM, do not constitute Assumed Liabilities under the MSPA assertable against New GM. Accordingly, the Court should dismiss Plaintiffs' SAC because the claim and prayer for relief are barred by the Sale Order, as summarized below:

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[2] A copy of the Sale Order is annexed hereto as Exhibit "B."

[3] A copy of the MSPA is annexed hereto as Exhibit "C."

a. Plaintiffs' claim and prayer for damages are not cognizable under the terms of the Glove Box Warranty, which contains the only warranty obligations New GM assumed under the MSPA. The Glove Box Warranty does not obligate New GM to fix or correct a latent defect such as Old GM's alleged spindle rod design. It only covers defects in "materials or workmanship" that are presented to New GM during the warranty period. And, the Glove Box Warranty affirmatively disclaims any liability for damages or monetary losses of any kind.

b. Because New GM's obligations are limited to the terms of the Glove Box Warranty, Plaintiffs may not, as they do here, predicate or buttress a claim against New GM based on the conduct of Old GM. New GM did not assume responsibility for claims based on Old GM's design choices or Old GM's alleged breaches of liability under the Glove Box Warranty. *See, e.g.*, Sale Order ¶¶ 8, 46; s*ee also, In Re: OnStar Contract Litig.*, Case No. 2:07-MDL-01867, Opinion & Order Granting in Part and Denying In Part Plaintiffs' Motion For Leave To File A Third Amended Complaint ("OnStar Opinion")[4] (declining to add New GM to a warranty case because New GM was not liable "due to" Old GM's alleged breaches of the Glove Box Warranty). In essence, Plaintiffs' have attempted to plead a claim against New GM under a successor liability theory which, as clearly set forth in the Sale Order is, impermissible. *See, e.g.*, Sale Order ¶¶ 8, 46.

c. Plaintiffs' claim for a latent defect is a claim outside of the Glove Box Warranty. It is settled law that a seller is not liable under an express warranty claim for latent defects that do not manifest into actual, covered defects in a vehicle during a

[4] A copy of the *OnStar* Opinion is annexed hereto as Exhibit "D."

warranty period, even if the seller knew of the latent defect at the time of sale. *See Abraham v. Volkswagen of America, Inc.*, 795 F.2d 238, 250 (2d Cir.1986). The *Abraham* rule means that a plaintiff may not pursue a "latent defect" theory under an express warranty claim. Plaintiffs' lawsuit cannot be reconciled with this settled law.

5. These principles doomed this case from the start, and were confirmed by this Court's decision in *Castillo et al., v. General Motors Company,* Adv. Proc. Case No. 09-00509. *See* Decision After Trial, dated April 17, 2012. There, this Court addressed and applied the same, core principles concerning New GM's limited warranty obligations that are at issue in our case. The Castillo plaintiffs had argued that New GM's "Assumed Liabilities" included Old GM's obligations under a pre-petition settlement agreement to perform certain transmission repairs. Because the settlement agreement contained obligations outside of the express Glove Box Warranty assumed by New GM, such obligations were not Assumed Liabilities of New GM. The Court entered judgment in New GM's favor, finding, among other things, that "New GM [was] assuming only express warranties that were delivered upon the sale of vehicles" and that the Sale Order "intended to exclude other kinds of warranty-related claims."[5] *See Castillo* Decision After Trial, p. 13. As in *Castillo,* the claims and relief Plaintiffs pursue are not authorized by the Glove Box Warranty, and thus, the SAC should be dismissed in its entirety.

6. Assuming *arguendo* that Plaintiffs alleged only that New GM (not Old GM) failed to perform its assumed obligations under the terms and conditions of the Glove Box Warranty (an assumption that requires the Court to disregard much of the SAC, including the prayer for monetary damages), the SAC cannot, in any event, proceed as a class action and the Court should strike all class allegations. *See* SAC ¶¶16-25. The facts as to each Plaintiff are

[5] A copy of the *Castillo* Decision After Trial is annexed hereto as Exhibit "E."

hopelessly individualized and there is no way to ascertain an objectively definable class. This case should be dismissed. If it proceeds at all, it should be as an individual action to resolve the specific claims of Plaintiffs under the terms of the Glove Box Warranty.

BACKGROUND

A. The Sale of Assets to New GM

7. On June 26, 2009, Old GM and certain of its affiliates (collectively, the "**Debtors**") entered into the MSPA with New GM. On July 5, 2009, the Court entered the Sale Order, and on July 10, 2009, the Debtors consummated the sale of substantially all of their assets to New GM (the "**363 Sale**"). Pursuant to the 363 Sale, New GM acquired substantially all of the assets of the Debtors pursuant to Section 363 of the Bankruptcy Code and assumed certain, specifically-defined liabilities. The scope and limitations of New GM's responsibilities with respect to Old GM's liabilities are defined in the Sale Order, which is a final binding Order.

8. Specifically, the Sale Order provides that, with the exception of certain limited liabilities expressly assumed under the relevant agreements, the assets acquired by New GM were transferred "free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever . . . including rights or claims based on any successor or transferee liability." *Id*., ¶7.

9. Moreover, the Sale Order permanently enjoined claimants from attempting to enforce liabilities against New GM *other than Assumed Liabilities*, as follows:

> [A]ll persons and entities … holding liens, claims and encumbrances, and other interests of any kind or nature whatsoever, including rights or claims based on any successor or transferee liability, against [Old GM] or the Purchased Assets (whether legal or equitable, secured or unsecured, ***matured or unmatured***, contingent or noncontingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to [Old GM], the Purchased Assets, the operation of the Purchased Assets prior to the Closing … are forever barred, estopped, and

> permanently enjoined … from asserting against [New GM] … such persons' or entities' liens, claims, encumbrances, and other interests, including rights or claims based on any successor or transferee liability.

Sale Order, ¶ 8 (emphasis added); *see also* ¶ 9 ("This Order (a) shall be effective as a determination that, as of the Closing, (i) no claims other than Assumed Liabilities, will be assertable against the Purchaser, its affiliates, their present or contemplated members or shareholders, successors, or assigns, or any of their respective assets (including the Purchased Assets); (ii) the Purchased Assets shall have been transferred to the Purchaser free and clear of all claims (other than Permitted Encumbrances) . . . ")

10. In addition, paragraph 46 of the Sale Order provides as follows (emphasis added):

> Except for the Assumed Liabilities expressly set forth in the [ARMSPA] … ***[New GM] … shall [not] have any liability for any claim that arose prior to the Closing Date, relates to the production of vehicles prior to the Closing Date, or otherwise is assertable against [Old GM] … prior to the Closing Date …. Without limiting the foregoing, [New GM] shall not have any successor, transferee, derivative, or vicarious liabilities of any kind or character for any claims, including, but not limited to, under any theory of successor or transferee liability,*** de facto merger or continuity … and products … liability, whether known or unknown as of the Closing, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated.

See also Sale Order, ¶ 47 ("Effective upon the Closing … all persons and entities are forever prohibited and enjoined from commencing or continuing in any manner any action … against [New GM] … with respect to any (i) claim against [Old GM] other than Assumed Liabilities).

11. "Assumed Liabilities" was defined in Section 2.3(a) of the MSPA, which provided, in pertinent part, that New GM would assume the repair obligations of Old GM in connection with certain "express warranties of Sellers that are specifically identified as

warranties and delivered in connection with the sale of" specified vehicles. MSPA, § 2.3(a)(vii). New GM did not assume any liability "arising out of, relating to or in connection with any (A) implied warranty or other implied obligation arising under statutory or common law without the necessity of an express warranty or (B) allegation, statement or writing by or attributable to Sellers." *Id.* at § 2.3(b)(xvi). Product liability claims were also not assumed by New GM. *See* MSPA, §2.3(b)(ix) (New GM did not assume "Product Liabilities arising in whole or in part from any accidents, incidents or other occurrences that happen prior to the Closing Date").

12. As confirmed by the Sale Order, New GM's warranty responsibilities were strictly limited to express conditions of the express written warranty:

> The Purchaser is assuming the obligations of the Sellers pursuant to and subject to conditions and limitations contained in their express written warranties, which were delivered in connection with the sale of vehicles and vehicle components prior to the Closing of the 363 Transaction and specifically identified as a "warranty." The Purchaser is not assuming responsibility for Liabilities contended to arise by virtue of other alleged warranties, including implied warranties and statements in materials such as, without limitation, individual customer communications, owner's manuals, advertisements, and other promotional materials, catalogs, and point of purchase materials.

Sale Order, ¶ 56.

B. The Express Written Warranty

13. The express written warranty at issue is the 2007 Chevrolet Warranty Booklet ("**Glove Box Warranty**").[6] The Glove Box Warranty "covers repairs to correct any vehicle defect related to materials or workmanship occurring during the warranty period." Glove Box Warranty, p. 4. It does not cover design defects.

[6] The 2007 and 2008 Chevrolet Warranty Booklet are essentially the same and the operative provisions contained in the 2007 Chevrolet Warranty Booklet are equally applicable to the 2008 Vehicles. A copy of the Warranty is annexed hereto as Exhibit "F."

14. Moreover, the Glove Box Warranty provides that "[p]erformance of repairs and needed adjustments is the exclusive remedy under this written warranty or any implied warranty. GM shall not be liable for incidental or consequential damages, such as, but not limited to, lost wage or vehicle rental expenses, resulting from breach of this written warranty or any implied warranty." *See* Glove Box Warranty, p. 9. "Economic loss or extra expense is not covered" under the Glove Box Warranty. *Id.* at p. 9.

15. The "Bumper-to-Bumper" coverage for the Vehicles is for the "first three years or 36,000 miles, whichever comes first."[7] Glove Box Warranty, p. 2. Vehicle owners must present their Vehicles to a GM dealer in order to trigger the Glove Box Warranty obligations. *See* Glove Box Warranty, p. 4 ("To obtain warranty repairs, take the vehicle to a Chevrolet dealer facility within the warranty period and request the needed repairs."), and p. 22 ("You are responsible for presenting your vehicle to a GM dealer selling your vehicle line as soon as a problem exists.").

C. Procedural History Of This Lawsuit

1. The Michigan Action

16. Ms. Trusky originally commenced this action ("**Michigan Action**") in the United States District Court for the Eastern District of Michigan (Case No. 2:11-cv-12815) ("**Michigan Court**") on June 29, 2011, seeking economic damages based on an alleged design defect in her Chevrolet Impala. She alleged in her original complaint that all "model year 2007 and 2008 Impalas were sold with common defective rear spindle rods that caused and continue to cause wheel misalignment and premature tire wear." Complaint, ¶2. She asserted that the proof of the defect was a service campaign launched by Old GM approximately one year before the bankruptcy filing. ("**Police Vehicle Bulletin**") The Police Vehicle Bulletin related to police

[7] This coverage would have expired by now in all the Vehicles.

vehicles but not Plaintiffs' Vehicles. *Id.*, ¶¶ 2-3, 26-29.[8] Referring to Old and New GM interchangeably throughout the complaint, her theory was premised on the alleged "liabilities" of Old GM (*id*., ¶1); indeed, she did not allege that she had any interaction with New GM at all, other than to assert that New GM "knew" about the alleged defect at the time of the 363 Sale. SAC, ¶ 3.

17. New GM filed a motion to dismiss the Michigan Action, asserting that the claims contained in the original complaint were in violation of the Sale Order as they are not covered by the written express warranties assumed by New GM in connection with the 363 Sale, and that this Court had exclusive jurisdiction to adjudicate any issues arising from the Sale Order and the liabilities assumed by New GM.

18. In response to the motion to dismiss, Trusky filed an Amended Complaint, adding additional plaintiffs (Gaynell Cole ("**Cole**") and Asha Jeffries ("**Jeffries**")), and adding certain additional allegations ("**Amended Complaint**"). As the claims asserted in the Amended Complaint were the same as those asserted in the original version of the complaint, New GM moved to dismiss the Amended Complaint, again asserting that the claims contained in the Amended Complaint were in violation of the Sale Order and that this Court had exclusive jurisdiction to adjudicate any issues arising from the Sale Order.

19. Subsequent to the filing of the motion to dismiss the Amended Complaint, Plaintiffs agreed to stay the Michigan Action so that they could seek a ruling from this Court on the jurisdictional and bankruptcy issues raised by New GM, namely whether the Plaintiffs could appropriately prosecute their claims due to limitation of New GM's assumption of liabilities via

[8] Plaintiffs ignored in the original Complaint, and continue to do so in the SAC, the fact that Police Vehicles are different than regular consumer vehicles. They are heavier, have different duty cycles, and may be tuned differently.

the Sale Order. An Order ("**Stay Order**")[9] staying the Michigan Action was entered therein on November 12, 2011.

20. After the entry of the Stay Order, Plaintiffs concluded that it was necessary to transfer the Michigan Action to this Court. An Order ("**Transfer Order**") transferring the Michigan Action to the Southern District of New York was entered on February 10, 2012.[10] In connection with the transfer of the Michigan Action, New GM's motion to dismiss the Amended Compliant was withdrawn without prejudice.

2. Plaintiffs' Second Amended Complaint

21. After this case was transferred from the Michigan Court, the Plaintiffs filed a "Revised Amended Class Action Complaint" on April 3, 2012 ("**Revised Amended Complaint**"). The Revised Amended Complaint deleted Cole and Jeffries as named Plaintiffs; otherwise the Revised Amended Complaint was substantially similar to the Amended Complaint

22. Thereafter, Plaintiff Trusky filed the SAC (the fourth version of Plaintiffs' complaint) in this Court on June 1, 2012. It is now the operative pleading. Ms. Trusky remains a plaintiff; Cole was added back in as a named Plaintiff. Ms. Patricia Dickerson is new.

23. The SAC is premised on the same core allegations and theory proffered in the original and Amended Complaints. Plaintiffs contend that New GM is liable on a warranty theory for a "failure to correct" the underlying latent design defect attributable to Old GM's design choices and for failing to compensate consumers "due to" Old GM's breaches. *See* SAC, ¶¶3, 4(i), 54. It is not enough, according to Plaintiffs, that New GM address individual warranty claims by replacing tires if and when a covered defect manifests itself and a Vehicle is presented

[9] A copy of the Stay Order is annexed hereto as Exhibit "G."

[10] A copy of the Transfer Order is annexed hereto as Exhibit "H."

to a New GM dealer. Rather, they contend that New GM is at fault even if a Vehicle has functional tires and is operative during the warranty period because the alleged latent spindle defect *could cause future* tire wear and tear. *See* SAC, ¶ 54 (alleging that New GM breached its warranty obligations by failing to correct the spindle design so as to make sure that premature tire wear "*would* not occur"). Plaintiffs want New GM to pay damages, costs and attorney fees as well.

24. In connection with this core theory, each Plaintiff pled different factual scenarios concerning their own interactions with Old GM or New GM. Ms. Trusky claims that "[w]ithin the first 6,000 miles driven and within the first year of operation . . . the tires were unserviceable." SAC, ¶ 33. At that time, she presented her vehicle to the Old GM dealer, and received a ***free set*** of replacement tires and a free wheel alignment. SAC, ¶ 34. She does not allege any damages or out-of-pocket costs as a result of this service visit. This occurred sometime in 2008 or early 2009, but before the bankruptcy in June 2009. *Id*. Thereafter, on November 30, 2010, Ms. Trusky alleges she "brought her car in for its annual inspection [there is no allegations that a GM dealer performed that inspection] and was informed that the replacement rear tires were worn and would not pass inspection." *Id*. ¶ 35. She allegedly "paid $287.77 for a set of rear replacement tires," and at that time the "car had 24,240 miles on it." *Id*. There are no specific factual allegations that New GM did anything (or was asked or had an opportunity to do anything) in relation to Trusky's vehicle.

25. Ms. Cole alleges she bought a new Impala on June 26, 2008. SAC, ¶ 36. Her 3 year/36,000 mile bumper-to-bumper coverage expired on June 26, 2011. *See* Declaration of Steven D. Oakley in Support of Motion to Dismiss Amended Complaint, ("**Decl. Oakley**").[11]

[11] A copy of the Oakley Declaration is annexed hereto as Exhibit "I."

Ms. Cole does not identify in the SAC the specific date she brought it in for repairs (and instead alleges in conclusory fashion that it was "within the durational and terms limit" of the warranty (SAC, ¶ 38). However, Ms. Cole brought her vehicle in for repair on July 5, 2011, outside of the warranty period. *See* Decl. Oakley.

26. The new Plaintiff to the SAC, Ms. Dickerson, alleges that she purchased her vehicle in March 2008, which means that the warranty period would run through March 2011. SAC, ¶ 41. She claims that she discovered premature tire wear in July 2010, brought her vehicle to New GM dealer within the duration of her warranty, but was told by the dealer that it would not "make the necessary repairs under her warranty." *Id*. at ¶ 43-45. She does not identify what she believed the "necessarily" repairs were, or whether the New GM dealer was willing to address repairs that would have made the vehicle operative but in a manner that did not satisfy Ms. Dickerson's subjective expectations.

ARGUMENT

27. In Section A, below, New GM explains that it did not assume under the MSPA any alleged "failure to correct" liability nor obligations "to compensate" consumers for Old GM's breaches of warranties. *See* SAC, ¶ 54. This flawed premise underlies the entire lawsuit and, as a result, the case should be dismissed in its entirely pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure ("**Civil Rules**") (made applicable to this Adversary Proceeding pursuant to Rule 7012 of the Federal Rules of Bankruptcy Procedure).

28. In Section B, New GM argues in the alternative, that even if one or more of Plaintiffs' individual claims plausibly could be pled under the Glove Box Warranty consistent with the MSPA, then the Court should enter an order: (i) ruling that the scope of New GM's liability is limited to honoring the specific terms of the express written warranties and that New

GM is not liable for Old GM's design choices and conduct under a latent design defect theory, (ii) striking the class allegations pursuant to Civil Rule 23(d)(1)(D), and (iii) transferring the case back to the originating Court (Eastern District of Michigan) for adjudication of the Plaintiffs' individual claims consistent with the Court's rulings.

A. New GM Did Not Assume Old GM's Alleged Liability For Its "Failure to Correct" And "Failure To Compensate" In Regards To The Latent Design Defect

1. New GM's Warranty Obligations are Limited To the Express Terms Contained Within the Four-Corners of the Glove Box Warranty

29. The Sale Order provides that, with the exception of certain liabilities expressly assumed under the relevant agreements, the assets acquired by New GM were transferred "free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever . . . including rights or claims based on any successor or transferee liability . . . ." Sale Order, ¶ 7. While New GM assumed "express written warranties of [Old GM] that are *specifically identified as warranties and delivered in connection with the sale* of" specified vehicles (MSPA, § 2.3(a)(vii)), the effect was that New GM only assumed the obligation to fund and otherwise support the standard limited warranty of repair issued by Old GM. *See* Sale Order, ¶ 56 (New GM assumed express warranties "subject to conditions and limitations contained" therein).

30. Under the MSPA New GM did not assume Old GM's liabilities for Old GM's breaches of its warranty obligations. *Id*.; *and see, In Re: OnStar Contract Litig.*, Case No. 2:07-MDL-01867 (*OnStar* plaintiffs sought leave to add New GM to the lawsuit against *OnStar* under an express warranty theory, asserting that New GM was liable to plaintiff ***due to*** Old GM's breaches of the warranties; the Court denied the Motion in part because the "express warranty claims that Plaintiffs seek to assert against New GM appear to be barred by the plain language of

the Bankruptcy Court's Sale Approval Order," and expressly rejected plaintiffs' effort to hold New GM liable for Old GM's alleged breaches of the warranties). *OnStar* Opinion at pp. 3, 6.

31. Similarly, New GM's liabilities necessarily may not be premised on Old GM's *conduct* in relation to the design or sale of the Vehicles, including the decision to issue the Police Vehicle Bulletin but not to issue a similar bulletin for consumer vehicles. *See* MSPA, §2.3(b)(xi). The MSPA unambiguously provides that New GM did not assume liabilities "to third parties for Claims based upon Contract, tort or any other basis." Moreover, the Sale Order provides that New GM did not assume "implied warranties and statements in materials such as, without limitation, individual customer communications, owner's manuals, advertisements, and other promotional materials, catalogs, and point of purchase materials." Sale Order, ¶ 56. Holding New GM liable for Old GM's conduct would run afoul of these provisions and also the principle that New GM's obligations are limited and premised on its own interactions with consumers under the terms of the Glove Box Warranties.

32. This Court recently acknowledged and affirmed this core principle in *Castillo et al., v. General Motors Company*, Adv. Proc. Case No. 09-00509 (April 17, 2012). In *Castillo*, this Court entered judgment in New GM's favor on plaintiffs' claims that New GM assumed the liability for a settlement agreement plaintiffs had entered into with Old GM concerning transmission repairs. In essence, the *Castillo* plaintiffs had argued that the settlement agreement was an "Assumed Liability" because it related to a warranty dispute and arose under Old GM's express written warranties.

33. In its ruling, the Court affirmed the limited scope of the warranty obligations assumed by New GM from Old GM. The Court found that "it was the intent and structure of the 363 Sale, as agreed on by the Auto Task Force and Old GM, that New GM would start business

with as few legacy liabilities as possible, and that presumptively, liabilities would be left behind and not assumed." *Castillo* Decision After Trial, p. 5. The Court also stated that "by the end of the 363 Sale hearing it was clear not only to Old GM and Treasury, but also to the Court and to the public, that the goal of the 363 Sale was to pass on to Old GM's purchaser – what thereafter became New GM – only those liabilities that were commercially necessary to the success of New GM." *Id*. at p. 8.

34. *Castillo* affirms that New GM may not be asked to do something, or to pay something, that is not set forth in the Glove Box Warranty. This means that New GM has no obligation to change the design of the spindle rods, even assuming (which New GM disputes) that it may constitute a "latent defect." The Glove Box Warranty is a "repair and replacement" warranty, and nothing in it obligates New GM to affirmatively and prospectively recall vehicles to alter their design. Glove Box Warranty, p. 4. (The Glove Box Warranty "covers repairs to correct any vehicle defect related to materials or workmanship occurring during the warranty period"); *see also*, *Lombard Corp. v. Quality Aluminum Products Co.* 261 F.2d 336, 338 (6th Cir. 1958) (holding that a design defect was not covered under an express warranty for defects in materials and workmanship). New GM only must address specific manifestations of covered defects when vehicles are presented to New GM during the Glove Box Warranty period. In this case, the alleged consequence of the spindle rod design is increased wear and tear on a Vehicle's tires and a Vehicle with inappropriate tire wear, can of course, be rendered operative at a point in time by replacing the tires.

35. New GM also is not obligated to provide the relief that Plaintiffs seek, including compensatory damages, attorneys' fees, injunctive and declaratory relief. *See* SAC, pp. 24-25. None of this is recoverable pursuant to the terms of the Glove Box Warranty: "Performance of

repairs and needed adjustments is the exclusive remedy under this written warranty or any implied warranty. GM shall not be liable for incidental or consequential damages, such as, but not limited to, lost wage or vehicle rental expenses, resulting from breach of this written warranty or any implied warranty." *See* Glove Box Warranty, p. 9. Plaintiffs cannot reconcile their prayer for relief with the actual terms of the Glove Box Warranty.

2. Settled Warranty Law Rejects Plaintiffs' Latent Defect Theory

36. Just as there is no support in the Glove Box Warranty for Plaintiffs' claim and request for damages, there is no support in established express warranty law either. It is well settled that a manufacturer is not liable on an express warranty theory where the defect did not manifest itself at all (*see O'Neil v. Simplicity, Inc.*, 574 F.3d 501, 503-04 (8th Cir. 2009)), or within the duration of the express warranty. *See Abraham v. Volkswagen of America, Inc.*, 795 F.2d 238, 250 (2d Cir.1986). In *Abraham*, the Court held that "an express warranty does not cover repairs made after the applicable time or mileage periods have elapsed." *Id*., at 250. Importantly, the court found that the seller's knowledge of the latent defect during the warranty period was immaterial and did not serve to enlarge the seller's obligations. *Id*. at 250 ("[Manufacturers . . . can always be said to 'know' that many parts will fail after the warranty period has expired. A rule that would make failure of a part actionable based on such 'knowledge' would render meaningless time/mileage limitations in warranty coverage").

37. Innumerable courts have followed *Abraham* in rejecting buyer's efforts to state a latent defect claim under an express warranty theory where, in fact, the claim or relief requested was outside that permitted by the express warranty at issue. *See e.g., Clemens v. DaimlerChrysler Corp.*, 534 F.3d 1017 (9th Cir. 2008) (relying on *Abraham* and affirming dismissal of warranty claim for repairs made after warranty period expired despite the seller's

alleged knowledge of the latent defect); *Dewey et al., v. Volkswagen AG, et al*., 558 F.Supp. 2d 505 (D.N.J. 2008) (same); *Daugherty et al. v. American Honda Motor Co., Inc.*, 144 Cal. App. 4th 824 (Cal. App. 2006) (same). Indeed, this Court likewise relied on *Abraham* in its *Castillo* decision, and held that the "Assumed Warranties" (those liabilities assumed by New GM) are "described as express warranties that customers receive which are 'delivered in connection with the sale of new, certified used, or pre-owned vehicles . . .' They do not, in any commonly understood way, cover litigation obligations (especially for attorneys' fees) that were undertaken ***because the express warranties had expired***." *Id*. at p. 21 (citing *Abraham*) (emphasis added).

38. Plaintiffs' theory of the case is inconsistent with *Abraham.* Because a seller's knowledge of a latent defect is not sufficient to trigger warranty coverage absent manifestation of actual injury, (*Abraham, supra*, at p. 250), this obviously means that a seller has no inherent duty to "correct" a design flaw. Holding New GM responsible – now -- for Old GM's failing to change the spindle rods necessarily means that a "known" latent design defect creates obligations *during* the warranty period for consequences that might not arise until after the warranty coverage expires. This is exactly what *Abraham* and its progeny said is not required.

39. Plaintiffs base their claims entirely on the conduct of Old GM (*i.e.*, Old GM's design choices and the issuance of the Police Vehicle Bulletin); they have not, and cannot, demonstrate that any possible latent defect with the Vehicles is based on the conduct of New GM. Thus, the claims asserted in the SAC amount to nothing more than successor liability claims which, as noted, were expressly cut off by specific provisions in the Sale Order. *See* Sale Order, ¶¶ 8, 46.

3. <u>These Principles are Fatal to Plaintiffs' Lawsuit and Prayer for Relief</u>

40. For all the reasons noted above, the liabilities asserted by Plaintiffs are not "Assumed Liabilities" as defined in the MSPA and were not transferred to New GM as part of the sale of Old GM's assets.

41. Each particular Plaintiff likewise does not state a claim under the Glove Box Warranty, even assuming that their claims could be analyzed and isolated apart from the overall, flawed theory in the SAC. Ms. Trusky never alleges that she brought her vehicle to a ***New GM*** dealer at any time, including for her November 2010 "inspection." The fact that she never presented her vehicle to New GM for repairs under the Glove Box Warranty itself defeats her claim. Ms. Cole's claim also is fatally flawed, but for a different reason. She bought a new vehicle in 2008 and the warranty for her vehicle expired no later than June 26, 2011. She claims in conclusory fashion to have presented it to a New GM dealer within the Glove Box Warranty duration, but the actual facts demonstrate that it was on July 5, 2011, over a week after her 3-year bumper-to-bumper warranty expired. *See* Decl. Oakley. Only Ms. Dickerson fits the basic paradigm, at least on the issue of presentment during the Glove Box Warranty period. She claims that she discovered premature tire wear in July 2010, brought her vehicle to New GM dealer within the duration of her warranty, but was told by the dealer that it would not "make the necessary repairs under her warranty." *Id*. at ¶ 43-45. Even in her case, however, she does not allege facts sufficient to state a plausible claim that the New GM dealer failed to repair or replace defects in materials or workmanship under the terms of the Glove Box Warranty. Instead, given the overall theory in the SAC, the only plausible inference is that the dealer's refusal to "make the necessary repairs" involved a refusal to change the spindle design, which as noted above, is

not required and because other repairs could render her Vehicle operative under the Glove Box Warranty. Ms. Dickerson too has failed to state a claim on this basis.

42. The SAC should be dismissed with prejudice.

B. If New GM's Relief is Not Granted in Full, at a Minimum, the Court Should Strike the Class Allegations and Transfer the Case Back To The Eastern District Of Michigan to Resolve Plaintiffs' Individual Claims, If Any, That Survive This Motion

43. Examining the plausibility of Plaintiffs' claims itself, demonstrates why this case may not proceed as a class action, if it survives at all.

44. If a complete dismissal is not granted, the Court should at least resolve definitively the core bankruptcy dispute regarding the scope of New GM's alleged warranty obligations. That is what gave rise to Plaintiffs' request to transfer this case to this Court. The Court should affirm and rule that:

a. Plaintiffs may not pursue a warranty claim against New GM for "latent defects" in vehicles designed, assembled and sold by Old GM;

b. New GM is not liable for Old GM's conduct or alleged breaches of warranties;

c. New GM's warranty obligations are limited to honoring the specific terms of the Glove Box Warranty as to vehicles presented for repair to New GM dealers within the mileage and/or duration limitations contained in the Glove Box Warranty; and

d. New GM is not liable for monetary damages or other economic loss under the terms of the Glove Box Warranties.

45. The Court should also strike the class allegations and allow this case to proceed on an individual basis before transitioning the case back to the originating court. *See* Fed. R. Civ. P. 23(d)(1)(D) (a court may "require that the pleadings be amended to eliminate allegations

about representation of absent persons and that the action proceeds accordingly . . . .").[12] Striking the class allegations is appropriate here for multiple reasons.

46. As a threshold matter, Plaintiffs' proposed class would include members that ostensibly had claims (if they ever had them at all) against Old GM, such that the formation of the class would be inconsistent with the limits of New GM's liabilities. Plaintiffs seek a class of "all persons in the United States who purchased or leased a model year 2007 or 2008 Chevrolet Impala (the "Class") and who gave notice to and/or requested repair of **Old GM** or New GM for defective rear spindle rods, or related components that were damaged thereby, within the durational limitations of the express warranties delivered with their vehicle at the time of purchase or lease." SAC, ¶16 (emphasis added). By Plaintiffs' own admission, they want to represent individuals who allegedly presented their vehicles to ***Old GM*** for repairs and were denied relief by ***Old GM***. Defining the "Class" this way means, once again, that Plaintiffs would pursue claims against New GM based on conduct of Old GM. As noted above in Section A, they may not do so.

47. Additionally, even if the class were limited to those individuals that dealt exclusively with New GM, certification of this case would never be appropriate for at least two reasons.

48. ***First***, a class must be sufficiently defined so that its members are objectively identifiable based on the definition. *Rose v. Saginaw County*, 232 F.R.D. 267, 271 (E.D. Mich. 2005) (*citing Garrish v. UAW*, 149 F. Supp. 2d 326, 330-31 (ED Mich. 2001)) ("The identity of

[12] Several district courts in the Second Circuit have held that such motions may be addressed "prior to the certification of a class if the inquiry would not mirror the class certification inquiry and if resolution of the motion is clear." *In re Initial Public Offering Sec. Litig.*, 21 MC 92(SAS), 2008 WL 2050781, *2 (S.D.N.Y. May 13, 2008); *see, e.g., Jaffe v. Capital One Bank*, No. 09 Civ. 4106, 2010 WL 691639, *10 (S.D.N.Y. March 1, 2010); *Rahman v. Smith & Wollensky Rest. Group, Inc.*, No. 06 Civ. 6198, 2008 WL 161230, at *3 (S.D.N.Y. Jan. 16, 2008).

class members, moreover, must be ascertainable by reference to objective criteria . . .. A precise definition allows the Court to determine who would be entitled to relief, who would be bound by a judgment, and who is entitled to notice of the action"). Plaintiffs' proposed class presents a fundamental ascertainability problem because the class definition presupposes that members (a) encountered a problem, (b) "gave notice to and/or requested repair" of their vehicle, and (c) were denied appropriate repairs. SAC, ¶16

49. The Court would need to do a case-by-case inquiry just to determine who qualified for membership in this putative class. Courts routinely deny certification when that analysis is necessary. *In re General Motors Corp., "Piston Slap" Products Liability Litig.*, No. MDL 04-1600, 2006 WL 1049259, *2 (W.D. Okla. Apr. 19, 2006) (the district court denied certification in part because identifying the persons who owned cars with the defect would be difficult (if not impossible) because *not all engines had the defect*. *Id.* at *3). *Rosen v. Chrysler Corp.*, No. 97-CV-60374-AA, 2000 WL 34609135, at *5 (E.D. Mich. July 18, 2000); *In re Paxil Litig.*, 212 F.R.D. 539, 545 (C.D. Cal. 2003) (no class certification because plaintiffs defined the proposed class "in a manner making the actual composition only determinable at the conclusion of all proceedings"). Without individual inquiries, there is no way to determine who encountered a problem and who sought repairs from a dealer but was denied appropriate relief under the Glove Box Warranties.

50. ***Second***, the individual facts concerning whether any given class member could state a claim are hopelessly individualized, and would "predominate" over any common issues. Fed. R. Civ. P. 23(b)(3). Every class member would need to satisfy the elements of a breach of warranty claim in relation to their own, unique experience with New GM under the terms of the Glove Box Warranty. *See Abraham v. Volkswagen of America, Inc.*, 795 F.2d 238, 250 (2d Cir.

1986); *Cipollone v. Liggett Group, Inc*., 505 U.S. 504, 525-26 (1992); *see Woolums v. National RV*, 530 F. Supp. 2d 691, 698-99 (M.D. Pa. 2008) (plaintiff may maintain a breach of warranty claim only to the extent that the warranty imposed an obligation upon defendant).

51. To establish a breach, any given individual would, at a minimum, need to prove that their vehicles exhibited a defect that was covered (*see* Glove Box Warranty, p. 2), that they presented it to a New GM dealer for repairs (*id*, p. 4) within the mileage and/or duration limitations contained in the Glove Box Warranty, that New GM did not repair the covered defect as required by the Glove Box Warranty, and that they seek relief permitted by the Glove Box Warranty. *See id*, p. 9 (excluding claims for damages and confirming that "[p]erformance of repairs and needed adjustments is the exclusive remedy"); *see also Bailey v. Monaco Coach Corp*., 350 F. Supp. 2d 1036, 1043 (N.D. Ga. 2004). It is imperative, in particular, for a plaintiff to establish the facts concerning his or her presentment of their vehicle and to describe the results of their efforts. This is because even if the alleged "defect" was covered by the Glove Box Warranty, its mere existence is not a breach of the Glove Box Warranty. *See id.* at 1044 ("a [w]arranty itself is not breached simply because a defect occurs"). Rather, Plaintiffs must allege that they gave notice and presented their Vehicles to a New GM dealer for repairs within the Glove Box Warranty period. *See* Glove Box Warranty, p. 4; *see Woolums*, 530 F. Supp. 2d at 700 ("Because these repairs were either successful or never presented to National, they cannot provide grounds for a breach of warranty claim").

52. As noted above, the facts will vary dramatically on the issues of whether an individual presented their vehicle to a New GM dealer within the durational period, and what transpired if they did. Ms. Trusky, Ms. Cole and Ms. Dickerson each have differing stories

concerning their Vehicles and their interactions (if at all) with New GM. [13] Thus, the three purported named Plaintiffs themselves prove that individualized issues will predominate over common ones and that class certification is inappropriate.

53. Causation will be an individual issue in each of these cases too. Wear and tear on tires can be caused by many things, including duty cycles, driving habits, improper inflation, and terrain. While the Glove Box Warranty includes defects with a Vehicle's tires, it does not include normal wear and tear to tires. *See* Glove Box Warranty, p. 7 ("Normal tire wear or wear-out is not covered."). Even insofar as New GM were obligated to replace tires due to manifestation of the alleged spindle design defect, any Vehicle presented to New GM with tire wear and tear will have to be evaluated on an individual basis to determine the cause of the damage and hence, whether it was covered under the Glove Box Warranty. This analysis cannot be done on a class-wide basis.

WHEREFORE, New GM respectfully requests that this Court:

(1) Enter an Order dismissing the case with prejudice substantially in the form attached hereto as Exhibit "J," or, alternatively,

(2) Enter an Order as follows:

(i) resolving the core bankruptcy issues in the case by ruling that:

a. Plaintiffs may not pursue a warranty claim against New GM for "latent defects" in Vehicles designed, assembled and sold by Old GM;

[13] Individual legal issues could predominate over common legal issues and further complicate the analysis. Although the terms of the Glove Box Warranty at issue are the same, different states' laws would apply to the evaluation of whether a given class member had stated a claim for breach of warranty. Plaintiffs' request for a nationwide class, therefore, means that Plaintiffs would have the burden of demonstrating that individual questions of law would not predominate. *See e.g., Rikos v. The Procter & Gamble Co.*, No. 1:11-cv-226, 2012 WL 641946 (S.D. Ohio Feb. 28, 2012) (striking class action allegations on express warranty claim because individual states' product warranty laws "materially" differed, rendering the matter unsuitable for nationwide class action treatment).

b. New GM is not liable for Old GM's conduct or alleged breaches of warranties;

c. New GM's warranty obligations are limited to honoring the specific terms of the Glove Box Warranties as to vehicles presented for repair to New GM dealers within the mileage and/or duration limitations contained in the Glove Box Warranty; and

d. New GM is not liable for monetary damages or other economic loss under the terms of the Glove Box Warranties.

(ii) striking the class allegations pursuant to Civil Rule 23(d)(1)(D), and

(iii) to the extent required, transferring the case back to the originating Court (Eastern District of Michigan) for adjudication of the Plaintiffs' individual claims consistent with the Court's rulings.

Dated: July 16, 2012

Respectfully submitted,

/s/ Arthur Steinberg

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EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
MOTORS LIQUIDATION COMPANY, *et al.*, f/k/a General Motors Corp., *et al.*	:	Case No.: 09-50026 (REG)
Debtors.	:	(Jointly Administered)
DONNA M. TRUSKY, GAYNELL COLE, and PATRICIA DICKERSON on behalf of themselves and all others similarly situated,	:	Adv. Proc. No.: 12-09803 (REG)
Plaintiffs,	:	
v.	:	
GENERAL MOTORS COMPANY,	:	
Defendant.	:	

SECOND AMENDED CLASS ACTION COMPLAINT

You are hereby notified to preserve all records and documents in all forms and formats (digital, electronic, film, magnetic, optical, print, etc.) during the pendency of this action that are relevant or may lead to relevant information and to notify your employees, agents and contractors that they are required to take appropriate action to do so.

Plaintiffs, by and through counsel, bring this class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, individually and on behalf all others similarly situated, and allege the following:

INTRODUCTION

1. This is a breach of warranty action against General Motors Company, also known as "New GM," with respect to model year 2007 and 2008 Impalas. These vehicles

were primarily manufactured by General Motors Corporation, also known as "Old GM". In July 2009, New GM acquired substantially all of the assets and assumed some of the liabilities of Old GM when the later filed for bankruptcy relief in 2009. New GM assumed all liabilities arising under Old GM's express written warranties that were specifically identified as warranties and delivered in connection with the sale of new, certified new, certified used or pre-owned vehicles manufactured or sold by Old GM prior to or after the acquisition, including those which Plaintiffs and the class now seek to enforce. See ARMSPA, infra, Section 2.3(a)(vii). New GM is the Defendant in this action. Old GM is not a party to this action.

2. The model year 2007 and 2008 Impalas were sold with common defective rear spindle rods. These rear spindle rods were defective in workmanship and material at the time of sale and failed at the time of delivery. The defect caused the rear spindle rods to fail and to damage other directly related components of the vehicle including the rear wheel alignment and premature tire wear, which manifests on the inner sections of the rear tires.

3. At the time that New GM assumed liability for Old GM's express warranties, New GM had actual knowledge of this defect. Nevertheless, New GM has failed to honor its warranties with Plaintiffs and the putative class, and failed to correct this defect in hundreds of thousands of defective and potentially unsafe 2007 and 2008 Impalas as required by the express warranties.

4. Through a common and uniform course of conduct, New GM acting individually and collectively through its agents and dealers:

i. failed to repair or replace the defective rear spindle rods under the express warranties that it assumed, causing the 2007 and 2008 Chevrolet Impalas to incur premature and/or abnormal tire wear;

ii. failed to honor Old GM's express written warranties and liability arising thereunder with Plaintiffs and the putative class, by failing to correct the manufacturing defect in their vehicles.

5. This class action seeks repair and damages on behalf of a class of all persons who purchased model years 2007 and 2008 Chevrolet Impalas and who gave notice to and/or requested repair of Old GM or New GM for defective rear spindle rods, or related components that were damaged thereby, within the durational limitations of the express written warranties delivered with their vehicle at the time of purchase or lease Plaintiffs reasonably believe that the defendant New GM is the sole source and supply of non-defective replacement rear spindle rods, making injunctive and declaratory relief appropriate.

JURISDICTION

6. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, as the claims alleged herein are asserted on behalf of a class of all persons in the United States who purchased model year 2007 and 2008 Chevrolet Impalas. The Class' aggregate claims are in excess of $5 million. Further, Defendant New GM and the Class are of diverse citizenship under the Class Action Fairness Act.

7. Venue is proper in this district because the Bankruptcy Court overseeing the Bankruptcy of Old GM is in this District and has jurisdiction over matters related to New GM's liability.

THE PARTIES

8. Plaintiff Donna M. Trusky is a retail consumer residing at 101 7th Street, Blakely, Pennsylvania, 18447. Plaintiff Trusky is a citizen of the Commonwealth of Pennsylvania.

9. In February 2008, Plaintiff Trusky purchased a new 2008 model year Chevrolet Impala from Allan Hornbeck Chevrolet, an authorized dealer, located at 400 Main Street, Forest City, Pennsylvania, 18421.

10. Plaintiff Gaynell Cole is a retail consumer residing at Rt. 1, Box 571, Peterstown, West Virginia, 24963. Plaintiff Cole is a citizen of the State of West Virginia.

11. In 2008, Plaintiff Cole purchased a new 2008 Chevrolet Impala from Ramey Motors, an authorized dealer, in Princeton, West Virginia.

12. Plaintiff Patricia Dickerson is a retail consumer residing at 5330 Jamestown, Grand Blanc, Michigan 48439. Plaintiff Dickerson is a citizen of the State of Michigan.

13. In March 2008, Plaintiff Dickerson purchased a new 2008 Chevrolet Impala from Shaheen Chevrolet, an authorized dealer, in Lansing, Michigan.

14. Defendant New GM is a Delaware corporation with its principal executive offices located at 300 Renaissance Center, Detroit, Michigan, 48243. New GM designs, tests, manufactures, distributes, sells or leases cars, trucks and sports utility trucks under several brand names, including but not limited to GMC, Chevrolet, Buick and Cadillac throughout the United States. Defendant New GM is a citizen of the State of Delaware and the State of Michigan.

15. New GM conducts business throughout the United States.

CLASS ALLEGATIONS

16. Plaintiffs bring this action pursuant to Fed. R. Civ. P. 23 on behalf of themselves and all others similarly situated, comprising a class consisting of "all persons in the United States who purchased or leased a model year 2007 or 2008 Chevrolet Impala (the "Class") and who gave notice to and/or requested repair of Old GM or New GM for defective rear spindle rods, or related components that were damaged thereby, within the durational limitations of the express written warranties delivered with their vehicle at the time of purchase or lease.

17. Plaintiffs are members of the Class.

18. Excluded from the Class are judicial personnel involved in considering the claims herein, all persons and entities with claims for personal injury, the defendant New GM, any entities in which the defendant has a controlling interest, and all of their legal representatives, heirs and successors.

19. The members of the Class are so numerous that joinder of all members, whether otherwise required or permitted, is impracticable. The exact number of Class members is presently unknown to Plaintiffs, but can easily be ascertained from the sales and warranty claim records of Defendant New GM. Approximately 197,000 model year 2007 Impalas and approximately 226,000 model year 2008 Impalas were sold and subject to defendant New GM's express warranty obligation.

20. There are numerous questions of law or fact common to the members of the Class, which predominate over any questions affecting only individual members and which make class certification appropriate in this case, including:

    a. Whether all Class members' 2007 and 2008 Impalas had rear spindle rods that were defective in workmanship and material?

b. Whether all Class members' 2007 and 2008 Impalas suffered damage from a defective spindle rod?

c. Whether the defect and failure manifested during the warranties' durational terms?

d. Whether Defendant New GM failed to repair or replace the defective rear spindle rods during the warranty period for all Class members?

e. Whether Defendant New GM breached the liabilities it assumed under the express written warranties delivered by Old GM as warranties at the time of sale or lease , by failing to correct the defective rear spindle rods?

f. Whether Defendant New GM breached the liabilities that it assumed under the express written warranties delivered by Old GM as warranties at the time of sale or lease by failing to compensate Class Members for the cost of repairs incurred by Old GM's failure to correct the defective rear spindle rods?

21. The claims asserted by the named Plaintiffs are typical of the claims of the members of the Class.

22. This class action satisfies the criteria set forth in Fed. R. Civ. P. 23(a) and 23(b)(3) in that Plaintiffs are members of the Class; Plaintiffs will fairly and adequately protect the interests of the members of the Class; Plaintiffs' interests are coincident with and not antagonistic to those of the Class; Plaintiffs have retained attorneys experienced in class and complex litigation; and Plaintiffs have, through counsel, access to adequate financial recourses to assure that the interests of the Class are adequately protected.

23. A class action is superior to other available methods for the fair and efficient adjudication of this controversy for, among other reasons, it is economically impractical for most members of the Class to prosecute separate, individual actions; and

24. Litigation of separate actions by individual Class members would create the risk of inconsistent or varying adjudications with respect to the individual Class members which would substantially impair or impede the ability of other Class members to protect their interests.

25. Class certification is also appropriate because Defendant New GM has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate declaratory and/or injunctive relief with respect to the claims of Plaintiffs and the Class members.

FACTUAL BACKGROUND

26. Plaintiffs incorporate by reference all preceding paragraphs.

27. Old GM sold model year 2007 and 2008 Chevrolet Impalas throughout the United States which were delivered with defective rear spindle rods. These spindle rods were defective in workmanship and material and failed during the warranty period causing direct damage to the rear wheel alignment, and premature tire wear including lower tread depth on the inboard side of the rear tires.

28. In June and July 2008, Old GM issued Program Bulletins to its dealers numbered 08032 and 08032A pursuant to its customer satisfaction program. A copy of the latter bulletin is attached as Exhibit "1" hereto.

29. The subject line of bulletin 08032A reads "Uneven Police Car Rear Tire Wear – Replace Rear Spindle Rods" which covers model year 2007 and 2008 Chevrolet Impalas equipped with the Police Package. Under the heading "Condition" the bulletin reads, "On certain 2007-2008 model year Chevrolet Impala vehicles equipped with a police package (RPG9C1/9C3), the rear wheel spindle rods cause rear wheel misalignment, resulting in lower tread depth on the inboard side of the rear tire".

30. To remedy the defect in the cars subject to the bulletin 08032A, "Dealers are to replace the rear wheel spindle rods, align the rear wheels, and if necessary, replace the rear tires (only) that exhibit lower tread depth on the inboard side. If the tires have already been replaced to this condition, the customer may request reimbursement for the replacement tires until July 31, 2009".

31. The bulletin applied to police vehicles. However, the issues affecting the cars subject to bulletin 08032A are the same as those affecting members of the Class. That is, the defective rear spindle rods on the cars subject to bulletin 08032A are the same as those in cars purchased by members of the Class.

32. In February, 2008, Plaintiff Trusky purchased a new Chevrolet Impala with defective rear wheel spindle rods.

33. Within the first year of purchase and within the first 6,000 miles of operation, Plaintiff Trusky complained to Old GM's dealer, Allen Hornbeck Chevrolet, that the tires on her vehicle were worn on the inside and were unserviceable; this gave notice to Old GM of the defective rear spindle rods and request for repair. Plaintiff Trusky was not a GM mechanic and did not know at the time, but has since learned,

that the premature tire wear and rear misalignment on her vehicle were due to the defective rear wheel spindle rods.

34. Allen Hornbeck paid for Plaintiff Trusky's replacement tires but made no mention of the defect in the rear spindle rods which caused the premature tire wear, nor did it replace the defective rear spindle rods.

35. On November 30, 2010 Plaintiff Trusky brought her car in for its annual inspection and was informed that the replacement rear tires were worn and would not pass inspection. Plaintiff Trusky paid $289.77 for a set of rear replacement tires. At the time of inspection, the car had 24,240 miles on it and was within her original three (3) year and 36,000 mile express warranty.

36. On or about June 26, 2008, Plaintiff Cole purchased a new 2008 Chevrolet Impala from Ramey Motors, an authorized dealer, in Princeton, West Virginia.

37. By June of 2011, the treads on Plaintiff Cole's rear tires had worn bare.

38. In June of 2011, prior to the three year anniversary of the purchase of her vehicle, Plaintiff Cole presented her vehicle to Ramey Motors for repair. At the time she brought the vehicle in for inspection and repair, it was within the durational and term limits of the vehicle's original warranty. The repairs were completed several days thereafter.

39. The dealership advised that although the car was within the durational and term limits of the warranty, the repair would not be covered by Plaintiff Cole's warranty.

40. Plaintiff Cole spent $486.94 to have her vehicle aligned, for a new rear tire, and for a "camber kit."

41. In March 2008, Plaintiff Dickerson purchased a new model year 2008 Chevrolet Impala.

42. On or about July 2010, Plaintiff Dickerson discovered significant premature tire wear, rendering her rear tires nearly unserviceable.

43. In July 2010, Plaintiff Dickerson brought her vehicle in to Al Serra Chevrolet in Grand Blanc, Michigan to inspect the problem.

44. At the time that Plaintiff Dickerson brought her vehicle in to the GM dealership, the vehicle was within the express warranty's durational and term limitations.

45. The GM dealership advised Plaintiff Dickerson that they would not make the necessary repairs under her warranty.

46. Old GM delivered to Plaintiffs at the time of purchase or lease – as it also did for every member of the Class – an express written warranty containing affirmations of fact as to the absence of defects in materials and workmanship, including design, and the durability and longevity of the rear spindle rods. Further, Old GM delivered to Plaintiffs at the time of purchase or lease – as it also did for every member of the Class – an express written warranty in which it promised to repair or replace warranted parts that were defective in workmanship and materials, including the rear spindle rods, during the applicable warranty period.

47. In particular, the express written warranties stated as follows:

> **General Motors Corporation New Vehicle Limited Warranty**
>
> GM will provide for repairs to the vehicle during the warranty period in accordance with the following terms, conditions and limitations.
>
> .
>
> **What is Covered**
>
> **Warranty Applies**

This warranty is for GM vehicles registered in the United States and normally operated in the United States or Canada, and is provided to the original and any subsequent owners of the vehicle during the warranty period.

Repairs Covered

The warranty covers repairs to correct any vehicle defect related to materials or workmanship occurring during the warranty period. Needed repairs will be performed using new or remanufactured parts.

Obtaining Repairs

To obtain warranty repairs, take the vehicle to a Chevrolet dealer facility within the warranty period and request the needed repairs. A reasonable time must be allowed for the dealer to perform necessary repairs.

Warranty Period

The warranty period for all coverages begins on the date the vehicle is first delivered or put in use and ends at the expiration of the coverage period.

Bumper-to-Bumper Coverage

The complete vehicle is covered for 3 years or 36,000 miles, whichever comes first, except for other coverages listed here under "What is Covered" and those items listed under "What Is Not Covered" later in this section.

48. The subject spindle rods are parts that are covered by Old GM's express written warranty.

49. New GM expressly assumed the express warranty obligations of Old GM as stated in Old GM's express warranties with respect to these defective spindle rods. Under Section 2.1 of the Amended and Restated Asset Purchase Agreement (ARMSPA), New GM agreed as follows:

> Section 2.1 *Purchase and Sale of Assets; Assumption of Liabilities.* **On the terms and subject to the conditions set forth in this Agreement,** other than as set forth in Section 6.30, Section 6.34 and Section 6.35 at the Closing, **Purchaser shall** . . . (b) **assume and thereafter pay or perform**

as and when due, or otherwise discharge, all of the Assumed Liabilities.

* * *

Section 2.3 *Assumed and Retained Liabilities.*

(a) The "Assumed Liabilities" shall consist only of the following Liabilities of Sellers:

* * *

(vii) (A) **all Liabilities arising under express written warranties of Sellers that are specifically identified as warranties and delivered in connection with the sale of new, certified used or pre-owned vehicles or new or remanufactured motor vehicle parts and equipment (including service parts, accessories, engines and transmissions) manufactured or sold by Sellers or Purchaser prior to or after the Closing and (B) all obligations under Lemon Laws;**

Emphasis added.

50. The Court approved the ARMSPA by Order dated July 9, 2009. The Court's Order expressly approved New GM's assumption of Old GM's liabilities under the "express warranties" that Old GM delivered in connection with the sale of vehicles prior to the closing of the 363 Transaction. Section 56 of the Court's Order provides:

* * *

56. **The Purchaser is assuming the obligations of the Sellers pursuant to and subject to conditions and limitations contained in their express warranties, which were delivered in connection with the sale of vehicles and vehicle components prior to the Closing of the 363 Transaction and specifically identified as a "warranty."** …

Emphasis added.

51. Plaintiffs and all class members did everything required of them to obtain warranty repairs to correct the defective spindle rod but Old GM and New GM did not perform the repairs as warranted.

52. Plaintiffs reasonably believe and aver that Defendant New GM, based on the aforesaid recalls, had actual knowledge when it assumed Old GM's express warranties that all Class members' vehicles had defective and failed rear spindle rods and that such defective and failed parts would cause failure and/or abnormal and/or premature wear of other parts and systems including wheel alignment and tires.

53. Plaintiffs reasonably believe and therefore aver that thousands of other persons who purchased 2007 and 2008 model year Chevrolets also informed Defendant New GM, through its dealership network, of this defect in workmanship and material in their vehicles in the same or similar manner.

54. Defendant New GM failed to comply with the foregoing warranties with respect to the Plaintiff and all Class members as it was required to do as Assumed Liabilities under the ARMSPA and July 9, 2009 Court Order. Among other things, (1) Defendant New GM failed to repair or replace the rear spindle rods during the warranty period so that premature tire wear and misalignment would not occur; and (2) Defendant New GM failed to compensate Class Members who incurred costs for repairs of defective rear spindles, related components and tires due to Old GM's failure to honor its express written warranties delivered at the time of sale or lease..

55. From the time of purchase of these vehicles by Class members to the present, the defective spindle rods have and will continue to cause rear wheel misalignment and premature and abnormal tire wear requiring new rear tires to avoid a dangerous condition. R ecognizing the direct consequences of these defective rear spindles, Old GM advised its customers: "Driving with worn tires is dangerous."

56. Defendant New GM's refusal to comply with Old GM's warranty, one of New GM's Assumed Liabilities, caused a failure of the essential purpose of the warranty, as that term is used in the Uniform Commercial Code, because Defendant New GM has failed to replace the defective spindle rods with non-defective spindle rods.

57. As evidence by numerous postings on various internet sites, Class members have experienced similar problems with their vehicles.

    a. *January 25, 2010, 2007 Chevrolet Impala*: I am new to this forum but after reading ALOT of the posts here I feel that I am not alone here. The wife and I got a settlement and bought a 2007 Impala, from Keystone Chevrolet here in Tulsa, so that we wouldn't have to worry about having problems with the car. But after having the car for about 1 1/2 years we have replaced the rear tires at least 2 or 3 times, all because of the same problem. The inside 2 or 3 treads keep wearing out down to the cords. Keystone Chevrolet called us on the phone and told us it was time to bring the car in for regular service work, so I thought it would be a good time to have the problem resolved. I asked for the Supervisor of the Service Department to make sure there wouldnt be a problem with having the rear end aligned, since I found out there was a Technical Service Bulletin on the alignment needing to be done on this car when it comes right from the factory. But I was told that you can buy a brand new 2010 Chevy right now and after 12,000 miles there is nothing they can do with out having us pay for the work and/parts. Even if you get the car brand new and there is still the bumper to bumper warrenty on the car. I told the Supervisor there was a Technical Service Bulletin out on this car and I even gave him the TSB on this car and I was told that they cant do anything unless there was a REACLL on these cars. I really liked what I read on another forum that said it seems like Chevrolet isn't going to do anything for the common people like most of us here, but they would fix the cars with the Police Package on them for free. The person also went on to state that it was

more of the common people like most of us on here that make up the sales of the Impalas and that a defect is a defect.
http://townhall-talk.edmunds.com/direct/view/.f17777c/71

b. *March 10, 2010, 2008 Chevrolet Impala, 25,000 miles*: Had to replace 4 tires at 25,000 miles due to excessive inside wear. The dealer said not a GM problem. Had to replace, balance, and align. Never had that occur before on any new vehicle I purchased - at least not with the Ford's I owned.*http://www.carcomplaints.com/Chevrolet/Impala/2008/wheels_hubs/premature_tire_wear.shtml*

c. *September 30, 2009, 2008 Chevrolet Impala LT 3.5L V6, 20,000 miles*: GM never fixes a problem, they just ignore the situation and hope you go away!! I have bought new cars my entire life and never had tires wear out this fast. GM knows how to fix the problem, but they just let it go on to the next model year. More money in the CEO's pocket, so the tax payors can bail them out!!!! The tires wear on the inside and outside edges. The middle still has plenty of tread, but unsafe.
http://www.carcomplaints.com/Chevrolet/Impala/2008/wheels_hubs/premature_tire_wear.shtml

d. *January 15, 2010, 2008 Chevrolet Impala LT V6, 17,000 miles*: This problem first started right after I bought the car. I have had the car in the shop a lot of times, they had me replace the tires, then to only have the problem come back again as soon as I rotated them. What a waste of good tread!! It doesn't shake the car & you can't feel it, but the thumping noise is bad when the tires are rotated to the front. No one can seem to find the problem or what is causing the noise. It is driving me crazy!! I just want a car that works. What is the problem here!! What happened to the dependable car. This is anything but!!
http://www.carcomplaints.com/Chevrolet/Impala/2008/wheels_hubs/premature_tire_wear.shtml

e. *August 27, 2010, 2008 Chevrolet Impala LTZ V6, 41,000 miles*: ok well at 18,000 miles had to replace my tires. i was told it was because the dealers put on cheap tires to sell the cars and the next set i bought would last way longer than i had to worry about since i leased. well at 41,000 miles again new tires with only 6 months to go on my lease. the wear was so extensive the tires were unsafe..the inside was worn to bare metal showing yet the rest of the tire was fine.... i was told that it is a supension problem and chevy is aware of it.... just to expensive to have a recall...sssoooo that makes th 3rd set of tires in 41,000 miles.. this is the first chevy impala i have owned ..... was completely satisfied with my pontiacs... well i never liked this car from the begining and i will not but another one...just waiting for my lease to run out and i will try a ford this time.. so beware of

unsafe wear on your inside (hard to see} of your tires.. take a good look before you trust your family lives ...
http://www.carcomplaints.com/Chevrolet/Impala/2008/wheels_hubs/premature_tire_wear.shtml

f. *November 1, 2010, 2008 Chevrolet Impala SS*: I believe that there is a greater issue with the 2008 Impala's. I have had to replace my rear tires because they wore completely out in the inside. I have been searching online and it looks like there is a camber issue with these cars. GM needs to look at a possible recall. I was quoted $45 a tire to adjust the camber on my 08 Impala SS by Firestone, but then they stated it would be $500 because they needed some kit. I cannot do this so I had to buy the 2 back tires ($415 for the cheapest ones) and wait. I do have an appointment with the dealership tomorrow. We will see what happens...
http://townhall-talk.edmunds.com/direct/view/.f17777c/81

g. *2008 Chevrolet Impala*: I have the same rear end tire alignment problem on my 2008 Impala. I have now gone thru 2 sets of tires. Most current one lasted 7 months, 12k miles. Tires are rated for 60k miles. The inside of the tires are getting chewed up. I've looked at the car from the rear and I can see that the alignment is poor, the tires bow out at the bottom as if there were way too much weight in the car. I'm calling the dealer on Monday to see what can be done, this is a ridiculous issue to be fighting about. The manufacturer should cover this no questions asked. My wife (a civilian) drives like a grandma, there's no way we caused this.
http://www.fixya.com/cars/t26922782007_impala_rear_tire_wear_due_rear

h. *February 22, 2011, 2008 Chevrolet Impala*: Purchased new 2008 impala, had to replace tires at 35000. Always rotated and balanced and kept proper pressures. Now at 56000 and am being told by chevy 1800.00 to repair rear alignment. Car is driven 99% on the interstate. Again need new tires whats up??? chevy denies any problems but the web is full of issues surrounding this. Is there no other recourse????
http://www.aboutautomobile.com/Complaint/2008/Chevrolet/Impala/Rear+Suspension

i. *July 4, 2010, Chevrolet Impala*: Severe inner surface tire wear on rear wheels of 2007-2008 chevrolet impala vehicles. Technical service bulletin 08032 is on file with general motors, acknowledging the problem, but willing only to pay for necessary repairs to police vehicles, when in fact the flaw exists with all 2007-2008 impala vehicles. We purchased the car as a demo model in 2009 and were not made aware of the problem. We believe the dealer was honest, and also not aware of the problem at the time. We believe this to be a safety issue as well, since handling on wet

roads is effected due to the fact the rear tires are contacting the road surface only on 1-2" of the inside surface of the tires.
http://www.aboutautomobile.com/Complaint/2008/Chevrolet/Impala/Rear+Suspension

j. *June 16, 2010, Chevrolet Impala*: Had to replace rear driver's tire at 17,000 miles due to wear down to the metal. Took the vehicle into the dealer to check wheel alignment and found the rear so misaligned that the adjustment struts had to be elongated. Spoke with GM customer service rep and was told this was not a Warranty issue.
http://www.aboutautomobile.com/Complaint/2008/Chevrolet/Impala/Rear+Suspension

k. *May 28, 1010, 2008 Chevrolet Impala*: I own a 2008 chevy impala which I had new tires installed. I also had an alignment done. At my first tire rotation (6000 miles) I was told of excessive wear on the inside of the rear tires. The wear is very obvious. The tires are a 60,000 mile tire(uniroyal) after contacting the place that aligned my wheels.(ase certified) they did some investigating during which they found GM recalled "police package) vehicles with vin#s falling in a specified range. Which my car also falls in this range. They had defective spindle rods in them, however as a consumer and not a "police" vehicle GM tells me I am responsible for having the proper work done to have my car fixed. Upon searching myself I have found numerous "consumer" complaints regarding premature tire wear on these vehicles. I see this as a considerable safety concern that the manufacturer should be held accountable for regardless of whether it is a civilian or police vehicle.
http://www.aboutautomobile.com/Complaint/2008/Chevrolet/Impala/Rear+Suspension

l. *March 8, 2010, 2008 Chevrolet Impala*: On 2008 chevy impala, the insides of all four tires were worn to the cord. The tires had been rotated regularly. The car was returned to the dealer who claimed the tires had not been rotated and that he had never heard of any defect.. We printed information from this website showing that this problem had been reported several times. The dealer still denied any defect even though one of the workers said he had replaced tires with the same problem.
http://www.aboutautomobile.com/Complaint/2008/Chevrolet/Impala/Rear+Suspension

m. *October 10, 2009, 2008 Chevrolet Impala*: 2008 chevy impala was shipped from the factory unaligned causing premature tire wear. There may be a camber related issue causing premature wear on the inner edge of the rear tires. Problems start at about 10,000 miles. I replaced the rear tires twice in one year.

http://www.aboutautomobile.com/Complaint/2008/Chevrolet/Impala/Rear+Suspension

n. *June 8, 2009, 2008 Chevrolet Impala SS*: My 08 impala sshas been going through tires excessively. I replaced the back tires almost 4 months ago and new tires are needed again. The rear tires are wearing on the insides of the tires. I brought this to the attention of my local GM dealer who "assured" me that nothing is wrong with the rear suspension and that I need to rotate the tires every 6000 miles that was what was wrong that I wasn't following the owners manual. So I thought it really was my fault so I spent the $500 to buy two new tires and now almost 4 months later the same thing is happening. I have only put about 6000 miles on the new tires and the cords are already showing on the insides of the rear tires. *http://www.aboutautomobile.com/Complaint/2008/Chevrolet/Impala/Rear+Suspension*

o. *March 22, 2011, 2007 Chevrolet Impala*: CAR PURCHASED USED WITH NEW TIRES IN MARCH OF 2009. IN APRIL OF 2010 REAR TIRES HAD SEVERE WEAR ON INSIDE TREAD THAT CAUSED BELTS TO SHOW. FOUR NEW TIRES WERE INSTALLED AND A FOUR WHEEL ALIGNMENT WAS DONE. 11 MONTHS LATER REAR TIRES SHOWED THE SAME WEAR, INSIDE OF TIRE. WAS TOLD THERE WAS A SAFETY BULLETIN FROM GM BUT DIDN'T COVER MY CAR SINCE IT WAS NOT A POLICE VERSION. WAS TOLD BY DEALERSHIP THAT GM KNOWS ABOUT THIS PROBLEM AND HAS COME OUT WITH A CAMBER KIT TO FIX PROBLEM BUT I HAD TO PURCHASE IT AND HAVE IT INSTALLED. WHEN ASKED WHY IF IT WAS A MANUFACTURE DEFECT WITH THE VEHICLE CAUSING PREMATURE TIRE WEAR I WAS HAVING TO PAY FOR IT WAS BRUSHED OFF. CALLED CHEVROLET AND FILED A FORMAL COMPLAINT REGARDING THE MATTER AND WAS TOLD THAT IT WAS A MAINTENANCE ISSUE AND I WOULD HAVE TO PAY FOR THE REPAIR. CHEVY KNOWS THAT THERE IS A PROBLEM WITH THIS VEHICLE AND REFUSES TO TAKE RESPONSIBILITY TO REPAIR/FIX PROBLEM AND IS INSTEAD PUSHING THIS OFF ON THE CONSUMER. EXCESSIVE TIRE WEAR IS A SAFETY PROBLEM AND I GUESS PEOPLE HAVE TO DIE FOR ACTION TO BE TAKEN.*http://www-odi.nhtsa.dot.gov/complaints/results.cfm*

p. *November 1, 2010, 2007 Chevrolet Impala, 32,000 miles*: TL*THE CONTACT OWNS A 2007 CHEVROLET IMPALA LT. THE CONTACT STATED THAT WHEN SHE INSPECTED HER VEHICLE SHE NOTICED THAT ALL FOUR TIRES WERE WORN EXCESSIVELY ON THE INSIDE TO THE POINT WHERE THE TREAD WAS VISIBLE. THE VEHICLE WAS NOT INSPECTED NOR

HAD IT BEEN REPAIRED. THE DEALER INFORMED HER THAT SHE SHOULD CONSIDER AN ALIGNMENT AND FOUR NEW TIRES. THE FAILURE MILEAGE WAS APPROXIMATELY 32,000.
http://www-odi.nhtsa.dot.gov/complaints/results.cfm

q. *December 1, 2010, 2007 Chevrolet Impala*: GM 2007 CHEVROLET IMPALA LT2 - GOODYEAR INTEGRITY TIRES VEHICLE MANUFACTURING DETECT CAUSES TIRE CUPPING, UNEVEN TIRE WEAR AND PREMATURE TIRE WEAR OUT. POSSIBLE TIRE FAILURE WHILE DRIVING IF NOT DETECTED. TIRES RATED FOR 50,000 MILES FAILED AT 28,000. 30 JUNE 2007 - 205 MILES: PURCHASED NEW GM 2007 CHEVROLET IMPALA LT2 - GOODYEAR INTEGRITY TIRES 05 FEB 2008 - 7,094 MILES: DEALER ROTATED TIRES - ALL TIRES TREAD GREATER THAN 8/32. 26 DEC 2008 - 14,449 MILES: DEALER ROTATED TIRES - ALL TIRES TREAD GREATER THAN 8/32. 15 JUN 2009- 18,106 MILES: DEALER ROTATED TIRES - ALL TIRES TREAD GREATER THAN 8/32. 25 MAY 2010 - 23,812 MILES: DEALER ROTATED TIRES - ALL TIRES TREAD GREATER THAN 6/32. 01 DEC 2010 - 28,517 MILES: LUBE SHOP ROTATED TIRES - ALL TIRES BADLY CUPPED ON INSIDE TREAD. TIRES WORN OUT AND UNSAFE, MUST BE REPLACED ASAP.STEEL BELTS WILL START TO SHOW.ALL TIRES TREAD LESS THAN 2/32. 23 DEC 2010 - 28,788 MILES: DEALER - AFTER ESCALATION TO SERVICE MANAGER. REAR STRUT BOLT HOLE REQUIRES ELONGATION TO ALLOW PROPER WHEEL ALIGNMENT. UNDER WARRANTY, ELONGATED REAR STRUT BOLT HOLE, REPLACED WITH 4 NEW TIRES, COMPLETE 4 WHEEL ALIGNMENT. *TR
http://www-odi.nhtsa.dot.gov/complaints/results.cfm

r. *September 15, 2009, 2007 Chevrolet Impala*: EXCESSIVE TIRE WARE ON REAR TIRES---NOTICED THERE WAS A PROBLEM AT 22,000 MILE'S AT 27,000 MILES CAR WOULD NOT HOLD THE ROAD .IN THE DEAD OF SUMMER CAR DROVE LIKE YOU WERE ON A LAKE OF ICE(2007 CHEVY SS IMPALA)TALKED TO DEALERS THEY SAID NOT A REPORTED PROBLEM FOUND OUT LATER THAT WAS ¿!@#$%. ITS A SUSP PROBLEM .SO MUCH SO THERE IS AN AFTER MARKET KIT TO CORRECT PROBLEM HAD TO TAKE CAR TO TIRE DEALER WHERE THEY CORRECTED PROBLEM. REPORTED PROBLEM TO G.M. AND GOT MORE ¿!@#$%. *TR
http://www-odi.nhtsa.dot.gov/complaints/results.cfm

s. *November 30, 2009, 2007 Chevrolet Impala*: I AM NOW BUYING THE 3RD SET OF REAR TIRES IN LESS THAN A YEAR. THE INSIDE TREAD WEARS DOWN TO THE WIRES EVERY 13-16,000 MILES.

THE VIN ON MY CAR FALLS WITHIN THE VIN'S LISTED ON GM TSB 8032, HOWEVER THIS CAR IS NOT A POLICE CAR. GM STATES THAT I MUST BE HITTING A POTHOLE CAUSING ALIGNMENT PROBLEMS. I MUST BE HITTING THE SAME POTHOLE AT THE SAME MILEAGE ALL 3 TIMES AND IT ONLY AFFECTS THE REAR TIRES. THERE IS EXTENSIVE ANECDOTAL REFERENCES TO THIS PROBLEM ON NUMEROUS CAR COMPLAINT WEBSITES, INCLUDING NHTSA. SOMEONE IS GOING TO GET SERIOUSLY HURT IF GM IS ALLOWED TO IGNORE THIS PROBLEM. GM'S ONLY SOLUTION IS TO SELL ME ALIGNMENTS AND TIRES SINCE IT IS "MY FAULT" AND EVEN THOUGH THE PROBLEM IS IDENTICAL TO THE ISSUE NOTED BY GM IN TSB 8032, IT CAN'T POSSIBLY BE RELATED SINCE THE OTHER IDENTICAL PROBLEM ONLY HAPPENS ON POLICE AND GOVERNMENT CARS TO WHICH GM SELLS A LOT OF CARS. THE EVERYDAY INDIVIDUAL DOES NOT HAVE THE COMPLAINING POWER OF A LARGE BULK PURCHASER. *TR
http://www-odi.nhtsa.dot.gov/complaints/results.cfm

t. *March 7, 2011, 2008 Chevrolet Impala*: VEHICLE WON'T HOLD ALLIGNMENT AND WHEN IT DOES IT'S STILL WEARING OUT THE REAR TIRES AT A RATE 1/32 PER 1000 MILES, IT WORE OUT THE REAR TIRES IN 6000 MILES JUST LUCKY THAT I LOOKED AT THEM WHEN I DID. THE VEHICLE HAS 45000 MILES ON IT AND THIS IS THE SECOND SET OF TIRES IN 6000 MILES
http://www-odi.nhtsa.dot.gov/complaints/results.cfm

u. *October 15, 2010, 2008 Chevrolet Impala*: SEVERE TIRE WEAR. 2008 CHEVY IMPALA WITH GOODYEAR INTEGRITY TIRES. HAD TO HAVE ALL FOUR TIRES REPLACED AT 33,000 MILES, MIND YOU THESE ARE 50,000 MILES TIRES THAT HAVE BEEN ROTATED AND KEPT AT THE RECOMMENDED PSI. THEY ARE SEVERELY WORN ON THE INNER AND OUTER EDGES AND CAN SEE THE WEAR BARS. WAS TOLD BY THE DEALERSHIP THAT THE TIRES TO BEGIN WITH ARE JUNK! I HAD NO CHOICE BUT TO REPLACE THEM BEING THAT THIS CAR IS A LEASE AND ONLY HAVE 4 MONTHS LEFT WITH IT TILL THE TURN IN DATE. THE UNNAMED TIRE STORE TOLD ME THAT I NEED AN ALIGNMENT BUT THE DEALERSHIP THAT MY CAR GOES TO NEVER SAID ANYTHING ABOUT NEEDING THE ALIGNMENT. *TR
http://www-odi.nhtsa.dot.gov/complaints/results.cfm

v. *May 18, 2009, 2008 Chevrolet Impala:* PURCHASED NEW 2008 CHEVY IMPALA ONLY TO HAVE EXCESSIVE TIRE WEAR FRONT AND BACK AT 13,000 MILES WHEN CAR WAS 1 1/2 YEAR OLD. I NEEDED TO PURCHASE NEW TIRES AT THAT TIME. TODAY I

LEARNED I NEED TO PURCHASE ANOTHER SET OF TIRES AT 26,500 MILES. HAVE HAD TIRES ROTATED REGULARLY AND ALIGNED. I THOUGHT THE FIRST SET OF TIRES FROM THE DEALERSHIP WERE JUST "CHEAP" TIRES SO WHEN I REPLACED I REPLACED WITH GOOD TIRES. STILL NEED A SET OF TIRES A6 13,000-14,000 MILES. THIS IS A DISGRACE. I AM JUST BEGINNING THE PROCESS OF HAVING THIS PROBLEM CORRECTED (I HOPE). GM DID PUT BULLETIN # 08032 FOR POLICE CARS REGARDING THIS ISSUE. I GUESS JOHN Q PUBLIC THOUGH IS NOT AS IMPORTANT AS THE POLICE. *TR
http://www-odi.nhtsa.dot.gov/complaints/results.cfm

w. *June 28, 2010, 2008 Chevrolet Impala:* NOTICED ABNORMAL AND EXCESSIVE TIRE FEATHERING. HAD RESEARCHED AND FOUND PREVIOUS TO MY OWN EXPERIENCE THAT OTHERS HAD THE SAME PROBLEM, SO I HAD BEEN MONITORING MY OWN TIRES TO SEE IF IT WAS A DESIGN FLAW. ONE MECHANIC TOLD ME AFTER I PURCHASE 4 NEW TIRES, WHICH ONLY HAVE 34,000 MILES ON A 50,000 MILE RATING, HE WOULD TRY AN ALIGNMENT TO SEE IF IT NEED FOUR NEW STRUTS AS HE WAS ASSUMING WAS THE MAIN PROBLEM BEHIND THE TIRE WEAR. I CALLED A LOCAL GM SERVICE CENTER TO SEE IF THEY HAD SUGGESTIONS FOR ME. THE GUY TOLD ME 4 NEW TIRES AND THE FEW OTHERS WE HAVE SERVICED WITH THE SAME PROBLEM, AN ADJUSTMENT HAD TO BE MADE BY ELONGATING THE HOLES TO PULL THE TIRES INTO A GOOD ALIGNMENT, ELIMINATING THE OUTWARD CAMBER. HE FOUND THIS INFO IN A TECHNICAL SERVICE BULLETIN. GM HAS RECALLED PUBLIC SERVICE VEHICLES, IE POLICE CARS, OF THE SAME MAKE AND MODEL, BUT HAS YET TO SEE THE PUBLIC SAFETY HAZARD BEHIND THIS EASILY REMEDIED ISSUE. I WAS TOLD IT WOULD COST ME AT-LEAST $700 FOR PREMATURELY WORN TIRES AND REPAIRS AND ADJUSTMENTS. IMAGINE IF I HAD BEEN AWARE OF THIS PREVIOUS TO MY OWN INCIDENT. I WOULD ASSUME I STILL HAD 15-20000 MILES OF TREAD-LIFE LEFT AND WOULD BE DRIVING MY CAR AS IF THERE WERE NO PROBLEM AT-ALL UNTIL MY TIRES BLEW WHILE DRIVING MY SON BACK TO HIS MOTHERS HOUSE, CAUSING AN ACCIDENT, KILLING MY SON AND I AS WELL AS TWO OTHERS IN ANOTHER VEHICLE. THERE-IN LAYS THE SAFETY ISSUE. A PROMPT AND THOROUGH INVESTIGATION WILL SHOW IT'S A DESIGN FLAW THAT IS PUTTING LIVES AT RISK. THE SOONER THE DEFECT IS CORRECTED, THE SOONER PEOPLES LIVES AND WALLETS CAN REST AT EASE. I WOULD CERTAINLY BE WILLING TO ANSWER ANY OTHER QUESTIONS REGARDING THIS ISSUE. *TR

http://www-odi.nhtsa.dot.gov/complaints/results.cfm

x. *February 6, 2010, 2008 Chevrolet Impala LTZ:* 2008 IMPALA LTZ THAT I PURCHASED FROM BILL CRAMER MOTORS IN DONALSONVILLE, GEORGIA ON 10/29/2009. ON 2/6/2010 I HAD A TIRE BLOW OUT IN BAINBRIDGE, GEORGIA NEARLY CAUSING A CRASH. AFTER CHANGING MY TIRE, AND RETURNING HOME I DISCOVERED THAT BOTH REAR TIRES WERE WORN DOWN TO THE BELT ON THE INSIDE. AFTER DOING SOME RESEARCH ON THIS ISSUE, I DISCOVERED THAT THIS IS A VERY COMMON ISSUE IN THE LATE MODEL IMPALA¿S. I CALLED THE SHOP TODAY (2/8/2010), AND THEY ADVISED ME THAT THEY ARE UNAWARE OF THIS ISSUE. I ALSO CALLED SOLOMON CHEVROLET IN DOTHAN, ALABAMA (1-866-646-6175). THEY ADVISED ME THAT THEY ARE VERY FAMILIAR WITH THIS ISSUE, AND THAT IT NEEDED A REAR CAMBER BOLT KIT AND A REALIGNMENT TO FIX THIS ISSUE. THE PARTS AND LABOR FOR THE KIT WERE ESTIMATED @ $200.00 AND THE ALIGNMENT @ $70.00. I WOULD ALSO LIKE TO NOTE THAT MY CAR IS STILL UNDER THE 12,000 MILE CERTIFIED WARRANTY. MY CAR HAD 34,861 MILE ON IT WHEN I PURCHASED IT, AND NOW IT ONLY HAS 45,690 MILES ON IT. SO I HAVE PUT A TOTAL OF 10,829 MILES ON IT. THE TIRES THAT ARE ON MY CAR WERE BRAND NEW WHEN I PURCHASED IT. THERE IS NO WAY POSSIBLE THAT I SHOULD HAVE TO BE REPLACING 2 WORN OUT TIRES WITHIN 10,829 MILES¿. THIS IS UNHEARD OF¿ *TR
http://www-odi.nhtsa.dot.gov/complaints/results.cfm

y. *September 11, 2009, 2008 Chevrolet Impala:* STARTED HAVING ISSUES WITH MY 2008 CHEVY IMPALA WITH WHAT I THOUGHT WAS A TIRE BALANCE PROBLEM. DID REQUIRED TIRE ROTATION AS RECOMMENDED AT 6000, 10,000 AND THEN AGAIN AT 13,500. DEALER SAID TIRES MAY BE OUT OF ROUND AND SUGGESTED ROAD FORCE BALANCING AT 16,500 MILES. THIS DID NOT CHANGE THE ISSUE, SO WENT TO GOODYEAR DEALER AND FOUND OUT THAT THE INSIDE 2 INCHES OF ALL FOUR TIRES WERE WEARING EXCESSIVELY WITH THE REAR TWO LESS THAT 2/32 INCHES OF TREAD LEFT. GOODYEAR SHOT THE ALIGNMENT AND SHOWED THAT THE ALIGNMENT WAS WAY OFF AND TIRES COULD NOT BE WARRANTED WITH AN ALIGNMENT ISSUE. TOOK BACK TO CHEVY DEALER TO INFORM THEM OF THE ALIGNMENT ISSUE. THEY SAID ALIGNMENT WAS NOT WARRANTED AFTER 7,500 MILES AND ALSO WOULD NOT REPLACE THE 4 TIRES. I DID GET THE DEALER TO GRATUITOUSLY DO A 4 WHEEL ALIGNMENT THAT

> ALSO SHOWED THE CAMBER AND TOE, ESPECIALLY IN THE REAR WAS "OUT OF TOLERANCE AND EXCEEDED CROSS-TOLERANCE" ON THEIR MACHINE AS WELL. THE CAMBER COULD NOT BE ADJUSTED WITHOUT EXTRA WORK (ELONGATING THE BOLT HOLES OR A CHAMBER ALIGNMENT KIT). CONTACTED GM COMPLAINT LINE FOR RESOLUTION TO NO AVAIL, SAYING I HAD TO PROVE THAT THERE IS A DEFECT ON THE VEHICLE. THIS IS AN INHERENT SAFETY PROBLEM WITH 2007 AND 2008 IMPALAS THAT HAS FOSTERED NUMEROUS COMPLAINT TO YOU INCLUDING 5 ALREADY THIS YEAR. GM ISSUED A TSB #08032 FOR POLICE IMPALAS THAT ARE ON THE SAME PLATFORM AND SUSPENSION, BUT NEVER EXTENDED THAT TO THE PUBLIC. SEEMS TO ME THAT THE REAR SUSPENSION HAS AN SEVERE DEFECT THAT CAN CAUSE TIRE BLOWOUT WITHOUT WARNING. NO TIRES SHOULD WEAR LIKE THAT WITH LESS THAN 17,000 MILES WITHOUT A REAR SUSPENSION AND ALIGNMENT PROBLEM THAT NEEDS TO BE RECALLED FOR REPAIR AND REPLACEMENT OF THE PARTS AND TIRES. I SAW AT LEAST 12 COMPLAINTS IN THE FIRST 24 PAGES OF 2007 IMPALA COMPLAINTS TO THE ODI. PLEASE INVESTIGATE THIS PROBLEM BEFORE SOMEONE IS SERIOUSLY INJURED OR KILLED AS A RESULT OF THIS CONTINUING IMPALA ISSUE. *TR
> *http://www-odi.nhtsa.dot.gov/complaints/results.cfm*

58. Plaintiffs' Complaint is timely and within the applicable statute of limitations.

59. The express warranty obligations assumed by New GM extend to future performance.

60. Because the express warranty obligations assumed by New GM extend to future performance, the statute of limitations has not run.

61. The statute of limitation was tolled for all class members with the filing of this lawsuit in Michigan.

62. Class members exercising due diligence were unable to discover the nonconformity of the rear wheel spindle rods because the Old GM and New GM dealers did not disclose the defect when the vehicles were brought in for service or for repair of premature tire wear caused by the defect.

63. Defendant New GM breached the express warranties it assumed in that the model year 2007 and 2008 Chevrolet Impalas do not have the characteristics, uses and benefits portrayed in the express warranties, and Defendant New GM has failed to repair the defective rear wheel spindle rods in accordance with the express written warranties that it assumed.

COUNT I – BREACH OF EXPRESS WARRANTY

64. Plaintiffs incorporate by reference all preceding paragraphs.

65. New GM has breached the express warranty obligations of Old GM, that New GM assumed as Assumed Liabilities, to Plaintiffs and all other Class members to repair and/or replace the defective rear wheel spindle rods that are defective in workmanship and material.

66. New GM's breach of warranties directly and proximately caused damages to Plaintiffs and all members of the Class.

WHEREFORE, Plaintiffs, individually and on behalf of all Class members, request judgment in their favor and against Defendant, and requests the following relief:

a. certification of the Plaintiff class, the appointment of Plaintiffs as class representatives, and the appointment of Plaintiffs' counsel as class counsel;

b. compensatory damages for the Class for repair and replacement of defective spindle rods to be determined at trial, together with interest, costs and reasonable attorneys' fees.

COUNT II– INJUNCTIVE AND DECLARATORY RELIEF

67. Plaintiffs incorporate by reference all preceding paragraphs.

68. New GM has jeopardized the safety and security of Plaintiffs and the Class whose vehicles have not been repaired and will put them at an increased risk of personal injury and harm.

69. Plaintiffs and the Class will suffer irreparable harm, which may soon be immediate in nature, if New GM does not provide them with repairs or replacements of the rear wheel spindle rods.

70. Plaintiffs and the Class lack an adequate remedy at law to compel New GM to continue to provide them with functional rear wheel spindle rods. Plaintiffs and the Class cannot obtain such relief from other sources.

71. Plaintiffs believe and therefore aver that New GM is the sole source of repair parts, thereby making injunctive and declaratory relief appropriate.

72. Plaintiffs and the Class are entitled to injunctive and declaratory relief to compel New GM to provide them with repair and/or replacement of the defective rear wheel spindle rods.

WHEREFORE, Plaintiffs, individually and on behalf of all Class members, request judgment in their favor and against Defendant, and requests the following relief:

a. certification of the Plaintiff class, the appointment of Plaintiffs as class representatives, and the appointment of Plaintiffs' counsel as class counsel;

b. compensatory damages for the Class to be determined at trial, together with interest, costs and reasonable attorneys' fees;

c. injunctive relief requiring Defendant to provide the class with the unique repair parts necessary to perform its assumed warranty obligations; and

d. such other relief as may be just, necessary or appropriate.

JURY DEMAND

Plaintiffs demand a trial by jury.

Respectfully submitted,

Dated: May 16, 2012

By: /s/ Barry A. Weprin

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Attorneys for the Plaintiffs and the Class

Certificate of Service

I, Barry A. Weprin, hereby certify that on the 1st day of June, 2012, I caused the foregoing SECOND AMENDED CLASS ACTION COMPLAINT to be served via FIRST CLASS MAIL and EMAIL upon:

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/s/ Barry A. Weprin

EXHIBIT B

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)**

ORDER (I) AUTHORIZING SALE OF ASSETS PURSUANT TO AMENDED AND RESTATED MASTER SALE AND PURCHASE AGREEMENT WITH NGMCO, INC., A U.S. TREASURY-SPONSORED PURCHASER; (II) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES IN CONNECTION WITH THE SALE; AND (III) GRANTING RELATED RELIEF

Upon the motion, dated June 1, 2009 (the "**Motion**"), of General Motors Corporation ("**GM**") and its affiliated debtors, as debtors in possession (collectively, the "**Debtors**"), pursuant to sections 105, 363, and 365 of title 11, United States Code (the "**Bankruptcy Code**") and Rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") for, among other things, entry of an order authorizing and approving (A) that certain Amended and Restated Master Sale and Purchase Agreement, dated as of June 26, 2009, by and among GM and its Debtor subsidiaries (collectively, the "**Sellers**") and NGMCO, Inc., as successor in interest to Vehicle Acquisition Holdings LLC (the "**Purchaser**"), a purchaser sponsored by the United States Department of the Treasury (the "**U.S. Treasury**"), together with all related documents and agreements as well as all exhibits, schedules, and addenda thereto (as amended, the "**MPA**"), a copy of which is annexed hereto as Exhibit "A" (excluding the exhibits and schedules thereto); (B) the sale of the Purchased Assets[1] to the

[1] Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Motion or the MPA.

Purchaser free and clear of liens, claims, encumbrances, and interests (other than Permitted Encumbrances), including rights or claims based on any successor or transferee liability; (C) the assumption and assignment of the Assumable Executory Contracts; (D) the establishment of certain Cure Amounts; and (E) the UAW Retiree Settlement Agreement (as defined below); 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 due and proper notice of the Motion having been provided in accordance with this Court's Order, dated June 2, 2009 (the "**Sale Procedures Order**"), and it appearing that no other or further notice need be provided; and a hearing having been held on June 30 through July 2, 2009, to consider the relief requested in the Motion (the "**Sale Hearing**"); and upon the record of the Sale Hearing, including all affidavits and declarations submitted in connection therewith, and all of the proceedings had before the Court; and the Court having reviewed the Motion and all objections thereto (the "**Objections**") and found and determined that the relief sought in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, as contemplated by Bankruptcy Rule 6003 and is in the best interests of the Debtors, their estates and creditors, and other parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

FOUND AND DETERMINED THAT:

A. The findings and conclusions set forth herein and in the Court's Decision dated July 5, 2009 (the "**Decision**") constitute the Court's findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 7052, made applicable to this proceeding pursuant to Fed. R. Bankr. P. 9014.

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B. To the extent any of the following findings of fact or Findings of Fact in the Decision constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law or Conclusions of Law in the Decision constitute findings of fact, they are adopted as such.

C. This Court has jurisdiction over the Motion, the MPA, and the 363 Transaction pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (N). Venue of these cases and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

D. The statutory predicates for the relief sought in the Motion are sections 105(a), 363, and 365 of the Bankruptcy Code as supplemented by Bankruptcy Rules 2002, 6004, and 6006.

E. As evidenced by the affidavits and certificates of service and Publication Notice previously filed with the Court, in light of the exigent circumstances of these chapter 11 cases and the wasting nature of the Purchased Assets and based on the representations of counsel at the Sale Procedures Hearing and the Sale Hearing, (i) proper, timely, adequate, and sufficient notice of the Motion, the Sale Procedures, the 363 Transaction, the procedures for assuming and assigning the Assumable Executory Contracts as described in the Sale Procedures Order and as modified herein (the "**Modified Assumption and Assignment Procedures**"), the UAW Retiree

Settlement Agreement, and the Sale Hearing have been provided in accordance with Bankruptcy Rules 2002(a), 6004(a), and 6006(c) and in compliance with the Sale Procedures Order; (ii) such notice was good and sufficient, reasonable, and appropriate under the particular circumstances of these chapter 11 cases, and reasonably calculated to reach and apprise all holders of liens, claims, encumbrances, and other interests, including rights or claims based on any successor or transferee liability, about the Sale Procedures, the sale of the Purchased Assets, the 363 Transaction, and the assumption and assignment of the Assumable Executory Contracts, and to reach all UAW-Represented Retirees about the UAW Retiree Settlement Agreement and the terms of that certain Letter Agreement, dated May 29, 2009, between GM, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (the "**UAW**"), and Stember, Feinstein, Doyle & Payne, LLC (the "**UAW Claims Agreement**") relating thereto; and (iii) no other or further notice of the Motion, the 363 Transaction, the Sale Procedures, the Modified Assumption and Assignment Procedures, the UAW Retiree Settlement Agreement, the UAW Claims Agreement, and the Sale Hearing or any matters in connection therewith is or shall be required. With respect to parties who may have claims against the Debtors, but whose identities are not reasonably ascertainable by the Debtors (including, but not limited to, potential contingent warranty claims against the Debtors), the Publication Notice was sufficient and reasonably calculated under the circumstances to reach such parties.

F. On June 1, 2009, this Court entered the Sale Procedures Order approving the Sale Procedures for the Purchased Assets. The Sale Procedures provided a full, fair, and reasonable opportunity for any entity to make an offer to purchase the Purchased Assets. The Debtors received no bids under the Sale Procedures for the Purchased Assets. Therefore, the Purchaser's bid was designated as the Successful Bid pursuant to the Sale Procedures Order.

G. As demonstrated by (i) the Motion, (ii) the testimony and other evidence proffered or adduced at the Sale Hearing, and (iii) the representations of counsel made on the record at the Sale Hearing, in light of the exigent circumstances presented, (a) the Debtors have adequately marketed the Purchased Assets and conducted the sale process in compliance with the Sale Procedures Order; (b) a reasonable opportunity has been given to any interested party to make a higher or better offer for the Purchased Assets; (c) the consideration provided for in the MPA constitutes the highest or otherwise best offer for the Purchased Assets and provides fair and reasonable consideration for the Purchased Assets; (d) the 363 Transaction is a sale of deteriorating assets and the only alternative to liquidation available for the Debtors; (e) if the 363 Transaction is not approved, the Debtors will be forced to cease operations altogether; (f) the failure to approve the 363 Transaction promptly will lead to systemic failure and dire consequences, including the loss of hundreds of thousands of auto-related jobs; (g) prompt approval of the 363 Transaction is the only means to preserve and maximize the value of the Debtors' assets; (h) the 363 Transaction maximizes fair value for the Debtors' parties in interest; (i) the Debtors are receiving fair value for the assets being sold; (j) the 363 Transaction will provide a greater recovery for the Debtors' creditors than would be provided by any other practical available alternative, including liquidation under chapters 7 or 11 of the Bankruptcy Code; (k) no other entity has offered to purchase the Purchased Assets for greater economic value to the Debtors or their estates; (l) the consideration to be paid by the Purchaser under the MPA exceeds the liquidation value of the Purchased Assets; and (m) the Debtors' determination that the MPA constitutes the highest or best offer for the Purchased Assets and that the 363 Transaction represents a better alternative for the Debtors' parties in interest than an immediate liquidation constitute valid and sound exercises of the Debtors' business judgment.

H. The actions represented to be taken by the Sellers and the Purchaser are appropriate under the circumstances of these chapter 11 cases and are in the best interests of the Debtors, their estates and creditors, and other parties in interest.

I. Approval of the MPA and consummation of the 363 Transaction at this time is in the best interests of the Debtors, their creditors, their estates, and all other parties in interest.

J. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the sale of the Purchased Assets pursuant to the 363 Transaction prior to, and outside of, a plan of reorganization and for the immediate approval of the MPA and the 363 Transaction because, among other things, the Debtors' estates will suffer immediate and irreparable harm if the relief requested in the Motion is not granted on an expedited basis. In light of the exigent circumstances of these chapter 11 cases and the risk of deterioration in the going concern value of the Purchased Assets pending the 363 Transaction, time is of the essence in (i) consummating the 363 Transaction, (ii) preserving the viability of the Debtors' businesses as going concerns, and (iii) minimizing the widespread and adverse economic consequences for the Debtors, their estates, their creditors, employees, the automotive industry, and the national economy that would be threatened by protracted proceedings in these chapter 11 cases.

K. The consideration provided by the Purchaser pursuant to the MPA (i) is fair and reasonable, (ii) is the highest and best offer for the Purchased Assets, (iii) will provide a greater recovery to the Debtors' estates than would be provided by any other available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

L. The 363 Transaction must be approved and consummated as promptly as practicable in order to preserve the viability of the business to which the Purchased Assets relate as a going concern.

M. The MPA was not entered into and none of the Debtors, the Purchaser, or the Purchasers' present or contemplated owners have entered into the MPA or propose to consummate the 363 Transaction for the purpose of hindering, delaying, or defrauding the Debtors' present or future creditors. None of the Debtors, the Purchaser, nor the Purchaser's present or contemplated owners is entering into the MPA or proposing to consummate the 363 Transaction fraudulently for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, or any other applicable jurisdiction with laws substantially similar to any of the foregoing.

N. In light of the extensive prepetition negotiations culminating in the MPA, the Purchaser's commitment to consummate the 363 Transaction is clear without the need to provide a good faith deposit.

O. Each Debtor (i) has full corporate power and authority to execute the MPA and all other documents contemplated thereby, and the sale of the Purchased Assets has been duly and validly authorized by all necessary corporate action of each of the Debtors, (ii) has all of the corporate power and authority necessary to consummate the transactions contemplated by the MPA, (iii) has taken all corporate action necessary to authorize and approve the MPA and the consummation by the Debtors of the transactions contemplated thereby, and (iv) subject to entry of this Order, needs no consents or approvals, other than those expressly provided for in the MPA which may be waived by the Purchaser, to consummate such transactions.

P. The consummation of the 363 Transaction outside of a plan of reorganization pursuant to the MPA neither impermissibly restructures the rights of the Debtors' creditors, allocates or distributes any of the sale proceeds, nor impermissibly dictates the terms of a liquidating plan of reorganization for the Debtors. The 363 Transaction does not constitute a *sub rosa* plan of reorganization. The 363 Transaction in no way dictates distribution of the Debtors' property to creditors and does not impinge upon any chapter 11 plan that may be confirmed.

Q. The MPA and the 363 Transaction were negotiated, proposed, and entered into by the Sellers and the Purchaser without collusion, in good faith, and from arm's-length bargaining positions. Neither the Sellers, the Purchaser, the U.S. Treasury, nor their respective agents, officials, personnel, representatives, and advisors, has engaged in any conduct that would cause or permit the MPA to be avoided under 11 U.S.C. § 363(n).

R. The Purchaser is a newly-formed Delaware corporation that, as of the date of the Sale Hearing, is wholly-owned by the U.S. Treasury. The Purchaser is a good faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby.

S. Neither the Purchaser, the U.S. Treasury, nor their respective agents, officials, personnel, representatives, or advisors is an "insider" of any of the Debtors, as that term is defined in section 101(31) of the Bankruptcy Code.

T. Upon the Closing of the 363 Transaction, the Debtors will transfer to the Purchaser substantially all of its assets. In exchange, the Purchaser will provide the Debtors with (i) cancellation of billions of dollars in secured debt; (ii) assumption by the Purchaser of a portion of the Debtors' business obligations and liabilities that the Purchaser will satisfy; and (iii) no less than 10% of the Common Stock of the Purchaser as of the Closing (100% of which the

Debtors' retained financial advisor values at between $38 billion and $48 billion) and warrants to purchase an additional 15% of the Common Stock of the Purchaser as of the Closing, the combination of which the Debtors' retained financial advisor values at between $7.4 billion and $9.8 billion (which amount, for the avoidance of doubt, does not include any amount for the Adjustment Shares).

U. The Purchaser, not the Debtors, has determined its ownership composition and capital structure. The Purchaser will assign ownership interests to certain parties based on the Purchaser's belief that the transfer is necessary to conduct its business going forward, that the transfer is to attain goodwill and consumer confidence for the Purchaser and to increase the Purchaser's sales after completion of the 363 Transaction. The assignment by the Purchaser of ownership interests is neither a distribution of estate assets, discrimination by the Debtors on account of prepetition claims, nor the assignment of proceeds from the sale of the Debtors' assets. The assignment of equity to the New VEBA (as defined in the UAW Retiree Settlement Agreement) and 7176384 Canada Inc. is the product of separately negotiated arm's-length agreements between the Purchaser and its equity holders and their respective representatives and advisors. Likewise, the value that the Debtors will receive on consummation of the 363 Transaction is the product of arm's-length negotiations between the Debtors, the Purchaser, the U.S. Treasury, and their respective representatives and advisors.

V. The U.S. Treasury and Export Development Canada ("**EDC**"), on behalf of the Governments of Canada and Ontario, have extended credit to, and acquired a security interest in, the assets of the Debtors as set forth in the DIP Facility and as authorized by the interim and final orders approving the DIP Facility (Docket Nos. 292 and 2529, respectively). Before entering into the DIP Facility and the Loan and Security Agreement, dated as of December 31, 2008 (the "**Existing UST Loan Agreement**"), 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 Facility and the Existing UST Loan Agreement and as authorized in the interim and final orders approving the DIP Facility, is a valid use of funds pursuant to EESA.

W. The DIP Facility and the Existing UST Loan Agreement are loans and shall not be recharacterized. The Court has already approved the DIP Facility. The Existing UST Loan Agreement bears the undisputed hallmarks of a loan, not an equity investment. Among other things:

(i) The U.S. Treasury structured its prepetition transactions with GM as (a) a loan, made pursuant to and governed by the Existing UST Loan Agreement, in addition to (b) a separate, and separately documented, equity component in the form of warrants;

(ii) The Existing UST Loan Agreement has customary terms and covenants of a loan rather than an equity investment. For example, the Existing UST Loan Agreement contains provisions for repayment and pre-payment, and provides for remedies in the event of a default;

(iii) The Existing UST Loan Agreement is secured by first liens (subject to certain permitted encumbrances) on GM's and the guarantors' equity interests in most of their domestic subsidiaries and certain of their foreign subsidiaries (limited in most cases to 65% of the equity interests of the pledged foreign subsidiaries), intellectual property, domestic real estate (other than manufacturing plants or facilities) inventory that was not pledged to other lenders, and cash and cash equivalents in the United States;

(iv) The U.S. Treasury also received junior liens on certain additional collateral, and thus, its claim for recovery on such collateral under the Existing UST Loan Agreement is, in part, junior to the claims of other creditors;

(v) the Existing UST Loan Agreement requires the grant of security by its terms, as well as by separate collateral documents, including: (a) a guaranty and

security agreement, (b) an equity pledge agreement, (c) mortgages and deeds of trust, and (d) an intellectual property pledge agreement;

(vi) Loans under the Existing UST Loan Agreement are interest-bearing with a rate of 3.00% over the 3-month LIBOR with a LIBOR floor of 2.00%. The Default Rate on this loan is 5.00% above the non-default rate.

(vii) The U.S. Treasury always treated the loans under the Existing UST Loan Agreement as debt, and advances to GM under the Existing Loan Agreement were conditioned upon GM's demonstration to the United States Government of a viable plan to regain competitiveness and repay the loans.

(viii) The U.S. Treasury has acted as a prudent lender seeking to protect its investment and thus expressly conditioned its financial commitment upon GM's meaningful progress toward long-term viability.

Other secured creditors of the Debtors also clearly recognized the loans under the Existing UST Loan Agreement as debt by entering into intercreditor agreements with the U.S. Treasury in order to set forth the secured lenders' respective prepetition priority.

X. This Court has previously authorized the Purchaser to credit bid the amounts owed under both the DIP Facility and the Existing UST Loan Agreement and held the Purchaser's credit bid to be, for all purposes, a "Qualified Bid" under the Sale Procedures Order.

Y. The Debtors, the Purchaser, and the UAW, as the exclusive collective bargaining representative of the Debtors' UAW-represented employees and the authorized representative of the persons in the Class and the Covered Group (as described in the UAW Retiree Settlement Agreement) (the "**UAW-Represented Retirees**") under section 1114(c) of the Bankruptcy Code, engaged in good faith negotiations in conjunction with the 363 Transaction regarding the funding of "retiree benefits" within the meaning of section 1114(a) of the Bankruptcy Code and related matters. Conditioned upon the consummation of the 363 Transaction and the approval of the Bankruptcy Court granted in this Order, the Purchaser and the UAW will enter into that certain Retiree Settlement Agreement, dated as of the Closing Date (the "**UAW Retiree Settlement Agreement**"), which is Exhibit D to the MPA, which resolves

issues with respect to the provision of certain retiree benefits to UAW-Represented Retirees as described in the UAW Retiree Settlement Agreement. As set forth in the UAW Retiree Settlement Agreement, the Purchaser has agreed to make contributions of cash, stock, and warrants of the Purchaser to the New VEBA (as defined in the UAW Retiree Settlement Agreement), which will have the obligation to fund certain health and welfare benefits for the UAW-Represented Retirees. The New VEBA will also be funded by the transfer of assets from the Existing External VEBA and the assets in the UAW Related Account of the Existing Internal VEBA (each as defined in the UAW Retiree Settlement Agreement). GM and the UAW, as the authorized representative of the UAW-Represented Retirees, as well as the representatives for the class of plaintiffs in a certain class action against GM (the "**Class Representatives**"), through class counsel, Stemper, Feinstein, Doyle and Payne LLC ("**Class Counsel**"), negotiated in good faith the UAW Claims Agreement, which requires the UAW and the Class Representatives to take actions to effectuate the withdrawal of certain claims against the Debtors, among others, relating to retiree benefits in the event the 363 Transaction is consummated and the Bankruptcy Court approves, and the Purchaser becomes fully bound by, the UAW Retiree Settlement Agreement, subject to reinstatement of such claims to the extent of any adverse impact to the rights or benefits of UAW-Represented Retirees under the UAW Retiree Settlement Agreement resulting from any reversal or modification of the 363 Transaction, the UAW Retiree Settlement Agreement, or the approval of the Bankruptcy Court thereof, the foregoing as subject to the terms of, and as set forth in, the UAW Claims Agreement.

Z. Effective as of the Closing of the 363 Transaction, the Debtors will assume and assign to the Purchaser the UAW Collective Bargaining Agreement and all liabilities thereunder. The Debtors, the Purchaser, the UAW and Class Representatives intend that their actions in connection with the UAW Retiree Settlement Agreement and related undertakings

incorporate the compromise of certain claims and rights and shall be deemed to satisfy the requirements of 29 U.S.C. § 186(c)(2).

AA. The transfer of the Purchased Assets to the Purchaser will be a legal, valid, and effective transfer of the Purchased Assets and, except for the Assumed Liabilities, will vest the Purchaser with all right, title, and interest of the Sellers to the Purchased Assets free and clear of liens, claims, encumbrances, and other interests (other than Permitted Encumbrances), including rights or claims (for purposes of this Order, the term "claim" shall have the meaning ascribed to such term in section 101(5) of the Bankruptcy Code) based on any successor or transferee liability, including, but not limited to (i) those that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of the Sellers' or the Purchaser's interest in the Purchased Assets, or any similar rights and (ii) (a) those arising under all mortgages, deeds of trust, security interests, conditional sale or other title retention agreements, pledges, liens, judgments, demands, encumbrances, rights of first refusal or charges of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income, or other exercise of any attributes of ownership and (b) all claims arising in any way in connection with any agreements, acts, or failures to act, of any of the Sellers or any of the Sellers' predecessors or affiliates, whether known or unknown, contingent or otherwise, whether arising prior to or subsequent to the commencement of these chapter 11 cases, and whether imposed by agreement, understanding, law, equity or otherwise, including, but not limited to, claims otherwise arising under doctrines of successor or transferee liability.

BB. The Sellers may sell the Purchased Assets free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever (other than Permitted Encumbrances), including rights or claims based on any successor or transferee liability, because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the

Bankruptcy Code has been satisfied. Those (i) holders of liens, claims, encumbrances, and other interests, including rights or claims based on any successor or transferee liability, and (ii) non-Debtor parties to the Assumable Executory Contracts who did not object, or who withdrew their Objections, to the 363 Transaction or the Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Those (i) holders of liens, claims, and encumbrances, and (ii) non-Debtor parties to the Assumable Executory Contracts who did object, fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code and, to the extent they have valid and enforceable liens or encumbrances, are adequately protected by having such liens or encumbrances, if any, attach to the proceeds of the 363 Transaction ultimately attributable to the property against or in which they assert a lien or encumbrance. To the extent liens or encumbrances secure liabilities that are Assumed Liabilities under this Order and the MPA, no such liens or encumbrances shall attach to the proceeds of the 363 Transaction.

CC. Under the MPA, GM is transferring all of its right, title, and interest in the Memphis, TN SPO Warehouse and the White Marsh, MD Allison Transmission Plant (the "**TPC Property**") to the Purchaser pursuant to section 363(f) of the Bankruptcy Code free and clear of all liens (including, without limitation, the TPC Liens (as hereinafter defined)), claims, interests, and encumbrances (other than Permitted Encumbrances). For purposes of this Order, "**TPC Liens**" shall mean and refer to any liens on the TPC Property granted or extended pursuant to the TPC Participation Agreement and any claims relating to that certain Second Amended and Restated Participation Agreement and Amendment of Other Operative Documents (the "**TPC Participation Agreement**"), dated as of June 30, 2004, among GM, as Lessee, Wilmington Trust Company, a Delaware corporation, not in its individual capacity except as expressly stated herein but solely as Owner Trustee (the "**TPC Trustee**") under GM Facilities Trust No. 1999-I (the "**TPC Trust**"), as Lessor, GM, as Certificate Holder, Hannover Funding Company LLC, as

CP Lender, Wells Fargo Bank Northwest, N.A., as Agent, Norddeutsche Landesbank Girozentrale (New York Branch), as Administrator, and Deutsche Bank, AG, New York Branch, HSBC Bank USA, ABN AMRO Bank N.V., Royal Bank of Canada, Bank of America, N.A., Citicorp USA, Inc., Merrill Lynch Bank USA, Morgan Stanley Bank, collectively, as Purchasers (collectively, with CP Lender, Agent and Administrator, the "**TPC Lenders**"), together with the Operative Documents (as defined in the TPC Participation Agreements (the "**TPC Operative Documents**").

DD. The Purchaser would not have entered into the MPA and would not consummate the 363 Transaction (i) if the sale of the Purchased Assets was not free and clear of all liens, claims, encumbrances, and other interests (other than Permitted Encumbrances), including rights or claims based on any successor or transferee liability or (ii) if the Purchaser would, or in the future could, be liable for any such liens, claims, encumbrances, and other interests, including rights or claims based on any successor or transferee liability (collectively, the "**Retained Liabilities**"), other than, in each case, the Assumed Liabilities. The Purchaser will not consummate the 363 Transaction unless this Court expressly orders that none of the Purchaser, its affiliates, their present or contemplated members or shareholders (other than the Debtors as the holder of equity in the Purchaser), or the Purchased Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any liens, claims, encumbrances, and other interests, including rights or claims based on any successor or transferee liability or Retained Liabilities, other than as expressly provided herein or in agreements made by the Debtors and/or the Purchaser on the record at the Sale Hearing or in the MPA.

EE. The Debtors have demonstrated that it is an exercise of their sound business judgment to assume and assign the Purchased Contracts to the Purchaser in connection

with the consummation of the 363 Transaction, and the assumption and assignment of the Purchased Contracts is in the best interests of the Debtors, their estates and creditors, and other parties in interest. The Purchased Contracts being assigned to, and the liabilities being assumed by, the Purchaser are an integral part of the Purchased Assets being purchased by the Purchaser, and, accordingly, such assumption and assignment of the Purchased Contracts and liabilities are reasonable, enhance the value of the Debtors' estates, and do not constitute unfair discrimination.

FF. For the avoidance of doubt, and notwithstanding anything else in this Order to the contrary:

- The Debtors are neither assuming nor assigning to the Purchaser the agreement to provide certain retiree medical benefits specified in (i) the Memorandum of Understanding Post-Retirement Medical Care, dated September 26, 2007, between the Company and the UAW, and (ii) the Settlement Agreement, dated February 21, 2008, between the Company and the UAW (together, the "**VEBA Settlement Agreement**");

- at the Closing, and in accordance with the MPA, the UAW Collective Bargaining Agreement, and all liabilities thereunder, shall be assumed by the Debtors and assigned to the Purchaser pursuant to section 365 of the Bankruptcy Code. Assumption and assignment of the UAW Collective Bargaining Agreement is integral to the 363 Transaction and the MPA, are in the best interests of the Debtors and their estates, creditors, employees, and retirees, and represent the exercise of the Debtors' sound business judgment, enhances the value of the Debtors' estates, and does not constitute unfair discrimination;

- the UAW, as the exclusive collective bargaining representative of employees of the Purchaser and the "authorized representative" of the UAW-Represented Retirees under section 1114(c) of the Bankruptcy Code, GM, and the Purchaser engaged in good faith negotiations in conjunction with the 363 Transaction regarding the funding of retiree health benefits within the meaning of section 1114(a) of the Bankruptcy Code. Conditioned upon the consummation of the 363 Transaction, the UAW and the Purchaser have entered into the UAW Retiree Settlement Agreement, which, among other things, provides for the financing by the Purchaser of modified retiree health care obligations for the Class and Covered Group (as defined in the UAW Retiree Settlement Agreement) through contributions by the Purchaser (as referenced in paragraph Y herein). The New VEBA will also be funded by the transfer of the UAW Related Account from the Existing Internal VEBA and the assets of the Existing External VEBA to the New VEBA (each as defined in the UAW Retiree Settlement Agreement). The Debtors, the

Purchaser, and the UAW specifically intend that their actions in connection with the UAW Retiree Settlement Agreement and related undertakings incorporate the compromise of certain claims and rights and shall be deemed to satisfy the requirements of 29 U.S.C. § 186(c)(2);

- the Debtors' sponsorship of the Existing Internal VEBA (as defined in the UAW Retiree Settlement Agreement) shall be transferred to the Purchaser under the MPA.

GG. The Debtors have (i) cured and/or provided adequate assurance of cure (through the Purchaser) of any default existing prior to the date hereof under any of the Purchased Contracts that have been designated by the Purchaser for assumption and assignment under the MPA, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code, and (ii) provided compensation or adequate assurance of compensation through the Purchaser to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof under any of the Purchased Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code, and the Purchaser has provided adequate assurance of future performance under the Purchased Contracts, within the meaning of section 365(b)(1)(C) of the Bankruptcy Code. The Modified Assumption and Assignment Procedures are fair, appropriate, and effective and, upon the payment by the Purchaser of all Cure Amounts (as hereinafter defined) and approval of the assumption and assignment for a particular Purchased Contract thereunder, the Debtors shall be forever released from any and all liability under the Purchased Contracts.

HH. The Debtors are the sole and lawful owners of the Purchased Assets, and no other person has any ownership right, title, or interest therein. The Debtors' non-Debtor Affiliates have acknowledged and agreed to the 363 Transaction and, as required by, and in accordance with, the MPA and the Transition Services Agreement, transferred any legal, equitable, or beneficial right, title, or interest they may have in or to the Purchased Assets to the Purchaser.

II. The Debtors currently maintain certain privacy policies that govern the use of "personally identifiable information" (as defined in section 101(41A) of the Bankruptcy Code) in conducting their business operations. The 363 Transaction may contemplate the transfer of certain personally identifiable information to the Purchaser in a manner that may not be consistent with certain aspects of their existing privacy policies. Accordingly, on June 2, 2009, the Court directed the U.S. Trustee to promptly appoint a consumer privacy ombudsman in accordance with section 332 of the Bankruptcy Code, and such ombudsman was appointed on June 10, 2009. The Privacy Ombudsman is a disinterested person as required by section 332(a) of the Bankruptcy Code. The Privacy Ombudsman filed his report with the Court on July 1, 2009 (Docket No. 2873) (the "**Ombudsman Report**") and presented his report at the Sale Hearing, and the Ombudsman Report has been reviewed and considered by the Court. The Court has given due consideration to the facts, including the exigent circumstances surrounding the conditions of the sale of personally identifiable information in connection with the 363 Transaction. No showing has been made that the sale of personally identifiable information in connection with the 363 Transaction in accordance with the provisions of this Order violates applicable nonbankruptcy law, and the Court concludes that such sale is appropriate in conjunction with the 363 Transaction.

JJ. Pursuant to Section 6.7(a) of the MPA, GM offered Wind-Down Agreements and Deferred Termination Agreements (collectively, the "**Deferred Termination Agreements**") in forms prescribed by the MPA to franchised motor vehicle dealers, including dealers authorized to sell and service vehicles marketed under the Pontiac brand (which is being discontinued), dealers authorized to sell and service vehicles marketed under the Hummer, Saturn and Saab brands (which may or may not be discontinued depending on whether the brands are sold to third parties) and dealers authorized to sell and service vehicles marketed

under brands which will be continued by the Purchaser. The Deferred Termination Agreements were offered as an alternative to rejection of the existing Dealer Sales and Service Agreements of these dealers pursuant to section 365 of the Bankruptcy Code and provide substantial additional benefits to dealers which enter into such agreements. Approximately 99% of the dealers offered Deferred Termination Agreements accepted and executed those agreements and did so for good and sufficient consideration.

KK. Pursuant to Section 6.7(b) of the MPA, GM offered Participation Agreements in the form prescribed by the MPA to dealers identified as candidates for a long term relationship with the Purchaser. The Participation Agreements provide substantial benefits to accepting dealers, as they grant the opportunity for such dealers to enter into a potentially valuable relationship with the Purchaser as a component of a reduced and more efficient dealer network. Approximately 99% of the dealers offered Participation Agreements accepted and executed those agreements.

LL. This Order constitutes approval of the UAW Retiree Settlement Agreement and the compromise and settlement embodied therein.

MM. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Consistent with Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds that there is no just reason for delay in the implementation of this Order to the full extent to which those rules provide, but that its Order should not become effective instantaneously. Thus the Court will shorten, but not wholly eliminate, the periods set forth in Fed.R.Bankr.P. 6004(h) and 6006, and expressly directs entry of judgment as set forth in accordance with the provisions of Paragraph 70 below.

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NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

General Provisions

1. The Motion is granted as provided herein, and entry into and performance under, and in respect of, the MPA and the 363 Transaction is approved.

2. All Objections to the Motion or the relief requested therein that have not been withdrawn, waived, settled, or resolved, and all reservation of rights included in such Objections, are overruled on the merits other than a continuing Objection (each a "**Limited Contract Objection**") that does not contest or challenge the merits of the 363 Transaction and that is limited to (a) contesting a particular Cure Amount(s) (a "**Cure Objection**"), (b) determining whether a particular Assumable Executory Contract is an executory contract that may be assumed and/or assigned under section 365 of the Bankruptcy Code, and/or (c) challenging, as to a particular Assumable Executory Contract, whether the Debtors have assumed, or are attempting to assume, such contract in its entirety or whether the Debtors are seeking to assume only part of such contract. A Limited Contract Objection shall include, until resolved, a dispute regarding any Cure Amount that is subject to resolution by the Bankruptcy Court , or pursuant to the dispute resolution procedures established by the Sale Procedures Order or pursuant to agreement of the parties, including agreements under which an objection to the Cure Amount was withdrawn in connection with a reservation of rights under such dispute resolution procedures. Limited Contract Objections shall not constitute objections to the 363 Transaction, and to the extent such Limited Contract Objections remain continuing objections to be resolved before the Court, the hearing to consider each such Limited Contract Objection shall be adjourned to August 3, 2009 at 9:00a.m. (the "**Limited Contract Objection Hearing**"). Within two (2) business days of the entry of this Order, the Debtors shall serve upon each of the counterparties to the remaining Limited Contract Objections a notice of the Limited Contract Objection Hearing. The Debtors or any party that withdraws, or has withdrawn, a Limited

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Contract Objection without prejudice shall have the right, unless it has agreed otherwise, to schedule the hearing to consider a Limited Contract Objection on not less than fifteen (15) days notice to the Debtors, the counterparties to the subject Assumable Executory Contracts, the Purchaser, and the Creditors' Committee, or within such other time as otherwise may be agreed by the parties.

Approval of the MPA

3. The MPA, all transactions contemplated thereby, and all the terms and conditions thereof (subject to any modifications contained herein) are approved. If there is any conflict between the MPA, the Sale Procedures Order, and this Order, this Order shall govern.

4. Pursuant to sections 105, 363, and 365 of the Bankruptcy Code, the Debtors are authorized to perform their obligations under, and comply with the terms of, the MPA and consummate the 363 Transaction pursuant to, and in accordance with, the terms and provisions of the MPA and this Order.

5. The Debtors are authorized and directed to execute and deliver, and empowered to perform under, consummate, and implement, the MPA, together with all additional instruments and documents that the Sellers or the Purchaser deem necessary or appropriate to implement the MPA and effectuate the 363 Transaction, and to take all further actions as may reasonably be required by the Purchaser for the purpose of assigning, transferring, granting, conveying, and conferring to the Purchaser or reducing to possession the Purchased Assets or as may be necessary or appropriate to the performance of the obligations as contemplated by the MPA.

6. This Order and the MPA shall be binding in all respects upon the Debtors, their affiliates, all known and unknown creditors of, and holders of equity security interests in, any Debtor, including any holders of liens, claims, encumbrances, or other interests, including

rights or claims based on any successor or transferee liability, all non-Debtor parties to the Assumable Executory Contracts, all successors and assigns of the Purchaser, each Seller and their Affiliates and subsidiaries, the Purchased Assets, all interested parties, their successors and assigns, and any trustees appointed in the Debtors' chapter 11 cases or upon a conversion of any of such cases to cases under chapter 7 of the Bankruptcy Code and shall not be subject to rejection. Nothing contained in any chapter 11 plan confirmed in any of the Debtors' chapter 11 cases or the order confirming any such chapter 11 plan shall conflict with or derogate from the provisions of the MPA or this Order.

Transfer of Purchased Assets Free and Clear

7. Except for the Assumed Liabilities, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Purchased Assets shall be transferred to the Purchaser in accordance with the MPA, and, upon the Closing, shall be free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever (other than Permitted Encumbrances), including rights or claims based on any successor or transferee liability, and all such liens, claims, encumbrances, and other interests, including rights or claims based on any successor or transferee liability, shall attach to the net proceeds of the 363 Transaction in the order of their priority, with the same validity, force, and effect that they now have as against the Purchased Assets, subject to any claims and defenses a Seller or any other party in interest may possess with respect thereto.

8. Except as expressly permitted or otherwise specifically provided by the MPA or this Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade creditors, dealers, employees, litigation claimants, and other creditors, holding liens, claims, encumbrances, and other interests of any kind or nature whatsoever, including rights or claims

based on any successor or transferee liability, against or in a Seller or the Purchased Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to, the Sellers, the Purchased Assets, the operation of the Purchased Assets prior to the Closing, or the 363 Transaction, are forever barred, estopped, and permanently enjoined (with respect to future claims or demands based on exposure to asbestos, to the fullest extent constitutionally permissible) from asserting against the Purchaser, its successors or assigns, its property, or the Purchased Assets, such persons' or entities' liens, claims, encumbrances, and other interests, including rights or claims based on any successor or transferee liability.

9. This Order (a) shall be effective as a determination that, as of the Closing, (i) no claims other than Assumed Liabilities, will be assertable against the Purchaser, its affiliates, their present or contemplated members or shareholders, successors, or assigns, or any of their respective assets (including the Purchased Assets); (ii) the Purchased Assets shall have been transferred to the Purchaser free and clear of all claims (other than Permitted Encumbrances); and (iii) the conveyances described herein have been effected; and (b) is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks, or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing persons and entities is directed to accept for filing any and all of the documents

and instruments necessary and appropriate to consummate the transactions contemplated by the MPA.

10. The transfer of the Purchased Assets to the Purchaser pursuant to the MPA constitutes a legal, valid, and effective transfer of the Purchased Assets and shall vest the Purchaser with all right, title, and interest of the Sellers in and to the Purchased Assets free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever (other than Permitted Encumbrances), including rights or claims based on any successor or transferee liability, other than the Assumed Liabilities.

11. On the Closing of the 363 Transaction, each of the Sellers' creditors and any other holder of a lien, claim, encumbrance, or other interest, is authorized and directed to execute such documents and take all other actions as may be necessary to release its lien, claim, encumbrance (other than Permitted Encumbrances), or other interest in the Purchased Assets, if any, as such lien, claim, encumbrance, or other interest may have been recorded or may otherwise exist.

12. If any person or entity that has filed financing statements, mortgages, mechanic's liens, lis pendens, or other documents or agreements evidencing a lien, claim, encumbrance, or other interest in the Sellers or the Purchased Assets (other than Permitted Encumbrances) shall not have delivered to the Sellers prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all liens, claims, encumbrances, or other interests, which the person or entity has with respect to the Sellers or the Purchased Assets or otherwise, then (a) the Sellers are authorized and directed to execute and file such statements, instruments, releases, and other documents on behalf of the person or entity with respect to the Sellers or the Purchased Assets, and (b) the Purchaser is authorized to file, register, or otherwise record a certified copy of this Order, which

shall constitute conclusive evidence of the release of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever in the Sellers or the Purchased Assets.

13. All persons or entities in possession of any of the Purchased Assets are directed to surrender possession of such Purchased Assets to the Purchaser or its respective designees at the time of Closing of the 363 Transaction.

14. Following the Closing of the 363 Transaction, no holder of any lien, claim, encumbrance, or other interest (other than Permitted Encumbrances) shall interfere with the Purchaser's title to, or use and enjoyment of, the Purchased Assets based on, or related to, any such lien, claim, encumbrance, or other interest, or based on any actions the Debtors may take in their chapter 11 cases.

15. All persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Debtors to transfer the Purchased Assets to the Purchaser in accordance with the MPA and this Order; *provided, however*, that the foregoing restriction shall not prevent any person or entity from appealing this Order or opposing any appeal of this Order.

16. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may deny, revoke, suspend, or refuse to renew any permit, license, or similar grant relating to the operation of the Purchased Assets sold, transferred, or conveyed to the Purchaser on account of the filing or pendency of these chapter 11 cases or the consummation of the 363 Transaction contemplated by the MPA.

17. From and after the Closing, the Purchaser shall comply with the certification, reporting, and recall requirements of the National Traffic and Motor Vehicle Safety Act, as amended and recodified, including by the Transportation Recall Enhancement, Accountability and Documentation Act, the Clean Air Act, the California Health and Safety

Code, and similar Laws, in each case, to the extent applicable in respect of motor vehicles, vehicles, motor vehicle equipment, and vehicle parts manufactured or distributed by the Sellers prior to the Closing.

18. Notwithstanding anything to the contrary in this Order or the MPA, (a) any Purchased Asset that is subject to any mechanic's, materialman's, laborer's, workmen's, repairman's, carrier's liens and other similar Encumbrances arising by operation of law or statute in the Ordinary Course of Business for amounts that are not delinquent or that are being contested in good faith by appropriate proceedings, or any lien for Taxes, the validity or amount of which is being contested in good faith by appropriate proceedings, and statutory liens for current Taxes not yet due, payable, or delinquent (or which may be paid without interest or penalties) shall continue to be subject to such lien after the Closing Date if and to the extent that such lien (i) is valid, perfected and enforceable as of the Commencement Date (or becomes valid, perfected and enforceable after the Commencement Date as permitted by section 546(b) or 362(b)(18) of the Bankruptcy Code), (ii) could not be avoided by any Debtor under sections 544 to 549, inclusive, of the Bankruptcy Code or otherwise, were the Closing not to occur; and (iii) the Purchased Asset subject to such lien could not be sold free and clear of such lien under applicable non-bankruptcy law, and (b) any Liability as of the Closing Date that is secured by a lien described in clause (a) above (such lien, a "**Continuing Lien**") that is not otherwise an Assumed Liability shall constitute an Assumed Liability with respect to which there shall be no recourse to the Purchaser or any property of the Purchaser other than recourse to the property subject to such Continuing Lien. The Purchased Assets are sold free and clear of any reclamation rights, *provided, however,* that nothing, in this Order or the MPA shall in any way impair the right of any claimant against the Debtors with respect to any alleged reclamation right to the extent such reclamation right is not subject to the prior rights of a holder of a security interest in

the goods or proceeds with respect to which such reclamation right is alleged, or impair the ability of a claimant to seek adequate protection against the Debtors with respect to any such alleged reclamation right. Further, nothing in this Order or the MPA shall prejudice any rights, defenses, objections or counterclaims that the Debtors, the Purchaser, the U.S. Treasury, EDC, the Creditors' 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.

Approval of the UAW Retiree Settlement Agreement

19. The UAW Retiree Settlement Agreement, the transactions contemplated therein, and the terms and conditions thereof, are fair, reasonable, and in the best interests of the retirees, and are approved. The Debtors, the Purchaser, and the UAW are authorized and directed to perform their obligations under, or in connection with, the implementation of the UAW Retiree Settlement Agreement and to comply with the terms of the UAW Retiree Settlement Agreement, including the obligation of the Purchaser to reimburse the UAW for certain expenses relating to the 363 Transaction and the transition to the New VEBA arrangements. The amendments to the Trust Agreement (as defined in the UAW Retiree Settlement Agreement) set forth on Exhibit E to the UAW Retiree Settlement Agreement, are approved, and the Trust Agreement is reformed accordingly.

20. In accordance with the terms of the UAW Retiree Settlement Agreement, (I) as of the Closing, there shall be no requirement to amend the Pension Plan as set forth in section 15 of the Henry II Settlement (as such terms are defined in the UAW Retiree Settlement Agreement); (II) on the later of December 31, 2009, or the Closing of the 363 Transaction (the "**Implementation Date**"), (i) the committee and the trustees of the Existing External VEBA (as defined in the UAW Retiree Settlement Agreement) are directed to transfer to the New VEBA all assets and liabilities of the Existing External VEBA and to terminate the Existing External

VEBA within fifteen (15) days thereafter, as provided under Section 12.C of the UAW Retiree Settlement Agreement, (ii) the trustee of the Existing Internal VEBA is directed to transfer to the New VEBA the UAW Related Account's share of assets in the Existing Internal VEBA within ten (10) business days thereafter as provided in Section 12.B of the UAW Retiree Settlement Agreement, and, upon the completion of such transfer, the Existing Internal VEBA shall be deemed to be amended to terminate participation and coverage regarding Retiree Medical Benefits for the Class and the Covered Group, effective as of the Implementation Date (each as defined in the UAW Retiree Settlement Agreement); and (III) all obligations of the Purchaser and the Sellers to provide Retiree Medical Benefits to members of the Class and Covered Group shall be governed by the UAW Retiree Settlement Agreement, and, in accordance with section 5.D of the UAW Retiree Settlement Agreement, all provisions of the Purchaser's Plan relating to Retiree Medical Benefits for the Class and/or the Covered Group shall terminate as of the Implementation Date or otherwise be amended so as to be consistent with the UAW Retiree Settlement Agreement (as each term is defined in the UAW Retiree Settlement Agreement), and the Purchaser shall not thereafter have any such obligations as set forth in Section 5.D of the UAW Retiree Settlement Agreement.

Approval of GM's Assumption of the UAW Claims Agreement

21. Pursuant to section 365 of the Bankruptcy Code, GM's assumption of the UAW Claims Agreement is approved, and GM, the UAW, and the Class Representatives are authorized and directed to perform their obligations under, or in connection with, the implementation of the UAW Claims Agreement and comply with the terms of the UAW Claims Agreement.

Assumption and Assignment to the Purchaser of Assumable Executory Contracts

22. Pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code and subject to and conditioned upon (a) the Closing of the 363 Transaction, (b) the occurrence of the Assumption Effective Date, and (c) the resolution of any relevant Limited Contract Objections, other than a Cure Objection, by order of this Court overruling such objection or upon agreement of the parties, the Debtors' assumption and assignment to the Purchaser of each Assumable Executory Contract (including, without limitation, for purposes of this paragraph 22) the UAW Collective Bargaining Agreement) is approved, and the requirements of section 365(b)(1) of the Bankruptcy Code with respect thereto are deemed satisfied.

23. The Debtors are authorized and directed in accordance with sections 105(a) and 365 of the Bankruptcy Code to (i) assume and assign to the Purchaser, effective as of the Assumption Effective Date, as provided by, and in accordance with, the Sale Procedures Order, the Modified Assumption and Assignment Procedures, and the MPA, those Assumable Executory Contracts that have been designated by the Purchaser for assumption pursuant to sections 6.6 and 6.31 of the MPA and that are not subject to a Limited Contract Objection other than a Cure Objection, free and clear of all liens, claims, encumbrances, or other interests of any kind or nature whatsoever (other than Permitted Encumbrances), including rights or claims based on any successor or transferee liability, other than the Assumed Liabilities, and (ii) execute and deliver to the Purchaser such documents or other instruments as the Purchaser reasonably deems may be necessary to assign and transfer such Assumable Executory Contracts and Assumed Liabilities to the Purchaser. The Purchaser shall Promptly Pay (as defined below) the following (the "**Cure Amount**"): (a) all amounts due under such Assumable Executory Contract as of the Commencement Date as reflected on the website established by the Debtors (the "**Contract Website**"), which is referenced and is accessible as set forth in the Assumption and Assignment

Notice or as otherwise agreed to in writing by an authorized officer of the parties (for this purpose only, Susanna Webber shall be deemed an authorized officer of the Debtors) (the "**Prepetition Cure Amount**"), less amounts, if any, paid after the Commencement Date on account of the Prepetition Cure Amount (such net amount, the "**Net Prepetition Cure Amount**"), plus (b) any such amount past due and owing as of the Assumption Effective Date, as required under the Modified Assumption and Assignment Procedures, exclusive of the Net Prepetition Cure Amount. For the avoidance of doubt, all of the Debtors' rights to assert credits, chargebacks, setoffs, rebates, and other claims under the Purchased Contracts are purchased by and assigned to the Purchaser as of the Assumption Effective Date. As used herein, "**Promptly Pay**" means (i) with respect to any Cure Amount (or portion thereof, if any) which is undisputed, payment as soon as reasonably practicable, but not later than five (5) business days after the Assumption Effective Date, and (ii) with respect to any Cure Amount (or portion thereof, if any) which is disputed, payment as soon as reasonably practicable, but not later than five (5) business days after such dispute is resolved or such later date upon agreement of the parties and, in the event Bankruptcy Court approval is required, upon entry of a final order of the Bankruptcy Court. On and after the Assumption Effective Date, the Purchaser shall (i) perform any nonmonetary defaults that are required under section 365(b) of the Bankruptcy Code; *provided* that such defaults are undisputed or directed by this Court and are timely asserted under the Modified Assumption and Assignment Procedures, and (ii) pay all undisputed obligations and perform all obligations that arise or come due under each Assumable Executory Contract in the ordinary course. Notwithstanding any provision in this Order to the contrary, the Purchaser shall not be obligated to pay any Cure Amount or any other amount due with respect to any Assumable Executory Contract before such amount becomes due and payable under the applicable payment terms of such Contract.

24. The Debtors shall make available a writing, acknowledged by the Purchaser, of the assumption and assignment of an Assumable Executory Contract and the effective date of such assignment (which may be a printable acknowledgment of assignment on the Contract Website). The Assumable Executory Contracts shall be transferred and assigned to, pursuant to the Sale Procedures Order and the MPA, and thereafter remain in full force and effect for the benefit of, the Purchaser, notwithstanding any provision in any such Assumable Executory Contract (including those of the type described in sections 365(b)(2), (e)(1), and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer and, pursuant to section 365(k) of the Bankruptcy Code, the Sellers shall be relieved from any further liability with respect to the Assumable Executory Contracts after such assumption and assignment to the Purchaser. Except as may be contested in a Limited Contract Objection, each Assumable Executory Contract is an executory contract or unexpired lease under section 365 of the Bankruptcy Code and the Debtors may assume each of their respective Assumable Executory Contracts in accordance with section 365 of the Bankruptcy Code. Except as may be contested in a Limited Contract Objection other than a Cure Objection, the Debtors may assign each Assumable Executory Contract in accordance with sections 363 and 365 of the Bankruptcy Code, and any provisions in any Assumable Executory Contract that prohibit or condition the assignment of such Assumable Executory Contract or terminate, recapture, impose any penalty, condition renewal or extension, or modify any term or condition upon the assignment of such Assumable Executory Contract, constitute unenforceable antiassignment provisions which are void and of no force and effect in connection with the transactions contemplated hereunder. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Purchaser of each Assumable Executory Contract have been satisfied, and, pursuant to section 365(k) of the Bankruptcy Code, the

Debtors are hereby relieved from any further liability with respect to the Assumable Executory Contracts, including, without limitation, in connection with the payment of any Cure Amounts related thereto which shall be paid by the Purchaser. At such time as provided in the Sale Procedures Order and the MPA, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested in all right, title, and interest of each Purchased Contract. With respect to leases of personal property that are true leases and not subject to recharacterization, nothing in this Order or the MPA shall transfer to the Purchaser an ownership interest in any leased property not owned by a Debtor. Any portion of any of the Debtors' unexpired leases of nonresidential real property that purport to permit the respective landlords thereunder to cancel the remaining term of any such leases if the Sellers discontinue their use or operation of the Leased Real Property are void and of no force and effect and shall not be enforceable against the Purchaser, its assignees and sublessees, and the landlords under such leases shall not have the right to cancel or otherwise modify such leases or increase the rent, assert any Claim, or impose any penalty by reason of such discontinuation, the Sellers' cessation of operations, the assignment of such leases to the Purchaser, or the interruption of business activities at any of the leased premises.

25. Except in connection with any ongoing Limited Contract Objection, each non-Debtor party to an Assumable Executory Contract is forever barred, estopped, and permanently enjoined from (a) asserting against the Debtors or the Purchaser, their successors or assigns, or their respective property, any default arising prior to, or existing as of, the Commencement Date, or, against the Purchaser, any counterclaim, defense, or setoff (other than defenses interposed in connection with, or related to, credits, chargebacks, setoffs, rebates, and other claims asserted by the Sellers or the Purchaser in its capacity as assignee), or other claim asserted or assertable against the Sellers and (b) imposing or charging against the Debtors, the

Purchaser, or its Affiliates any rent accelerations, assignment fees, increases, or any other fees as a result of the Sellers' assumption and assignment to the Purchaser of the Assumable Executory Contracts. The validity of such assumption and assignment of the Assumable Executory Contracts shall not be affected by any dispute between the Sellers and any non-Debtor party to an Assumable Executory Contract.

26. Except as expressly provided in the MPA or this Order, after the Closing, the Debtors and their estates shall have no further liabilities or obligations with respect to any Assumed Liabilities other than certain Cure Amounts as provided in the MPA, and all holders of such claims are forever barred and estopped from asserting such claims against the Debtors, their successors or assigns, and their estates.

27. The failure of the Sellers or the Purchaser to enforce at any time one or more terms or conditions of any Assumable Executory Contract shall not be a waiver of such terms or conditions, or of the Sellers' and the Purchaser's rights to enforce every term and condition of the Assumable Executory Contracts.

28. The authority hereunder for the Debtors to assume and assign an Assumable Executory Contract to the Purchaser includes the authority to assume and assign an Assumable Executory Contract, as amended.

29. Upon the assumption by a Debtor and the assignment to the Purchaser of any Assumable Executory Contract and the payment of the Cure Amount in full, all defaults under the Assumable Executory Contract shall be deemed to have been cured, and any counterparty to such Assumable Executory Contract shall be prohibited from exercising any rights or remedies against any Debtor or non-Debtor party to such Assumable Executory Contract based on an asserted default that occurred on, prior to, or as a result of, the Closing, including the type of default specified in section 365(b)(1)(A) of the Bankruptcy Code.

30. The assignments of each of the Assumable Executory Contracts are made in good faith under sections 363(b) and (m) of the Bankruptcy Code.

31. Entry by GM into the Deferred Termination Agreements with accepting dealers is hereby approved. Executed Deferred Termination Agreements represent valid and binding contracts, enforceable in accordance with their terms.

32. Entry by GM into the Participation Agreements with accepting dealers is hereby approved and the offer by GM of entry into the Participation Agreements 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.

33. Nothing contained in the preceding two paragraphs shall impact the authority of any state or of the federal government to regulate Purchaser subsequent to the Closing.

34. Notwithstanding any other provision in the MPA or this Order, no assignment of any rights and interests of the Debtors in any federal license issued by the Federal Communications Commission ("**FCC**") shall take place prior to the issuance of FCC regulatory approval for such assignment pursuant to the Communications Act of 1934, and the rules and regulations promulgated thereunder.

TPC Property

35. The TPC Participation Agreement and the other TPC Operative Documents are financing transactions secured to the extent of the TPC Value (as hereinafter defined) and shall be Retained Liabilities.

36. As a result of the Debtors' interests in the TPC Property being transferred to the Purchaser free and clear of all liens, claims, interests, and encumbrances (other than Permitted Encumbrances), including, without limitation, the TPC Lenders' Liens and Claims, pursuant to section 363(e) of the Bankruptcy Code, the TPC Lenders shall have an allowed secured claim in a total amount equal to the fair market value of the TPC Property on the Commencement Date under section 506 of the Bankruptcy Code (the "**TPC Value**"), as determined at a valuation hearing conducted by this Court or by mutual agreement of the Debtors, the Purchaser, and the TPC Lenders (such claim, the "**TPC Secured Claim**"). Either the Debtors, the Purchaser, the TPC Lenders, or the Creditors' Committee may file a motion with this Court to determine the TPC Value on twenty (20) days notice.

37. Pursuant to sections 361 and 363(e) of the Bankruptcy Code, as adequate protection for the TPC Secured Claim and for the sole benefit of the TPC Lenders, at the Closing or as soon as commercially practicable thereafter, but in any event not later than five (5) business days after the Closing, the Purchaser shall place $90,700,000 (the "**TPC Escrow Amount**") in cash into an interest-bearing escrow account (the "**TPC Escrow Account**") at a financial institution selected by the Purchaser and acceptable to the other parties (the "**Escrow Bank**"). Interest earned on the TPC Escrow Amount from the date of deposit through the date of the disposition of the proceeds of such account (the "**TPC Escrow Interest**") will follow principal, such that interest earned on the amount of cash deposited into the TPC Escrow Account equal to the TPC Value shall be paid to the TPC Lenders and interest earned on the balance of the TPC Escrow Amount shall be paid to the Purchaser.

38. Promptly after the determination of the TPC Value, an amount of cash equal to the TPC Secured Claim plus the TPC Lenders' pro rata share of the TPC Escrow Interest shall be released from the TPC Escrow Account and paid to the TPC Lenders (the "**TPC**

Payment") without further order of this Court. If the TPC Value is less than $90,700,000, the TPC Lenders shall have, in addition to the TPC Secured Claim, an aggregate allowed unsecured claim against GM's estate equal to the lesser of (i) $45,000,000 and (ii) the difference between $90,700,000 and the TPC Value (the "**TPC Unsecured Claim**").

39. If the TPC Value exceeds $90,700,000, the TPC Lenders shall be entitled to assert a secured claim against GM's estate to the extent the TPC Lenders would have an allowed claim for such excess under section 506 of the Bankruptcy Code (the "**TPC Excess Secured Claim**"); *provided, however*, that any TPC Excess Secured Claim shall be paid from the consideration of the 363 Transaction as a secured claim thereon and shall not be payable from the proceeds of the Wind-Down Facility; *and provided further, however,* that the Debtors, the Creditors' Committee, and all parties in interest shall have the right to contest the allowance and amount of the TPC Excess Secured Claim under section 506 of the Bankruptcy Code (other than to contest the TPC Value as previously determined by the Court). All parties' rights and arguments respecting the determination of the TPC Secured Claim are reserved; *provided, however*, that in consideration of the settlement contained in these paragraphs, the TPC Lenders waive any legal argument that the TPC Lenders are entitled to a secured claim equal to the face amount of their claim under section 363(f)(3) or any other provision of the Bankruptcy Code solely as a matter of law, including, without limitation, on the grounds that the Debtors are required to pay the full face amount of the TPC Lenders' secured claims in order to transfer, or as a result of the transfer of, the TPC Property to the Purchaser. After the TPC Payment is made, any funds remaining in the TPC Escrow Account plus the Purchasers' pro rata share of the TPC Escrow Interest shall be released and paid to the Purchaser without further order of this Court. Upon the receipt of the TPC Payment by the TPC Lenders, other than any right to payment from GM on account of the TPC Unsecured Claim and the TPC Excess Secured Claim, the TPC

Lenders' Claims relating to the TPC Property shall be deemed fully satisfied and discharged, including, without limitation, any claims the TPC Lenders might have asserted against the Purchaser relating to the TPC Property, the TPC Participation Agreement, or the TPC Operative Documents. For the avoidance of doubt, any and all claims of the TPC Lenders arising from or in connection with the TPC Property, the TPC Participation Agreement, or the TPC Operative Documents shall be payable solely from the TPC Escrow Account or GM and shall be nonrecourse to the Purchaser.

40. The TPC Lenders shall not be entitled to payment of any fees, costs, or expenses (including legal fees) except to the extent that the TPC Value results in a TPC Excess Secured Claim and is thereby oversecured under the Bankruptcy Code and such claim is allowed by the Court as a secured claim under section 506 of the Bankruptcy Code.

41. In connection with the foregoing, and pursuant to Section 11.2 of the TPC Trust Agreement, GM, as the sole Certificate Holder and Beneficiary under the TPC Trust, together with the consent of GM as the Lessee, effective as of the date of the Closing, (a) exercises its election to terminate the TPC Trust and (b) in connection therewith, assumes all of the obligations of the TPC Trust and TPC Trustee under or contemplated by the TPC Operative Documents to which the TPC Trust or TPC Trustee is a party and all other obligations of the TPC Trust or TPC Trustee incurred under the TPC Trust Agreement (other than obligations set forth in clauses (i) through (iii) of the second sentence of Section 7.1 of the TPC Trust Agreement).

42. As a condition precedent to the 363 Transaction, in connection with the termination of the TPC Trust, effective as of the date of the Closing, all of the assets of the TPC Trust (the "**TPC Trust Assets**") shall be distributed to GM, as sole Certificate Holder and beneficiary under the TPC Trust, including, without limitation, the following:

(i) Industrial Development Revenue Real Property Note (General Motors Project) Series 1999-I, dated November 18, 1999, in the principal amount of $21,700,000, made by the Industrial Development Board of the City of Memphis and County of Shelby, Tennessee, to PVV Southpoint 14, LLC, as assigned by Assignment and Assumption of Loan and Loan Documents dated as of November 18, 1999, between PVV Southpoint 14, LLC, as Assignor, to the TPC Trustee of the TPC Trust, as Assignee, recorded as JW1268 in the records of the Shelby County Register of Deeds (the "**TPC Tennessee Ground Lease**");

(ii) Real Property Lease Agreement dated as of November 18, 1999, between the Industrial Development Board of the City of Memphis and County of Shelby, Tennessee, as Lessor, and PVV Southpoint 14, LLC, as Lessee, recorded as JW1262 in the records of the Shelby County Register of Deeds, as assigned by Assignment and Assumption of Real Property Lease dated as of November 18, 1999, between PVV Southpoint 14, LLC, as Assignor, to the TPC Trustee of the TPC Trust, as Assignee, recorded as JW1267 in the records of the Shelby County Register of Deeds;

(iii) Deed of Trust dated as of November 18, 1999, between the Industrial Development Board of the City of Memphis and County of Shelby, Tennessee, as Grantor, in favor of Mid-South Title Corporation, as Trustee, for the benefit of PVV Southpoint 14, LLC, Beneficiary, recorded as JW1263 in the records of the Shelby County Register of Deeds, as assigned by Assignment and Assumption of Loan and Loan Documents dated as of November 18, 1999, between PVV Southpoint 14, LLC, as Assignor, to the TPC Trustee of the TPC Trust, as Assignee, recorded as JW1268 in the records of the Shelby County Register of Deeds;

(iv) Assignment of Rents and Lease dated as of November 18, 1999, between the Industrial Development Board of the City of Memphis and County of Shelby, Tennessee, as Assignor, and PVV Southpoint 14, LLC, as Assignee, recorded as JW1264 in the records of the Shelby County Register of Deeds, as assigned by Assignment and Assumption of Loan and Loan Documents dated as of November 18, 1999, between PVV Southpoint 14, LLC, as Assignor, to the TPC Trustee of the TPC Trust, as Assignee, recorded as JW1268 in the records of the Shelby County Register of Deeds;

(v) The Tennessee Master Lease (as defined in the TPC Participation Agreement);

(vi) A certain tract of land being known and designated as Lot 1, as shown on a Subdivision Plat entitled "Final Plat – Lot 1, Whitemarsh Associates, LLC Property," which Plat is recorded among the Land Records of Baltimore County in Plat Book SM No. 71 at folio 144, Maryland, together with a certain tract of land being known and designated as "1.1865 Acre of Highway Widening," as shown on a Subdivision Plat entitled "Final Plat – Lot 1, Whitemarsh Associates, LLC Property," which Plat is recorded among the Land Records of Baltimore County in Plat Book SM No. 71 at folio 144, Baltimore, Maryland, saving and excepting from the above described property all that land conveyed to the State of Maryland to the use of the State Highway Administration of the Department of Transportation dated November 24, 2003, and

recorded among the Land Records of Baltimore County in Liber 19569, folio 074, Maryland, together with all rights, easements, covenants, licenses, and appurtenances associated with the ownership thereof in any way, including, without limitation, those easements benefiting Parcel 1 set forth in the Declaration and Agreement Respecting Easements, Restrictions and Operations, between the TPC Trust, GM, and Whitemarsh Associates, LLC, recorded among the Land Records of Baltimore County in Liber 14019, folio 430, as amended (collectively, the "**Maryland Property**");

(vii) alternatively to the transfer of a direct interest in the Maryland Property pursuant to item (vi) above, if such documents are still extant, the following interests shall be transferred: (a) Ground Lease Agreement dated as of September 8, 1999, between the TPC Trustee of the TPC Trust. as lessor, and Maryland Economic Development Corporation, as lessee, recorded among the Land Records of Baltimore County in Liber 14019, folio 565, (b) Sublease Agreement dated as of September 8, 1999, between the Maryland Economic Development Corporation, as sublessor, and the TPC Trustee of the TPC Trust, as sublessee, recorded among the Land Records of Baltimore County in Liber 14019, folio 589, together with (c) all agreements, loan agreements, notes, rights, obligations, and interests held by the TPC Trustee of the TPC Trust and/or issued by the TPC Trustee of the TPC Trust in connection therewith; and

(viii) The Maryland Master Lease (as defined in the TPC Participation Agreement).

43. As a result of the distribution of the TPC Trust Assets, effective as of the date of the Closing, title to the leasehold interest of the TPC Trustee of the TPC Trust under the TPC Tennessee Ground Lease and the lessor's interest under the Tennessee Master Lease shall be held by GM, as are the lessor's and lessee's interests under the Tennessee Master Lease, and as permitted by the TPC Trust Agreement, the Tennessee Master Lease shall hereby be terminated, and GM shall succeed to all rights of the lessor thereunder to the property leased thereby, together with all rights, easements, covenants, licenses, and appurtenances associated with the ownership thereof in any way.

44. As a result of the distribution of the TPC Trust Assets, effective as of the date of the Closing, title to the Maryland Property, the lessor's and lessee's interests under the Maryland Master Lease shall be held by GM, and as permitted by the TPC Trust Agreement, the Maryland Master Lease shall hereby be terminated, and GM shall succeed to all rights of the

lessor thereunder to the property leased thereby, together with all rights, easements, covenants, licenses, and appurtenances associated with the ownership thereof in any way.

45. All of the TPC Trust Assets and the TPC Property are Purchased Assets under the MPA and shall be transferred by GM pursuant thereto to the Purchaser free and clear of all liens, claims, encumbrances, and interests (other than Permitted Encumbrances), including, without limitation, any liens, claims, encumbrances, and interests of the TPC Lenders. To the extent any of the TPC Trust Assets are executory contracts and unexpired leases, they shall be Assumable Executory Contracts, which shall be assumed by GM and assigned to Purchaser pursuant to section 365 of the Bankruptcy Code and the Sale Procedures Order.

Additional Provisions

46. Except for the Assumed Liabilities expressly set forth in the MPA, none of the Purchaser, its present or contemplated members or shareholders, its successors or assigns, or any of their respective affiliates or any of their respective agents, officials, personnel, representatives, or advisors shall have any liability for any claim that arose prior to the Closing Date, relates to the production of vehicles prior to the Closing Date, or otherwise is assertable against the Debtors or is related to the Purchased Assets prior to the Closing Date. The Purchaser shall not be deemed, as a result of any action taken in connection with the MPA or any of the transactions or documents ancillary thereto or contemplated thereby or in connection with the acquisition of the Purchased Assets, to: (i) be a legal successor, or otherwise be deemed a successor to the Debtors (other than with respect to any obligations arising under the Purchased Assets from and after the Closing); (ii) have, de facto or otherwise, merged with or into the Debtors; or (iii) be a mere continuation or substantial continuation of the Debtors or the enterprise of the Debtors. Without limiting the foregoing, the Purchaser shall not have any successor, transferee, derivative, or vicarious liabilities of any kind or character for any claims,

including, but not limited to, under any theory of successor or transferee liability, de facto merger or continuity, environmental, labor and employment, and products or antitrust liability, whether known or unknown as of the Closing, now existing or hereafter arising, asserted, or unasserted, fixed or contingent, liquidated or unliquidated.

47. 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 or an order of the Court, all persons and entities are forever prohibited and enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral, or other proceeding against the Purchaser, its present or contemplated members or shareholders, its successors and assigns, or the Purchased Assets, with respect to any (i) claim against the Debtors other than Assumed Liabilities, or (ii) successor or transferee liability of the Purchaser for any of the Debtors, including, without limitation, the following actions: (a) commencing or continuing any action or other proceeding pending or threatened against the Debtors as against the Purchaser, or its successors, assigns, affiliates, or their respective assets, including the Purchased Assets; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the Debtors as against the Purchaser, its successors, assigns, affiliates, or their respective assets, including the Purchased Assets; (c) creating, perfecting, or enforcing any lien, claim, interest, or encumbrance against the Debtors as against the Purchaser or its successors, assigns, affiliates, or their respective assets, including the Purchased Assets; (d) asserting any setoff, right of subrogation, or recoupment of any kind for any obligation of any of the Debtors as against any obligation due the Purchaser or its successors, assigns, affiliates, or their respective assets, including the Purchased Assets; (e) commencing or continuing any action, in any manner or place, that does not comply, or is inconsistent with, the provisions of this Order or other orders of this Court, or

the agreements or actions contemplated or taken in respect thereof; or (f) revoking, terminating, or failing or refusing to renew any license, permit, or authorization to operate any of the Purchased Assets or conduct any of the businesses operated with such assets. Notwithstanding the foregoing, a relevant taxing authority's ability to exercise its rights of setoff and recoupment are preserved.

48. Except for the Assumed Liabilities, or as expressly permitted or otherwise specifically provided for in the MPA or this Order, the Purchaser shall have no liability or responsibility for any liability or other obligation of the Sellers arising under or related to the Purchased Assets. Without limiting the generality of the foregoing, and except as otherwise specifically provided in this Order and the MPA, the Purchaser shall not be liable for any claims against the Sellers or any of their predecessors or Affiliates, and the Purchaser shall have no successor, transferee, or vicarious liabilities of any kind or character, including, but not limited to, any theory of antitrust, environmental, successor, or transferee liability, labor law, de facto merger, or substantial continuity, whether known or unknown as of the Closing, now existing or hereafter arising, whether fixed or contingent, asserted or unasserted, liquidated or unliquidated, with respect to the Sellers or any obligations of the Sellers arising prior to the Closing.

49. The Purchaser has given fair and substantial consideration under the MPA for the benefit of the holders of liens, claims, encumbrances, or other interests. The consideration provided by the Purchaser for the Purchased Assets under the MPA is greater than the liquidation value of the Purchased Assets and shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

50. The consideration provided by the Purchaser for the Purchased Assets under the MPA is fair and reasonable, and the Sale may not be avoided under section 363(n) of the Bankruptcy Code.

51. If there is an Agreed G Transaction (determined no later than the due date, with extensions, of GM's tax return for the taxable year in which the 363 Transaction occurs), (i) the MPA shall, and hereby does, constitute a "plan" of GM and the Purchaser solely for purposes of sections 368 and 354 of the Tax Code, and (ii) the 363 Transaction, as set forth in the MPA, and the subsequent liquidation of the Sellers, are intended to constitute a tax reorganization of GM pursuant to section 368(a)(1)(G) of the Tax Code.

52. This Order (a) shall be effective as a determination that, except for the Assumed Liabilities, at Closing, all liens, claims, encumbrances, and other interests of any kind or nature whatsoever existing as to the Sellers with respect to the Purchased Assets prior to the Closing (other than Permitted Encumbrances) have been unconditionally released and terminated, and that the conveyances described in this Order have been effected, and (b) shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Purchased Assets.

53. Each and every federal, state, and local governmental agency or department is authorized to accept any and all documents and instruments necessary or appropriate to consummate the transactions contemplated by the MPA.

54. Any amounts that become payable by the Sellers to the Purchaser pursuant to the MPA (and related agreements executed in connection therewith, including, but not limited to, any obligation arising under Section 8.2(b) of the MPA) shall (a) constitute administrative expenses of the Debtors' estates under sections 503(b)(1) and 507(a)(1) of the Bankruptcy Code and (b) be paid by the Debtors in the time and manner provided for in the MPA without further Court order.

55. The transactions contemplated by the MPA are undertaken by the Purchaser without collusion and in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and were negotiated by the parties at arm's length, and, accordingly, the reversal or modification on appeal of the authorization provided in this Order to consummate the 363 Transaction shall not affect the validity of the 363 Transaction (including the assumption and assignment of any of the Assumable Executory Contracts and the UAW Collective Bargaining Agreement), unless such authorization is duly stayed pending such appeal. The Purchaser is a purchaser in good faith of the Purchased Assets and the Purchaser and its agents, officials, personnel, representatives, and advisors are entitled to all the protections afforded by section 363(m) of the Bankruptcy Code.

56. The Purchaser is assuming the obligations of the Sellers pursuant to and subject to conditions and limitations contained in their express written warranties, which were delivered in connection with the sale of vehicles and vehicle components prior to the Closing of the 363 Transaction and specifically identified as a "warranty." The Purchaser is not assuming responsibility for Liabilities contended to arise by virtue of other alleged warranties, including implied warranties and statements in materials such as, without limitation, individual customer communications, owner's manuals, advertisements, and other promotional materials, catalogs, and point of purchase materials. Notwithstanding the foregoing, the Purchaser has assumed the

Sellers' obligations under state "lemon law" statutes, which require a manufacturer to provide a consumer remedy when the manufacturer is unable to conform the vehicle to the warranty, as defined in the applicable statute, after a reasonable number of attempts as further defined in the statute, and other related regulatory obligations under such statutes.

57. Subject to further Court order and consistent with the terms of the MPA and the Transition Services Agreement, the Debtors and the Purchaser are authorized to, and shall, take appropriate measures to maintain and preserve, until the consummation of any chapter 11 plan for the Debtors, (a) the books, records, and any other documentation, including tapes or other audio or digital recordings and data in, or retrievable from, computers or servers relating to or reflecting the records held by the Debtors or their affiliates relating to the Debtors' business, and (b) the cash management system maintained by the Debtors prior to the Closing, as such system may be necessary to effect the orderly administration of the Debtors' estates.

58. The Debtors are authorized to take any and all actions that are contemplated by or in furtherance of the MPA, including transferring assets between subsidiaries and transferring direct and indirect subsidiaries between entities in the corporate structure, with the consent of the Purchaser.

59. Upon the Closing, the Purchaser shall assume all liabilities of the Debtors arising out of, relating to, in respect of, or in connection with workers' compensation claims against any Debtor, except for workers' compensation claims against the Debtors with respect to Employees residing in or employed in, as the case may be as defined by applicable law, the states of Alabama, Georgia, New Jersey, and Oklahoma.

60. During the week after Closing, the Purchaser shall send an e-mail to the Debtors' customers for whom the Debtors have usable e-mail addresses in their database, which will provide information about the Purchaser and procedures for consumers to opt out of being

contacted by the Purchaser for marketing purposes. For a period of ninety (90) days following the Closing Date, the Purchaser shall include on the home page of GM's consumer web site (www.gm.com) a conspicuous disclosure of information about the Purchaser, its procedures for consumers to opt out of being contacted by the Purchaser for marketing purposes, and a notice of the Purchaser's new privacy statement. The Debtors and the Purchaser shall comply with the terms of established business relationship provisions in any applicable state and federal telemarketing laws. The Dealers who are parties to Deferred Termination Agreements shall not be required to transfer personally identifying information in violation of applicable law or existing privacy policies.

61. Nothing in this Order or the MPA releases, nullifies, or enjoins the enforcement of any Liability to a governmental unit under Environmental Laws or regulations (or any associated Liabilities for penalties, damages, cost recovery, or injunctive relief) that any entity would be subject to as the owner, lessor, or operator of property after the date of entry of this Order. Notwithstanding the foregoing sentence, nothing in this Order shall be interpreted to deem the Purchaser as the successor to the Debtors under any state law successor liability doctrine with respect to any Liabilities under Environmental Laws or regulations for penalties for days of violation prior to entry of this Order. Nothing in this paragraph should be construed to create for any governmental unit any substantive right that does not already exist under law.

62. Nothing contained in this Order or in the MPA shall in any way (i) diminish the obligation of the Purchaser to comply with Environmental Laws, or (ii) 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. The definition of Environmental Laws in the MPA shall be amended to delete the words "in existence on the date of the Original Agreement." For purposes of clarity, the exclusion of asbestos liabilities in

section 2.3(b)(x) of the MPA shall not be deemed to affect coverage of asbestos as a Hazardous Material with respect to the Purchaser's remedial obligations under Environmental Laws.

63. No law of any state or other jurisdiction relating to bulk sales or similar laws shall apply in any way to the transactions contemplated by the 363 Transaction, the MPA, the Motion, and this Order.

64. The Debtors shall comply with their tax obligations under 28 U.S.C. § 960, except to the extent that such obligations are Assumed Liabilities.

65. Notwithstanding anything contained in their respective organizational documents or applicable state law to the contrary, each of the Debtors is authorized and directed, upon and in connection with the Closing, to change their respective names, and any amendment to the organizational documents (including the certificate of incorporation) of any of the Debtors to effect such a change is authorized and approved, without Board or shareholder approval. Upon any such change with respect to GM, the Debtors shall file with the Court a notice of change of case caption within two (2) business days of the Closing, and the change of case caption for these chapter 11 cases shall be deemed effective as of the Closing.

66. The terms and provisions of the MPA and this Order shall inure to the benefit of the Debtors, their estates, and their creditors, the Purchaser, and their respective agents, officials, personnel, representatives, and advisors.

67. The failure to specifically include any particular provisions of the MPA in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the MPA be authorized and approved in its entirety, except as modified herein.

68. The MPA and any related agreements, documents, or other instruments may be modified, amended, or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court, provided that any such modification,

amendment, or supplement does not have a material adverse effect on the Debtors' estates. Any such proposed modification, amendment, or supplement that does have a material adverse effect on the Debtors' estates shall be subject to further order of the Court, on appropriate notice.

69. The provisions of this Order are nonseverable and mutually dependent on each other.

70. As provided in Fed.R.Bankr.P. 6004(h) and 6006(d), this Order shall not be stayed for ten days after its entry, and instead shall be effective as of 12:00 noon, EDT, on Thursday, July 9, 2009. The Debtors and the Purchaser are authorized to close the 363 Transaction on or after 12:00 noon on Thursday, July 9. Any party objecting to this Order must exercise due diligence in filing any appeal and pursuing a stay or risk its appeal being foreclosed as moot in the event Purchaser and the Debtors elect to close prior to this Order becoming a Final Order.

Deleted: Pursuant to Bankruptcy Rules 6004(h) and 6006(d), this Order shall not be stayed for ten days after its entry and shall be effective immediately upon entry, and the Debtors and the Purchaser are authorized to close the 363 Transaction immediately upon entry of this Order.

71. 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, stockholder agreements or other documents concerning the corporate governance of the Purchaser, and documents governed by foreign law, which disputes shall be adjudicated as

necessary under applicable law in any other court or administrative agency of competent jurisdiction.

Dated: New York, York
July **5**, 2009

s/Robert E. Gerber
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT C

EXECUTION COPY

AMENDED AND RESTATED

MASTER SALE AND PURCHASE AGREEMENT

BY AND AMONG

GENERAL MOTORS CORPORATION,

SATURN LLC,

SATURN DISTRIBUTION CORPORATION

AND

CHEVROLET-SATURN OF HARLEM, INC.,

as Sellers

AND

NGMCO, INC.,

as Purchaser

DATED AS OF

JUNE 26, 2009

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AMENDED AND RESTATED MASTER SALE AND PURCHASE AGREEMENT

THIS AMENDED AND RESTATED MASTER SALE AND PURCHASE AGREEMENT (this "Agreement"), dated as of June 26, 2009, is made by and among General Motors Corporation, a Delaware corporation ("Parent"), Saturn LLC, a Delaware limited liability company ("S LLC"), Saturn Distribution Corporation, a Delaware corporation ("S Distribution"), Chevrolet-Saturn of Harlem, Inc., a Delaware corporation ("Harlem," and collectively with Parent, S LLC and S Distribution, "Sellers," and each a "Seller"), and NGMCO, Inc., a Delaware corporation and successor-in-interest to Vehicle Acquisition Holdings LLC, a Delaware limited liability company ("Purchaser").

WHEREAS, on June 1, 2009 (the "Petition Date"), the Parties entered into that certain Master Sale and Purchase Agreement (the "Original Agreement"), and, in connection therewith, Sellers filed voluntary petitions for relief (the "Bankruptcy Cases") under Chapter 11 of Title 11, U.S.C. §§ 101 et seq., as amended (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court");

WHEREAS, pursuant to Sections 363 and 365 of the Bankruptcy Code, Sellers desire to sell, transfer, assign, convey and deliver to Purchaser, and Purchaser desires to purchase, accept and acquire from Sellers all of the Purchased Assets (as hereinafter defined) and assume and thereafter pay or perform as and when due, or otherwise discharge, all of the Assumed Liabilities (as hereinafter defined), in each case, in accordance with the terms and subject to the conditions set forth in this Agreement and the Bankruptcy Code;

WHEREAS, on the Petition Date, Purchaser entered into equity subscription agreements with each of Canada, Sponsor and the New VEBA (each as hereinafter defined), pursuant to which Purchaser has agreed to issue, on the Closing Date (as hereinafter defined), the Canada Shares, the Sponsor Shares, the VEBA Shares, the VEBA Note and the VEBA Warrant (each as hereinafter defined);

WHEREAS, pursuant to the equity subscription agreement between Purchaser and Canada, Canada has agreed to (i) contribute on or before the Closing Date an amount of Indebtedness (as hereinafter defined) owed to it by General Motors of Canada Limited ("GMCL"), which results in not more than $1,288,135,593 of such Indebtedness remaining an obligation of GMCL, to Canada immediately following the Closing (the "Canadian Debt Contribution") and (ii) exchange immediately following the Closing the $3,887,000,000 loan to be made by Canada to Purchaser for additional shares of capital stock of Purchaser;

WHEREAS, the transactions contemplated by this Agreement are in furtherance of the conditions, covenants and requirements of the UST Credit Facilities (as hereinafter defined) and are intended to result in a rationalization of the costs, capitalization and capacity with respect to the manufacturing workforce of, and suppliers to, Sellers and their Subsidiaries (as hereinafter defined);

WHEREAS, it is contemplated that Purchaser may, in accordance with the terms of this Agreement, prior to the Closing (as hereinafter defined), engage in one or more related transactions (the "Holding Company Reorganization") generally designed to reorganize

Purchaser and one or more newly-formed, direct or indirect, wholly-owned Subsidiaries of Purchaser into a holding company structure that results in Purchaser becoming a direct or indirect, wholly-owned Subsidiary of a newly-formed Delaware corporation ("Holding Company"); and

WHEREAS, it is contemplated that Purchaser may, in accordance with the terms of this Agreement, direct the transfer of the Purchased Assets on its behalf by assigning its rights to purchase, accept and acquire the Purchased Assets and its obligations to assume and thereafter pay or perform as and when due, or otherwise discharge, the Assumed Liabilities, to Holding Company or one or more newly-formed, direct or indirect, wholly-owned Subsidiaries of Holding Company or Purchaser.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained in this Agreement, and for other good and valuable consideration, the value, receipt and sufficiency of which are acknowledged, the Parties (as hereinafter defined) hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Defined Terms. As used in this Agreement, the following terms have the meanings set forth below or in the Sections referred to below:

"Adjustment Shares" has the meaning set forth in **Section 3.2(c)(i)**.

"Advisory Fees" has the meaning set forth in **Section 4.20**.

"Affiliate" has the meaning set forth in Rule 12b-2 of the Exchange Act.

"Affiliate Contract" means a Contract between a Seller or a Subsidiary of a Seller, on the one hand, and an Affiliate of such Seller or Subsidiary of a Seller, on the other hand.

"Agreed G Transaction" has the meaning set forth in **Section 6.16(g)(i)**.

"Agreement" has the meaning set forth in the Preamble.

"Allocation" has the meaning set forth in **Section 3.3**.

"Alternative Transaction" means the sale, transfer, lease or other disposition, directly or indirectly, including through an asset sale, stock sale, merger or other similar transaction, of all or substantially all of the Purchased Assets in a transaction or a series of transactions with one or more Persons other than Purchaser (or its Affiliates).

"Ancillary Agreements" means the Parent Warrants, the UAW Active Labor Modifications, the UAW Retiree Settlement Agreement, the VEBA Warrant, the Equity Registration Rights Agreement, the Bill of Sale, the Assignment and Assumption Agreement, the Novation Agreement, the Government Related Subcontract Agreement, the Intellectual Property Assignment Agreement, the Transition Services Agreement, the Quitclaim Deeds, the

Assignment and Assumption of Real Property Leases, the Assignment and Assumption of Harlem Lease, the Master Lease Agreement, the Subdivision Master Lease (if required), the Saginaw Service Contracts (if required), the Assignment and Assumption of Willow Run Lease, the Ren Cen Lease, the VEBA Note and each other agreement or document executed by the Parties pursuant to this Agreement or any of the foregoing and each certificate and other document to be delivered by the Parties pursuant to **ARTICLE VII**.

"Antitrust Laws" means all Laws that (i) are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or the lessening of competition through merger or acquisition or (ii) involve foreign investment review by Governmental Authorities.

"Applicable Employee" means all (i) current salaried employees of Parent and (ii) current hourly employees of any Seller or any of its Affiliates (excluding Purchased Subsidiaries and any dealership) represented by the UAW, in each case, including such current salaried and current hourly employees who are on (a) long-term or short-term disability, military leave, sick leave, family medical leave or some other approved leave of absence or (b) layoff status or who have recall rights.

"Arms-Length Basis" means a transaction between two Persons that is carried out on terms no less favorable than the terms on which the transaction would be carried out by unrelated or unaffiliated Persons, acting as a willing buyer and a willing seller, and each acting in his own self-interest.

"Assignment and Assumption Agreement" has the meaning set forth in **Section 7.2(c)(v)**.

"Assignment and Assumption of Harlem Lease" has the meaning set forth in **Section 7.2(c)(xiii)**.

"Assignment and Assumption of Real Property Leases" has the meaning set forth in **Section 7.2(c)(xii)**.

"Assignment and Assumption of Willow Run Lease" has the meaning set forth in **Section 6.27(e)**.

"Assumable Executory Contract" has the meaning set forth in **Section 6.6(a)**.

"Assumable Executory Contract Schedule" means Section 1.1A of the Sellers' Disclosure Schedule.

"Assumed Liabilities" has the meaning set forth in **Section 2.3(a)**.

"Assumed Plans" has the meaning set forth in **Section 6.17(e)**.

"Assumption Effective Date" has the meaning set forth in **Section 6.6(d)**.

"Bankruptcy Avoidance Actions" has the meaning set forth in **Section 2.2(b)(xi)**.

"Bankruptcy Cases" has the meaning set forth in the Recitals.

"Bankruptcy Code" has the meaning set forth in the Recitals.

"Bankruptcy Court" has the meaning set forth in the Recitals.

"Benefit Plans" has the meaning set forth in **Section 4.10(a)**.

"Bidders" has the meaning set forth in **Section 6.4(c)**.

"Bids" has the meaning set forth in **Section 6.4(c)**.

"Bill of Sale" has the meaning set forth in **Section 7.2(c)(iv)**.

"Business Day" means any day that is not a Saturday, Sunday or other day on which banks are required or authorized by Law to be closed in the City of New York, New York.

"CA" has the meaning set forth in **Section 6.16(g)(i)**.

"Canada" means 7176384 Canada Inc., a corporation organized under the Laws of Canada, and a wholly-owned subsidiary of Canada Development Investment Corporation, and its successors and assigns.

"Canada Affiliate" has the meaning set forth in **Section 9.22**.

"Canada Shares" has the meaning set forth in **Section 5.4(c)**.

"Canadian Debt Contribution" has the meaning set forth in the Recitals.

"Claims" means all rights, claims (including any cross-claim or counterclaim), investigations, causes of action, choses in action, charges, suits, defenses, demands, damages, defaults, assessments, rights of recovery, rights of set-off, rights of recoupment, litigation, third party actions, arbitral proceedings or proceedings by or before any Governmental Authority or any other Person, of any kind or nature, whether known or unknown, accrued, fixed, absolute, contingent or matured, liquidated or unliquidated, due or to become due, and all rights and remedies with respect thereto.

"Claims Estimate Order" has the meaning set forth in **Section 3.2(c)(i)**.

"Closing" has the meaning set forth in **Section 3.1**.

"Closing Date" has the meaning set forth in **Section 3.1**.

"Collective Bargaining Agreement" means any collective bargaining agreement or other written or oral agreement, understanding or mutually recognized past practice with respect to Employees, between any Seller (or any Subsidiary thereof) and any labor organization or other Representative of Employees (including the UAW Collective Bargaining Agreement, local agreements, amendments, supplements and letters and memoranda of understanding of any kind).

"Common Stock" has the meaning set forth in **Section 5.4(b)**.

"Confidential Information" has the meaning set forth in **Section 6.24.**

"Confidentiality Period" has the meaning set forth in **Section 6.24**.

"Continuing Brand Dealer Agreement" means a United States dealer sales and service Contract related to one or more of the Continuing Brands, together with all other Contracts between any Seller and the relevant dealer that are related to the dealership operations of such dealer other than Contracts identified on Section 1.1B of the Sellers' Disclosure Schedule, each of which Contract identified on Section 1.1B of the Sellers' Disclosure Schedule shall be deemed to be a Rejectable Executory Contract.

"Continuing Brands" means each of the following vehicle line-makes, currently distributed in the United States by Parent or its Subsidiaries: Buick, Cadillac, Chevrolet and GMC.

"Contracts" means all purchase orders, sales agreements, supply agreements, distribution agreements, sales representative agreements, employee or consulting agreements, leases, subleases, licenses, product warranty or service agreements and other binding commitments, agreements, contracts, arrangements, obligations and undertakings of any nature (whether written or oral, and whether express or implied).

"Copyright Licenses" means all Contracts naming a Seller as licensee or licensor and providing for the grant of any right to reproduce, publicly display, publicly perform, distribute, create derivative works of or otherwise exploit any works covered by any Copyright.

"Copyrights" means all domestic and foreign copyrights, whether registered or unregistered, including all copyright rights throughout the universe (whether now or hereafter arising) in any and all media (whether now or hereafter developed), in and to all original works of authorship (including all compilations of information or marketing materials created by or on behalf of any Seller), acquired, owned or licensed by any Seller, all applications, registrations and recordings thereof (including applications, registrations and recordings in the United States Copyright Office or in any similar office or agency of the United States or any other country or any political subdivision thereof) and all reissues, renewals, restorations, extensions and revisions thereof.

"Cure Amounts" means all cure amounts payable in order to cure any monetary defaults required to be cured under Section 365(b)(1) of the Bankruptcy Code or otherwise to effectuate, pursuant to the Bankruptcy Code, the assumption by the applicable Seller and assignment to Purchaser of the Purchased Contracts.

"Damages" means any and all Losses, other than punitive damages.

"Dealer Agreement" has the meaning set forth in **Section 4.17**.

"Deferred Executory Contract" has the meaning set forth in **Section 6.6(c)**.

"Deferred Termination Agreements" has the meaning set forth in **Section 6.7(a)**.

"Delayed Closing Entities" has the meaning set forth in **Section 6.35**.

"Delphi" means Delphi Corporation.

"Delphi Motion" means the motion filed by Parent with the Bankruptcy Court in the Bankruptcy Cases on June 20, 2009, seeking authorization and approval of (i) the purchase, and guarantee of purchase, of certain assets of Delphi, (ii) entry into certain agreements in connection with the sale of substantially all of the remaining assets of Delphi to a third party, (iii) the assumption of certain Executory Contracts in connection with such sale, (iv) entry into an agreement with the PBGC in connection with such sale and (v) entry into an alternative transaction with the successful bidder in the auction for the assets of Delphi.

"Delphi Transaction Agreements" means (i) either (A) the MDA, the SPA, the Loan Agreement, the Operating Agreement, the Commercial Agreements and any Ancillary Agreements (in each case, as defined in the Delphi Motion), which any Seller is a party to, or (B) in the event that an Acceptable Alternative Transaction (as defined in the Delphi Motion) is consummated, any agreements relating to the Acceptable Alternative Transaction, which any Seller is a party to, and (ii) in the event that the PBGC Agreement is entered into at or prior to the Closing, the PBGC Agreement (as defined in the Delphi Motion) and any ancillary agreements entered into pursuant thereto, which any Seller is a party to, as each of the agreements described in clauses (i) or (ii) hereof may be amended from time to time.

"DIP Facility" means that certain Secured Superpriority Debtor-in-Possession Credit Agreement entered into or to be entered into by Parent, as borrower, certain Subsidiaries of Parent listed therein, as guarantors, Sponsor, as lender, and Export Development Canada, as lender.

"Discontinued Brand Dealer Agreement" means a United States dealer sales and service Contract related to one or more of the Discontinued Brands, together with all other Contracts between any Seller and the relevant dealer that are related to the dealership operations of such dealer other than Contracts identified on Section 1.1B of the Sellers' Disclosure Schedule, each of which Contract identified on Section 1.1B of the Sellers' Disclosure Schedule shall be deemed to be a Rejectable Executory Contract.

"Discontinued Brands" means each of the following vehicle line-makes, currently distributed in the United States by Parent or its Subsidiaries: Hummer, Saab, Saturn and Pontiac.

"Disqualified Individual" has the meaning set forth in **Section 4.10(f)**.

"Employees" means (i) each employee or officer of any of Sellers or their Affiliates (including (a) any current, former or retired employees or officers, (b) employees or officers on long-term or short-term disability, military leave, sick leave, family medical leave or some other approved leave of absence and (c) employees on layoff status or with recall rights); (ii) each consultant or other service provider of any of Sellers or their Affiliates who is a former employee, officer or director of any of Sellers or their Affiliates; and (iii) each individual recognized under any Collective Bargaining Agreement as being employed by or having rights to

employment by any of Sellers or their Affiliates. For the avoidance of doubt, Employees includes all employees of Sellers or any of their Affiliates, whether or not Transferred Employees.

"Employment-Related Obligations" means all Liabilities arising out of, related to, in respect of or in connection with employment relationships or alleged or potential employment relationships with Sellers or any Affiliate of Sellers relating to Employees, leased employees, applicants, and/or independent contractors or those individuals who are deemed to be employees of Sellers or any Affiliate of Sellers by Contract or Law, whether filed or asserted before, on or after the Closing. "Employment-Related Obligations" includes Claims relating to discrimination, torts, compensation for services (and related employment and withholding Taxes), workers' compensation or similar benefits and payments on account of occupational illnesses and injuries, employment Contracts, Collective Bargaining Agreements, grievances originating under a Collective Bargaining Agreement, wrongful discharge, invasion of privacy, infliction of emotional distress, defamation, slander, provision of leave under the Family and Medical Leave Act of 1993, as amended, or other similar Laws, car programs, relocation, expense-reporting, Tax protection policies, Claims arising out of WARN or employment, terms of employment, transfers, re-levels, demotions, failure to hire, failure to promote, compensation policies, practices and treatment, termination of employment, harassment, pay equity, employee benefits (including post-employment welfare and other benefits), employee treatment, employee suggestions or ideas, fiduciary performance, employment practices, the modification or termination of Benefit Plans or employee benefit plans, policies, programs, agreements and arrangements of Purchaser, including decisions to provide plans that are different from Benefit Plans, and the like. Without limiting the generality of the foregoing, with respect to any Employees, leased employees, and/or independent contractors or those individuals who are deemed to be employees of Sellers or any Affiliate of Sellers by Contract or Law, "Employment-Related Obligations" includes payroll and social security Taxes, contributions (whether required or voluntary) to any retirement, health and welfare or similar plan or arrangement, notice, severance or similar payments required under Law, and obligations under Law with respect to occupational injuries and illnesses.

"Encumbrance" means any lien (statutory or otherwise), charge, deed of trust, pledge, security interest, conditional sale or other title retention agreement, lease, mortgage, option, charge, hypothecation, easement, right of first offer, license, covenant, restriction, ownership interest of another Person or other encumbrance.

"End Date" has the meaning set forth in **Section 8.1(b)**.

"Environment" means any surface water, groundwater, drinking water supply, land surface or subsurface soil or strata, ambient air, natural resource or wildlife habitat.

"Environmental Law" means any Law in existence on the date of the Original Agreement relating to the management or Release of, or exposure of humans to, any Hazardous Materials; or pollution; or the protection of human health and welfare and the Environment.

"Equity Incentive Plans" has the meaning set forth in **Section 6.28**.

"Equity Interest" means, with respect to any Person, any shares of capital stock of (or other ownership or profit interests in) such Person, warrants, options or other rights for the purchase or other acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, options or rights for the purchase or other acquisition from such Person of such shares (or such other ownership or profits interests) and other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting.

"Equity Registration Rights Agreement" has the meaning set forth in **Section 7.1(c)**.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that is part of the same controlled group, or under common control with, or part of an affiliated service group that includes any Seller, within the meaning of Section 414(b), (c), (m) or (o) of the Tax Code or Section 4001(a)(14) of ERISA.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Excluded Assets" has the meaning set forth in **Section 2.2(b)**.

"Excluded Cash" has the meaning set forth in **Section 2.2(b)(i)**.

"Excluded Continuing Brand Dealer Agreements" means all Continuing Brand Dealer Agreements, other than those that are Assumable Executory Contracts.

"Excluded Contracts" has the meaning set forth in **Section 2.2(b)(vii)**.

"Excluded Entities" has the meaning set forth in **Section 2.2(b)(iv)**.

"Excluded Insurance Policies" has the meaning set forth in **Section 2.2(b)(xiii)**.

"Excluded Personal Property" has the meaning set forth in **Section 2.2(b)(vi)**.

"Excluded Real Property" has the meaning set forth in **Section 2.2(b)(v)**.

"Excluded Subsidiaries" means, collectively, the direct Subsidiaries of Sellers included in the Excluded Entities and their respective direct and indirect Subsidiaries, in each case, as of the Closing Date.

"Executory Contract" means an executory Contract or unexpired lease of personal property or nonresidential real property.

"Executory Contract Designation Deadline" has the meaning set forth in **Section 6.6(a)**.

"Existing Internal VEBA" has the meaning set forth in **Section 6.17(h)**.

"Existing Saginaw Wastewater Facility" has the meaning set forth in **Section 6.27(b)**.

"Existing UST Loan and Security Agreement" means the Loan and Security Agreement, dated as of December 31, 2008, between Parent and Sponsor, as amended.

"FCPA" has the meaning set forth in **Section 4.19**.

"Final Determination" means (i) with respect to U.S. federal income Taxes, a "determination" as defined in Section 1313(a) of the Tax Code or execution of an IRS Form 870-AD and, (ii) with respect to Taxes other than U.S. federal income Taxes, any final determination of Liability in respect of a Tax that, under applicable Law, is not subject to further appeal, review or modification through proceedings or otherwise, including the expiration of a statute of limitations or a period for the filing of Claims for refunds, amended Tax Returns or appeals from adverse determinations.

"Final Order" means (i) an Order of the Bankruptcy Court or any other court or adjudicative body as to which the time to appeal, petition for certiorari or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari or other proceedings for reargument or rehearing shall then be pending, or (ii) in the event that an appeal, writ of certiorari, reargument or rehearing thereof has been sought, such Order of the Bankruptcy Court or any other court or adjudicative body shall have been affirmed by the highest court to which such Order was appealed, or certiorari has been denied, or from which reargument or rehearing was sought, and the time to take any further appeal, petition for certiorari or move for reargument or rehearing shall have expired; provided, however, that no Order shall fail to be a Final Order solely because of the possibility that a motion pursuant to Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rule 9024 may be filed with respect to such Order.

"FSA Approval" has the meaning set forth in **Section 6.34**.

"G Transaction" has the meaning set forth in **Section 6.16(g)(i)**.

"GAAP" means the United States generally accepted accounting principles and practices as in effect from time to time, consistently applied throughout the specified period.

"GMAC" means GMAC LLC.

"GM Assumed Contracts" has the meaning set forth in the Delphi Motion.

"GMCL" has the meaning set forth in the Recitals.

"Governmental Authority" means any United States or non-United States federal, national, provincial, state or local government or other political subdivision thereof, any entity, authority, agency or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government or political subdivision, and any supranational organization of sovereign states exercising such functions for such sovereign states.

"Government Related Subcontract Agreement" has the meaning set forth in **Section 7.2(c)(vii)**.

"Harlem" has the meaning set forth in the Preamble.

"Hazardous Materials" means any material or substance that is regulated, or can give rise to Claims, Liabilities or Losses, under any Environmental Law or a Permit issued pursuant to any Environmental Law, including any petroleum, petroleum-based or petroleum-derived product, polychlorinated biphenyls, asbestos or asbestos-containing materials, lead and any noxious, radioactive, flammable, corrosive, toxic, hazardous or caustic substance (whether solid, liquid or gaseous).

"Holding Company" has the meaning set forth in the Recitals.

"Holding Company Reorganization" has the meaning set forth in the Recitals.

"Indebtedness" means, with respect to any Person, without duplication: (i) all obligations of such Person for borrowed money (including all accrued and unpaid interest and all prepayment penalties or premiums in respect thereof); (ii) all obligations of such Person to pay amounts evidenced by bonds, debentures, notes or similar instruments (including all accrued and unpaid interest and all prepayment penalties or premiums in respect thereof); (iii) all obligations of others, of the types set forth in clauses (i)-(ii) above that are secured by any Encumbrance on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, but only to the extent so secured; (iv) all unreimbursed reimbursement obligations of such Person under letters of credit issued for the account of such Person; (v) obligations of such Person under conditional sale, title retention or similar arrangements or other obligations, in each case, to pay the deferred purchase price for property or services, to the extent of the unpaid purchase price (other than trade payables and customary reservations or retentions of title under Contracts with suppliers, in each case, in the Ordinary Course of Business); (vi) all net monetary obligations of such Person in respect of interest rate, equity and currency swap and other derivative transaction obligations; and (vii) all guarantees of or by such Person of any of the matters described in clauses (i)-(vi) above, to the extent of the maximum amount for which such Person may be liable pursuant to such guarantee.

"Intellectual Property" means all Patents, Trademarks, Copyrights, Trade Secrets, Software, all rights under the Licenses and all concepts, ideas, know-how, show-how, proprietary information, technology, formulae, processes and other general intangibles of like nature, and other intellectual property to the extent entitled to legal protection as such, including products under development and methodologies therefor, in each case acquired, owned or licensed by a Seller.

"Intellectual Property Assignment Agreement" has the meaning set forth in **Section 7.2(c)(viii)**.

"Intercompany Obligations" has the meaning set forth in **Section 2.2(a)(iv)**.

"Inventory" has the meaning set forth in **Section 2.2(a)(viii)**.

"IRS" means the United States Internal Revenue Service.

"Key Subsidiary" means any direct or indirect Subsidiary (which, for the avoidance of doubt, shall only include any legal entity in which a Seller, directly or indirectly, owns greater than 50% of the outstanding Equity Interests in such legal entity) of Sellers (other than trusts) with assets (excluding any Intercompany Obligations) in excess of Two Hundred and Fifty Million Dollars ($250,000,000) as reflected on Parent's consolidated balance sheet as of March 31, 2009 and listed on Section 1.1C of the Sellers' Disclosure Schedule.

"Knowledge of Sellers" means the actual knowledge of the individuals listed on Section 1.1D of the Sellers' Disclosure Schedule as to the matters represented and as of the date the representation is made.

"Law" means any and all applicable United States or non-United States federal, national, provincial, state or local laws, rules, regulations, directives, decrees, treaties, statutes, provisions of any constitution and principles (including principles of common law) of any Governmental Authority, as well as any applicable Final Order.

"Landlocked Parcel" has the meaning set forth in **Section 6.27(c)**.

"Leased Real Property" means all the real property leased or subleased by Sellers, except for any such leased or subleased real property subject to any Contracts designated as Excluded Contracts.

"Lemon Laws" means a state statute requiring a vehicle manufacturer to provide a consumer remedy when such manufacturer is unable to conform a vehicle to the express written warranty after a reasonable number of attempts, as defined in the applicable statute.

"Liabilities" means any and all liabilities and obligations of every kind and description whatsoever, whether such liabilities or obligations are known or unknown, disclosed or undisclosed, matured or unmatured, accrued, fixed, absolute, contingent, determined or undeterminable, on or off-balance sheet or otherwise, or due or to become due, including Indebtedness and those arising under any Law, Claim, Order, Contract or otherwise.

"Licenses" means the Patent Licenses, the Trademark Licenses, the Copyright Licenses, the Software Licenses and the Trade Secret Licenses.

"Losses" means any and all Liabilities, losses, damages, fines, amounts paid in settlement, penalties, costs and expenses (including reasonable and documented attorneys', accountants', consultants', engineers' and experts' fees and expenses).

"LSA Agreement" means the Amended and Restated GM-Delphi Agreement, dated as of June 1, 2009, and any ancillary agreements entered into pursuant thereto, which any Seller is a party to, as each such agreement may be amended from time to time.

"Master Lease Agreement" has the meaning set forth in **Section 7.2(c)(xiv)**.

"Material Adverse Effect" means any change, effect, occurrence or development that, individually or in the aggregate, has or would reasonably be expected to have a material adverse effect on the Purchased Assets, Assumed Liabilities or results of operations of Parent and its

Purchased Subsidiaries, taken as a whole; provided, however, that the term "Material Adverse Effect" does not, and shall not be deemed to, include, either alone or in combination, any changes, effects, occurrences or developments: (i) resulting from general economic or business conditions in the United States or any other country in which Sellers and their respective Subsidiaries have operations, or the worldwide economy taken as a whole; (ii) affecting Sellers in the industry or the markets where Sellers operate (except to the extent such change, occurrence or development has a disproportionate adverse effect on Parent and its Subsidiaries relative to other participants in such industry or markets, taken as a whole); (iii) resulting from any changes (or proposed or prospective changes) in any Law or in GAAP or any foreign generally accepted accounting principles; (iv) in securities markets, interest rates, regulatory or political conditions, including resulting or arising from acts of terrorism or the commencement or escalation of any war, whether declared or undeclared, or other hostilities; (v) resulting from the negotiation, announcement or performance of this Agreement or the DIP Facility, or the transactions contemplated hereby and thereby, including by reason of the identity of Sellers, Purchaser or Sponsor or any communication by Sellers, Purchaser or Sponsor of any plans or intentions regarding the operation of Sellers' business, including the Purchased Assets, prior to or following the Closing; (vi) resulting from any act or omission of any Seller required or contemplated by the terms of this Agreement, the DIP Facility or the Viability Plans, or otherwise taken with the prior consent of Sponsor or Purchaser, including Parent's announced shutdown, which began in May 2009; and (vii) resulting from the filing of the Bankruptcy Cases (or any other bankruptcy, insolvency or similar proceeding filed by any Subsidiary of Parent) or from any action approved by the Bankruptcy Court (or any other court in connection with any such other proceedings).

"New VEBA" means the trust fund established pursuant to the Settlement Agreement.

"Non-Assignable Assets" has the meaning set forth in **Section 2.4(a)**.

"Non-UAW Collective Bargaining Agreements" has the meaning set forth in **Section 6.17(m)(i)**.

"Non-UAW Settlement Agreements" has the meaning set forth in **Section 6.17(m)(ii)**.

"Notice of Intent to Reject" has the meaning set forth in **Section 6.6(b)**.

"Novation Agreement" has the meaning set forth in **Section 7.2(c)(vi)**.

"Option Period" has the meaning set forth in **Section 6.6(b)**.

"Order" means any writ, judgment, decree, stipulation, agreement, determination, award, injunction or similar order of any Governmental Authority, whether temporary, preliminary or permanent.

"Ordinary Course of Business" means the usual, regular and ordinary course of business consistent with the past practice thereof (including with respect to quantity and frequency) as and to the extent modified in connection with (i) the implementation of the Viability Plans; (ii) Parent's announced shutdown, which began in May 2009; and (iii) the Bankruptcy Cases (or any other bankruptcy, insolvency or similar proceeding filed by or in respect of any Subsidiary of

Parent), in the case of clause (iii), to the extent such modifications were approved by the Bankruptcy Court (or any other court or other Governmental Authority in connection with any such other proceedings), or in furtherance of such approval.

"Organizational Document" means (i) with respect to a corporation, the certificate or articles of incorporation and bylaws or their equivalent; (ii) with respect to any other entity, any charter, bylaws, limited liability company agreement, certificate of formation, articles of organization or similar document adopted or filed in connection with the creation, formation or organization of a Person; and (iii) in the case of clauses (i) and (ii) above, any amendment to any of the foregoing other than as prohibited by **Section 6.2(b)(vi)**.

"Original Agreement" has the meaning set forth in the Recitals.

"Owned Real Property" means all real property owned by Sellers (including all buildings, structures and improvements thereon and appurtenances thereto), except for any such real property included in the Excluded Real Property.

"Parent" has the meaning set forth in the Preamble.

"Parent Employee Benefit Plans and Policies" means all (i) "employee benefit plans" (as defined in Section 3(3) of ERISA) and all pension, savings, profit sharing, retirement, bonus, incentive, health, dental, life, death, accident, disability, stock purchase, stock option, stock appreciation, stock bonus, other equity, executive or deferred compensation, hospitalization, post-retirement (including retiree medical or retiree life, voluntary employees' beneficiary associations, and multiemployer plans (as defined in Section 3(37) of ERISA)), severance, retention, change in control, vacation, cafeteria, sick leave, fringe, perquisite, welfare benefits or other employee benefit plans, programs, policies, agreements or arrangements (whether written or oral), including those plans, programs, policies, agreements and arrangements with respect to which any Employee covered by the UAW Collective Bargaining Agreement is an eligible participant, (ii) employment or individual consulting Contracts and (iii) employee manuals and written policies, practices or understandings relating to employment, compensation and benefits, and in the case of clauses (i) through (iii), sponsored, maintained, entered into, or contributed to, or required to be maintained or contributed to, by Parent.

"Parent SEC Documents" has the meaning set forth in **Section 4.5(a)**.

"Parent Shares" has the meaning set forth in **Section 3.2(a)(iii)**.

"Parent Warrant A" means warrants to acquire 45,454,545 shares of Common Stock issued pursuant to a warrant agreement, substantially in the form attached hereto as **Exhibit A**.

"Parent Warrant B" means warrants to acquire 45,454,545 shares of Common Stock issued pursuant to a warrant agreement, substantially in the form attached hereto as **Exhibit B**.

"Parent Warrants" means collectively, Parent Warrant A and Parent Warrant B.

"Participation Agreement" has the meaning set forth in **Section 6.7(b)**.

"Parties" means Sellers and Purchaser together, and "Party" means any of Sellers, on the one hand, or Purchaser, on the other hand, as appropriate and as the case may be.

"Patent Licenses" means all Contracts naming a Seller as licensee or licensor and providing for the grant of any right to manufacture, use, lease, or sell any invention, design, idea, concept, method, technique or process covered by any Patent.

"Patents" means all inventions, patentable designs, letters patent and design letters patent of the United States or any other country and all applications (regular and provisional) for letters patent or design letters patent of the United States or any other country, including applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country or any political subdivision thereof, and all reissues, divisions, continuations, continuations in part, revisions, reexaminations and extensions or renewals of any of the foregoing.

"PBGC" has the meaning set forth in **Section 4.10(a)**.

"Permits" has the meaning set forth in **Section 2.2(a)(xi)**.

"Permitted Encumbrances" means all (i) purchase money security interests arising in the Ordinary Course of Business; (ii) security interests relating to progress payments created or arising pursuant to government Contracts in the Ordinary Course of Business; (iii) security interests relating to vendor tooling arising in the Ordinary Course of Business; (iv) Encumbrances that have been or may be created by or with the written consent of Purchaser; (v) mechanic's, materialmen's, laborer's, workmen's, repairmen's, carrier's liens and other similar Encumbrances arising by operation of law or statute in the Ordinary Course of Business for amounts that are not delinquent or that are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established; (vi) liens for Taxes, the validity or amount of which is being contested in good faith by appropriate proceedings, and statutory liens for current Taxes not yet due, payable or delinquent (or which may be paid without interest or penalties); (vii) with respect to the Transferred Real Property that is Owned Real Property, other than Secured Real Property Encumbrances at and following the Closing: (a) matters that a current ALTA/ACSM survey, or a similar cadastral survey in any country other than the United States, would disclose, the existence of which, individually or in the aggregate, would not materially and adversely interfere with the present use of the affected property; (b) rights of the public, any Governmental Authority and adjoining property owners in streets and highways abutting or adjacent to the applicable Owned Real Property; (c) easements, licenses, rights-of-way, covenants, servitudes, restrictions, encroachments, site plans, subdivision plans and other Encumbrances of public record or that would be disclosed by a current title commitment of the applicable Owned Real Property, which, individually or in the aggregate, would not materially and adversely interfere with the present use of the applicable Owned Real Property; and (d) such other Encumbrances, the existence of which, individually or in the aggregate, would not materially and adversely interfere with or affect the present use or occupancy of the applicable Owned Real Property; (viii) with respect to the Transferred Real Property that is Leased Real Property: (1) matters that a current ALTA/ACSM survey, or a similar cadastral survey in any country other than the United States, would disclose; (2) rights of the public, any Governmental Authority and adjoining property owners in streets and highways

abutting or adjacent to the applicable Leased Real Property; (3) easements, licenses, rights-of-way, covenants, servitudes, restrictions, encroachments, site plans, subdivision plans and other Encumbrances of public record or that would be disclosed by a current title commitment of the applicable Leased Real Property or which have otherwise been imposed on such property by landlords; (ix) in the case of the Transferred Equity Interests, all restrictions and obligations contained in any Organizational Document, joint venture agreement, shareholders agreement, voting agreement and related documents and agreements, in each case, affecting the Transferred Equity Interests; (x) except to the extent otherwise agreed to in the Ratification Agreement entered into by Sellers and GMAC on June 1, 2009 and approved by the Bankruptcy Court on the date thereof or any other written agreement between GMAC or any of its Subsidiaries and any Seller, all Claims (in each case solely to the extent such Claims constitute Encumbrances) and Encumbrances in favor of GMAC or any of its Subsidiaries in, upon or with respect to any property of Sellers or in which Sellers have an interest, including any of the following: (1) cash, deposits, certificates of deposit, deposit accounts, escrow funds, surety bonds, letters of credit and similar agreements and instruments; (2) owned or leased equipment; (3) owned or leased real property; (4) motor vehicles, inventory, equipment, statements of origin, certificates of title, accounts, chattel paper, general intangibles, documents and instruments of dealers, including property of dealers in-transit to, surrendered or returned by or repossessed from dealers or otherwise in any Seller's possession or under its control; (5) property securing obligations of Sellers under derivatives Contracts; (6) rights or property with respect to which a Claim or Encumbrance in favor of GMAC or any of its Subsidiaries is disclosed in any filing made by Parent with the SEC (including any filed exhibit); and (7) supporting obligations, insurance rights and Claims against third parties relating to the foregoing; and (xi) all rights of setoff and/or recoupment that are Encumbrances in favor of GMAC and/or its Subsidiaries against amounts owed to Sellers and/or any of their Subsidiaries with respect to any property of Sellers or in which Sellers have an interest as more fully described in clause (x) above; it being understood that nothing in this clause (xi) or preceding clause (x) shall be deemed to modify, amend or otherwise change any agreement as between GMAC or any of its Subsidiaries and any Seller.

"Person" means any individual, partnership, firm, corporation, association, trust, unincorporated organization, joint venture, limited liability company, Governmental Authority or other entity.

"Personal Information" means any information relating to an identified or identifiable living individual, including (i) first initial or first name and last name; (ii) home address or other physical address, including street name and name of city or town; (iii) e-mail address or other online contact information (e.g., instant messaging user identifier); (iv) telephone number; (v) social security number or other government-issued personal identifier such as a tax identification number or driver's license number; (vi) internet protocol address; (vii) persistent identifier (e.g., a unique customer number in a cookie); (viii) financial account information (account number, credit or debit card numbers or banking information); (ix) date of birth; (x) mother's maiden name; (xi) medical information (including electronic protected health information as defined by the rules and regulations of the Health Information Portability and Privacy Act, as amended); (xii) digitized or electronic signature; and (xiii) any other information that is combined with any of the above.

"Personal Property" has the meaning set forth in **Section 2.2(a)(vii)**.

"Petition Date" has the meaning set forth in the Recitals.

"PLR" has the meaning set forth in **Section 6.16(g)(i)**.

"Post-Closing Tax Period" means any taxable period beginning after the Closing Date and the portion of any Straddle Period beginning after the Closing Date.

"Pre-Closing Tax Period" means any taxable period ending on or before the Closing Date and the portion of any Straddle Period ending on the Closing Date.

"Preferred Stock" has the meaning set forth in **Section 5.4(b)**.

"Privacy Policy" means, with respect to any Person, any written privacy policy, statement, rule or notice regarding the collection, use, access, safeguarding and retention of Personal Information or "Personally Identifiable Information" (as defined by Section 101(41A) of the Bankruptcy Code) of any individual, including a customer, potential customer, employee or former employee of such Person, or an employee of any of such Person's automotive or parts dealers.

"Product Liabilities" has the meaning set forth in **Section 2.3(a)(ix)**.

"Promark UK Subsidiaries" has the meaning set forth in **Section 6.34**.

"Proposed Rejectable Executory Contract" has the meaning set forth in **Section 6.6(b)**.

"Purchase Price" has the meaning set forth in **Section 3.2(a)**.

"Purchased Assets" has the meaning set forth in **Section 2.2(a)**.

"Purchased Contracts" has the meaning set forth in **Section 2.2(a)(x)**.

"Purchased Subsidiaries" means, collectively, the direct Subsidiaries of Sellers included in the Transferred Entities, and their respective direct and indirect Subsidiaries, in each case, as of the Closing Date.

"Purchased Subsidiaries Employee Benefit Plans" means any (i) defined benefit or defined contribution retirement plan maintained by any Purchased Subsidiary and (ii) severance, change in control, bonus, incentive or any similar plan or arrangement maintained by a Purchased Subsidiary for the benefit of officers or senior management of such Purchased Subsidiary.

"Purchaser" has the meaning set forth in the Preamble.

"Purchaser Assumed Debt" has the meaning set forth in **Section 2.3(a)(i)**.

"Purchaser Expense Reimbursement" has the meaning set forth in **Section 8.2(b)**.

"Purchaser Material Adverse Effect" has the meaning set forth in **Section 5.3(a)**.

"Purchaser's Disclosure Schedule" means the Schedule pertaining to, and corresponding to the Section references of this Agreement, delivered by Purchaser immediately prior to the execution of the Original Agreement.

"Quitclaim Deeds" has the meaning set forth in **Section 7.2(c)(x)**.

"Receivables" has the meaning set forth in **Section 2.2(a)(iii)**.

"Rejectable Executory Contract" has the meaning set forth in **Section 6.6(b)**.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping, discarding, burying, abandoning or disposing into the Environment of Hazardous Materials that is prohibited under, or reasonably likely to result in a Liability under, any applicable Environmental Law.

"Relevant Information" has the meaning set forth in **Section 6.16(g)(ii)**.

"Relevant Transactions" has the meaning set forth in **Section 6.16(g)(i)**.

"Ren Cen Lease" has the meaning set forth in **Section 6.30**.

"Representatives" means all officers, directors, employees, consultants, agents, lenders, accountants, attorneys and other representatives of a Person.

"Required Subdivision" has the meaning set forth in **Section 6.27(a)**.

"Restricted Cash" has the meaning set forth in **Section 2.2(a)(ii)**.

"Retained Liabilities" has the meaning set forth in **Section 2.3(b)**.

"Retained Plans" means any Parent Employee Benefit Plan and Policy that is not an Assumed Plan.

"Retained Subsidiaries" means all Subsidiaries of Sellers and their respective direct and indirect Subsidiaries, as of the Closing Date, other than the Purchased Subsidiaries.

"Retained Workers' Compensation Claims" has the meaning set forth in **Section 2.3(b)(xii)**.

"RHI" has the meaning set forth in **Section 6.30**.

"RHI Post-Closing Period" has the meaning set forth in **Section 6.30**.

"S Distribution" has the meaning set forth in the Preamble.

"S LLC" has the meaning set forth in the Preamble.

"Saginaw Landfill" has the meaning set forth in **Section 6.27(b)**.

"Saginaw Metal Casting Land" has the meaning set forth in **Section 6.27(b)**.

"Saginaw Nodular Iron Land" has the meaning set forth in **Section 6.27(b)**.

"Saginaw Service Contracts" has the meaning set forth in **Section 6.27(b)**.

"Sale Approval Order" has the meaning set forth in **Section 6.4(b)**.

"Sale Hearing" means the hearing of the Bankruptcy Court to approve the Sale Procedures and Sale Motion and enter the Sale Approval Order.

"Sale Procedures and Sale Motion" has the meaning set forth in **Section 6.4(b)**.

"Sale Procedures Order" has the meaning set forth in **Section 6.4(b)**.

"SEC" means the United States Securities and Exchange Commission.

"Secured Real Property Encumbrances" means all Encumbrances related to the Indebtedness of Sellers, which is secured by one or more parcels of the Owned Real Property, including Encumbrances related to the Indebtedness of Sellers under any synthetic lease arrangements at the White Marsh, Maryland GMPT - Baltimore manufacturing facility and the Memphis, Tennessee (SPO - Memphis) facility.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Seller" or "Sellers" has the meaning set forth in the Preamble.

"Seller Group" means any combined, unitary, consolidated or other affiliated group of which any Seller or Purchased Subsidiary is or has been a member for federal, state, provincial, local or foreign Tax purposes.

"Seller Key Personnel" means those individuals described on Section 1.1E of the Sellers' Disclosure Schedule.

"Seller Material Contracts" has the meaning set forth in **Section 4.16(a)**.

"Sellers' Disclosure Schedule" means the Schedule pertaining to, and corresponding to the Section references of this Agreement, delivered by Sellers to Purchaser immediately prior to the execution of this Agreement, as updated and supplemented pursuant to **Section 6.5**, **Section 6.6** and **Section 6.26**.

"Series A Preferred Stock" has the meaning set forth in **Section 5.4(b)**.

"Settlement Agreement" means the Settlement Agreement, dated February 21, 2008 (as amended, supplemented, replaced or otherwise altered from time to time), among Parent, the UAW and certain class representatives, on behalf of the class of plaintiffs in the class action of

Int'l Union, UAW, et al. v. General Motors Corp., Civil Action No. 07-14074 (E.D. Mich. filed Sept. 9, 2007).

"Shared Executory Contracts" has the meaning set forth in **Section 6.6(d)**.

"Software" means all software of any type (including programs, applications, middleware, utilities, tools, drivers, firmware, microcode, scripts, batch files, JCL files, instruction sets and macros) and in any form (including source code, object code, executable code and user interface), databases and associated data and related documentation, in each case owned, acquired or licensed by any Seller.

"Software Licenses" means all Contracts naming a Seller as licensee or licensor and providing for the grant of any right to use, modify, reproduce, distribute or create derivative works of any Software.

"Sponsor" means the United States Department of the Treasury.

"Sponsor Affiliate" has the meaning set forth in **Section 9.22**.

"Sponsor Shares" has the meaning set forth in **Section 5.4(c)**.

"Straddle Period" means a taxable period that includes but does not end on the Closing Date.

"Subdivision Master Lease" has the meaning set forth in **Section 6.27(a)**.

"Subdivision Properties" has the meaning set forth in **Section 6.27(a)**.

"Subsidiary" or "Subsidiaries" means, with respect to any Person, any corporation, limited liability company, partnership or other legal entity (in each case, other than a joint venture if such Person is not empowered to control the day-to-day operations of such joint venture) of which such Person (either alone or through or together with any other Subsidiary) owns, directly or indirectly, more than fifty percent (50%) of the Equity Interests, the holder of which is entitled to vote for the election of the board of directors or other governing body of such corporation, limited liability company, partnership or other legal entity.

"Superior Bid" has the meaning set forth in **Section 6.4(d)**.

"TARP" means the Troubled Assets Relief Program established by Sponsor under the Emergency Economic Stabilization Act of 2008, Public Law No. 110-343, effective as of October 3, 2008, as amended by Section 7001 of Division B, 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 and any guidance issued by a regulatory authority thereunder and other related Laws in effect currently or in the future in the United States.

"Tax" or "Taxes" means any federal, state, provincial, local, foreign and other income, alternative minimum, accumulated earnings, personal holding company, franchise, capital stock,

net worth or gross receipts, income, alternative or add-on minimum, capital, capital gains, sales, use, ad valorem, franchise, profits, license, privilege, transfer, withholding, payroll, employment, social, excise, severance, stamp, occupation, premium, goods and services, value added, property (including real property and personal property taxes), environmental, windfall profits or other taxes, customs, duties or similar fees, assessments or charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts imposed by any Governmental Authority, including any transferee, successor or secondary liability for any such tax and any Liability assumed by Contract or arising as a result of being or ceasing to be a member of any affiliated group or similar group under state, provincial, local or foreign Law, or being included or required to be included in any Tax Return relating thereto.

"Tax Code" means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

"Taxing Authority" means, with respect to any Tax, the Governmental Authority thereof that imposes such Tax and the agency, court or other Person or body (if any) charged with the interpretation, administration or collection of such Tax for such Governmental Authority.

"Tax Return" means any return, report, declaration, form, election letter, statement or other information filed or required to be filed with any Governmental Authority with respect to Taxes, including any schedule or attachment thereto or amendment thereof.

"Trademark Licenses" means all Contracts naming any Seller as licensor or licensee and providing for the grant of any right concerning any Trademark together with any goodwill connected with and symbolized by any such Trademark or Trademark Contract, and the right to prepare for sale or lease and sell or lease any and all products, inventory or services now or hereafter owned or provided by any Seller or any other Person and now or hereafter covered by such Contracts.

"Trademarks" means all domestic and foreign trademarks, service marks, collective marks, certification marks, trade dress, trade names, business names, d/b/a's, Internet domain names, designs, logos and other source or business identifiers, and all general intangibles of like nature, now or hereafter owned, adopted, used, acquired, or licensed by any Seller, all applications, registrations and recordings thereof (including applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country or any political subdivision thereof) and all reissues, extensions or renewals thereof, together with all goodwill of the business symbolized by or associated with such marks.

"Trade Secrets" means all trade secrets or Confidential Information, including any confidential technical and business information, program, process, method, plan, formula, product design, compilation of information, customer list, sales forecast, know-how, Software, and any other confidential proprietary intellectual property, and all additions and improvements to, and books and records describing or used in connection with, any of the foregoing, in each case, owned, acquired or licensed by any Seller.

"Trade Secret Licenses" means all Contracts naming a Seller as licensee or licensor and providing for the grant of any rights with respect to Trade Secrets.

"Transfer Taxes" means all transfer, documentary, sales, use, stamp, registration and other similar Taxes and fees (including any penalties and interest) incurred in connection with this Agreement and the transactions contemplated hereby and not otherwise exempted under the Bankruptcy Code, including relating to the transfer of the Transferred Real Property.

"Transfer Tax Forms" has the meaning set forth in **Section 7.2(c)(xi)**.

"Transferred Employee" has the meaning set forth in **Section 6.17(a)**.

"Transferred Entities" means all of the direct Subsidiaries of Sellers and joint venture entities or other entities in which any Seller has an Equity Interest, other than the Excluded Entities.

"Transferred Equity Interests" has the meaning set forth in **Section 2.2(a)(v)**.

"Transferred Real Property" has the meaning set forth in **Section 2.2(a)(vi)**.

"Transition Services Agreement" has the meaning set forth in **Section 7.2(c)(ix)**.

"Transition Team" has the meaning set forth in **Section 6.11(c)**.

"UAW" means the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America.

"UAW Active Labor Modifications" means the modifications to the UAW Collective Bargaining Agreement, as agreed to in the 2009 Addendum to the 2007 UAW-GM National Agreement, dated May 17, 2009, the cover page of which is attached hereto as **Exhibit C** (the 2009 Addendum without attachments), which modifications were ratified by the UAW membership on May 29, 2009.

"UAW Collective Bargaining Agreement" means any written or oral Contract, understanding or mutually recognized past practice between Sellers and the UAW with respect to Employees, including the UAW Active Labor Modifications, but excluding the agreement to provide certain retiree medical benefits specified in the Memorandum of Understanding Post-Retirement Medical Care, dated September 26, 2007, between Parent and the UAW, and the Settlement Agreement. For purpose of clarity, the term "UAW Collective Bargaining Agreement" includes all special attrition programs, divestiture-related memorandums of understanding or implementation agreements relating to any unit or location where covered UAW-represented employees remain and any current local agreement between Parent and a UAW local relating to any unit or location where UAW-represented employees are employed as of the date of the Original Agreement. For purposes of clarity, nothing in this definition extends the coverage of the UAW-GM National Agreement to any Employee of S LLC, S Distribution, Harlem, a Purchased Subsidiary or one of Parent's Affiliates; nothing in this Agreement creates a direct employment relationship with a Purchased Subsidiary's employee or an Affiliate's Employee and Parent.

"UAW Retiree Settlement Agreement" means the UAW Retiree Settlement Agreement to be executed prior to the Closing, substantially in the form attached hereto as **Exhibit D**.

"Union" means any labor union, organization or association representing any employees (but not including the UAW) with respect to their employment with any of Sellers or their Affiliates.

"United States" or "U.S." means the United States of America, including its territories and insular possessions.

"UST Credit Bid Amount" has the meaning set forth in **Section 3.2(a)(i)**.

"UST Credit Facilities" means (i) the Existing UST Loan and Security Agreement and (ii) those certain promissory notes dated December 31, 2008, April 22, 2009, May 20, 2009, and May 27, 2009, issued by Parent to Sponsor as additional compensation for the extensions of credit under the Existing UST Loan and Security Agreement, in each case, as amended.

"UST Warrant" means the warrant issued by Parent to Sponsor in consideration for the extension of credit made available to Parent under the Existing UST Loan and Security Agreement.

"VEBA Shares" has the meaning set forth in **Section 5.4(c)**.

"VEBA Note" has the meaning set forth in **Section 7.3(g)(iv)**.

"VEBA Warrant" means warrants to acquire 15,151,515 shares of Common Stock issued pursuant to a warrant agreement, substantially in the form attached hereto as **Exhibit E**.

"Viability Plans" means (i) Parent's Restructuring Plan for Long-Term Viability, dated December 2, 2008; (ii) Parent's 2009-2014 Restructuring Plan, dated February 17, 2009; (iii) Parent's 2009-2014 Restructuring Plan: Progress Report, dated March 30, 2009; and (iv) Parent's Revised Viability Plan, all as described in Parent's Registration Statement on Form S-4 (Reg. No 333-158802), initially filed with the SEC on April 27, 2009, in each case, as amended, supplemented and/or superseded.

"WARN" means the Workers Adjustment and Retraining Notification Act of 1988, as amended, and similar foreign, state and local Laws.

"Willow Run Landlord" means the Wayne County Airport Authority, or any successor landlord under the Willow Run Lease.

"Willow Run Lease" means that certain Willow Run Airport Lease of Land dated October 11, 1985, as the same may be amended, by and between the Willow Run Landlord, as landlord, and Parent, as tenant, for certain premises located at the Willow Run Airport in Wayne and Washtenaw Counties, Michigan.

"Willow Run Lease Amendment" has the meaning set forth in **Section 6.27(e)**.

"Wind Down Facility" has the meaning set forth in **Section 6.9(b)**.

Section 1.2 Other Interpretive Provisions. The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole (including the Sellers' Disclosure Schedule) and not to any particular provision of this Agreement, and all Article, Section, Sections of the Sellers' Disclosure Schedule and Exhibit references are to this Agreement unless otherwise specified. The words "include", "includes" and "including" are deemed to be followed by the phrase "without limitation." The meanings given to terms defined herein are equally applicable to both the singular and plural forms of such terms. Whenever the context may require, any pronoun includes the corresponding masculine, feminine and neuter forms. Except as otherwise expressly provided herein, all references to "Dollars" or "$" are deemed references to lawful money of the United States. Unless otherwise specified, references to any statute, listing rule, rule, standard, regulation or other Law (a) include a reference to the corresponding rules and regulations and (b) include a reference to each of them as amended, modified, supplemented, consolidated, replaced or rewritten from time to time, and to any section of any statute, listing rule, rule, standard, regulation or other Law, including any successor to such section. Where this Agreement states that a Party "shall" or "will" perform in some manner or otherwise act or omit to act, it means that the Party is legally obligated to do so in accordance with this Agreement.

ARTICLE II
PURCHASE AND SALE

Section 2.1 Purchase and Sale of Assets; Assumption of Liabilities. On the terms and subject to the conditions set forth in this Agreement, other than as set forth in **Section 6.30**, **Section 6.34** and **Section 6.35**, at the Closing, Purchaser shall (a) purchase, accept and acquire from Sellers, and Sellers shall sell, transfer, assign, convey and deliver to Purchaser, free and clear of all Encumbrances (other than Permitted Encumbrances), Claims and other interests, the Purchased Assets and (b) assume and thereafter pay or perform as and when due, or otherwise discharge, all of the Assumed Liabilities.

Section 2.2 Purchased and Excluded Assets.

(a) The "Purchased Assets" shall consist of the right, title and interest that Sellers possess and have the right to legally transfer in and to all of the properties, assets, rights, titles and interests of every kind and nature, owned, leased, used or held for use by Sellers (including indirect and other forms of beneficial ownership), whether tangible or intangible, real, personal or mixed, and wherever located and by whomever possessed, in each case, as the same may exist as of the Closing, including the following properties, assets, rights, titles and interests (but, in every case, excluding the Excluded Assets):

(i) all cash and cash equivalents, including all marketable securities, certificates of deposit and all collected funds or items in the process of collection at Sellers' financial institutions through and including the Closing, and all bank deposits, investment accounts and lockboxes related thereto, other than the Excluded Cash and Restricted Cash;

(ii) all restricted or escrowed cash and cash equivalents, including restricted marketable securities and certificates of deposit (collectively, "Restricted Cash") other than the Restricted Cash described in **Section 2.2(b)(ii)**;

(iii) all accounts and notes receivable and other such Claims for money due to Sellers, including the full benefit of all security for such accounts, notes and Claims, however arising, including arising from the rendering of services or the sale of goods or materials, together with any unpaid interest accrued thereon from the respective obligors and any security or collateral therefor, other than intercompany receivables (collectively, "Receivables");

(iv) all intercompany obligations ("Intercompany Obligations") owed or due, directly or indirectly, to Sellers by any Subsidiary of a Seller or joint venture or other entity in which a Seller or a Subsidiary of a Seller has any Equity Interest;

(v) (A) subject to **Section 2.4**, all Equity Interests in the Transferred Entities (collectively, the "Transferred Equity Interests") and (B) the corporate charter, qualification to conduct business as a foreign corporation, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, corporate seal, minute books, stock transfer books, blank stock certificates and any other documents relating to the organization, maintenance and existence of each Transferred Entity;

(vi) all Owned Real Property and Leased Real Property (collectively, the "Transferred Real Property");

(vii) all machinery, equipment (including test equipment and material handling equipment), hardware, spare parts, tools, dies, jigs, molds, patterns, gauges, fixtures (including production fixtures), business machines, computer hardware, other information technology assets, furniture, supplies, vehicles, spare parts in respect of any of the foregoing and other tangible personal property (including any of the foregoing in the possession of manufacturers, suppliers, customers, dealers or others and any of the foregoing in transit) that does not constitute Inventory (collectively, "Personal Property"), including the Personal Property located at the Excluded Real Property and identified on Section 2.2(a)(vii) of the Sellers' Disclosure Schedule;

(viii) all inventories of vehicles, raw materials, work-in-process, finished goods, supplies, stock, parts, packaging materials and other accessories related thereto (collectively, "Inventory"), wherever located, including any of the foregoing in the possession of manufacturers, suppliers, customers, dealers or others and any of the foregoing in transit or that is classified as returned goods;

(ix) (A) all Intellectual Property, whether owned, licensed or otherwise held, and whether or not registrable (including any Trademarks and other Intellectual Property associated with the Discontinued Brands), and (B) all rights

and benefits associated with the foregoing, including all rights to sue or recover for past, present and future infringement, misappropriation, dilution, unauthorized use or other impairment or violation of any of the foregoing, and all income, royalties, damages and payments now or hereafter due or payable with respect to any of the foregoing;

(x) subject to **Section 2.4**, all Contracts, other than the Excluded Contracts (collectively, the "Purchased Contracts"), including, for the avoidance of doubt, (A) the UAW Collective Bargaining Agreement and (B) any Executory Contract designated as an Assumable Executory Contract as of the applicable Assumption Effective Date;

(xi) subject to **Section 2.4**, all approvals, Contracts, authorizations, permits, licenses, easements, Orders, certificates, registrations, franchises, qualifications, rulings, waivers, variances or other forms of permission, consent, exemption or authority issued, granted, given or otherwise made available by or under the authority of any Governmental Authority, including all pending applications therefor and all renewals and extensions thereof (collectively, "Permits"), other than to the extent that any of the foregoing relate exclusively to the Excluded Assets or Retained Liabilities;

(xii) all credits, deferred charges, prepaid expenses, deposits, advances, warranties, rights, guarantees, surety bonds, letters of credit, trust arrangements and other similar financial arrangements, in each case, relating to the Purchased Assets or Assumed Liabilities, including all warranties, rights and guarantees (whether express or implied) made by suppliers, manufacturers, contractors and other third parties under or in connection with the Purchased Contracts;

(xiii) all Claims (including Tax refunds) relating to the Purchased Assets or Assumed Liabilities, including the Claims identified on Section 2.2(a)(xiii) of the Sellers' Disclosure Schedule and all Claims against any Taxing Authority for any period, other than Bankruptcy Avoidance Actions and any of the foregoing to the extent that they relate exclusively to the Excluded Assets or Retained Liabilities;

(xiv) all books, records, ledgers, files, documents, correspondence, lists, plats, specifications, surveys, drawings, advertising and promotional materials, reports and other materials (in whatever form or medium), including Tax books and records and Tax Returns used or held for use in connection with the ownership or operation of the Purchased Assets or Assumed Liabilities, including the Purchased Contracts, customer lists, customer information and account records, computer files, data processing records, employment and personnel records, advertising and marketing data and records, credit records, records relating to suppliers, legal records and information and other data;

(xv) all goodwill and other intangible personal property arising in connection with the ownership, license, use or operation of the Purchased Assets or Assumed Liabilities;

(xvi) to the extent provided in **Section 6.17(e)**, all Assumed Plans;

(xvii) all insurance policies and the rights to the proceeds thereof, other than the Excluded Insurance Policies;

(xviii) any rights of any Seller, Subsidiary of any Seller or Seller Group member to any Tax refunds, credits or abatements that relate to any Pre-Closing Tax Period or Straddle Period; and

(xix) any interest in Excluded Insurance Policies, only to the extent such interest relates to any Purchased Asset or Assumed Liability.

(b) Notwithstanding anything to the contrary contained in this Agreement, Sellers shall retain all of their respective right, title and interest in and to, and shall not, and shall not be deemed to, sell, transfer, assign, convey or deliver to Purchaser, and the Purchased Assets shall not, and shall not be deemed to, include the following (collectively, the "Excluded Assets"):

(i) cash or cash equivalents in an amount equal to $950,000,000 (the "Excluded Cash");

(ii) all Restricted Cash exclusively relating to the Excluded Assets or Retained Liabilities;

(iii) all Receivables (other than Intercompany Obligations) exclusively related to any Excluded Assets or Retained Liabilities;

(iv) all of Sellers' Equity Interests in (A) S LLC, (B) S Distribution, (C) Harlem and (D) the Subsidiaries, joint ventures and the other entities in which any Seller has any Equity Interest and that are identified on Section 2.2(b)(iv) of the Sellers' Disclosure Schedule (collectively, the "Excluded Entities");

(v) (A) all owned real property set forth on **Exhibit F** and such additional owned real property set forth on Section 2.2(b)(v) of the Sellers' Disclosure Schedule (including, in each case, any structures, buildings or other improvements located thereon and appurtenances thereto) and (B) all real property leased or subleased that is subject to a Contract designated as an "Excluded Contract" (collectively, the "Excluded Real Property");

(vi) all Personal Property that is (A) located at the Transferred Real Property and identified on Section 2.2(b)(vi) of the Sellers' Disclosure Schedule, (B) located at the Excluded Real Property, except for those items identified on Section 2.2(a)(vii) of the Sellers' Disclosure Schedule or (C) subject to a Contract

designated as an Excluded Contract (collectively, the "Excluded Personal Property");

(vii) (A) all Contracts identified on Section 2.2(b)(vii) of the Sellers' Disclosure Schedule immediately prior to the Closing, (B) all pre-petition Executory Contracts designated as Rejectable Executory Contracts, (C) all pre-petition Executory Contracts (including, for the avoidance of doubt, the Delphi Transaction Agreements and GM Assumed Contracts) that have not been designated as or deemed to be Assumable Executory Contracts in accordance with **Section 6.6** or **Section 6.31**, or that are determined, pursuant to the procedures set forth in the Sale Procedures Order, not to be assumable and assignable to Purchaser, (D) all Collective Bargaining Agreements not set forth on the Assumable Executory Contract Schedule and (E) all non-Executory Contracts for which performance by a third-party or counterparty is substantially complete and for which a Seller owes a continuing or future obligation with respect to such non-Executory Contracts (collectively, the "Excluded Contracts"), including any accounts receivable arising out of or in connection with any Excluded Contract; it being understood and agreed by the Parties hereto that, notwithstanding anything to the contrary herein, in no event shall the UAW Collective Bargaining Agreement be designated or otherwise deemed or considered an Excluded Contract;

(viii) all books, records, ledgers, files, documents, correspondence, lists, plats, specifications, surveys, drawings, advertising and promotional materials, reports and other materials (in whatever form or medium) relating exclusively to the Excluded Assets or Retained Liabilities, and any books, records and other materials that any Seller is required by Law to retain;

(ix) the corporate charter, qualification to conduct business as a foreign corporation, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, corporate seal, minute books, stock transfer books, blank stock certificates and any other documents relating to the organization, maintenance and existence of each Seller and each Excluded Entity;

(x) all Claims against suppliers, dealers and any other third parties relating exclusively to the Excluded Assets or Retained Liabilities;

(xi) all of Sellers' Claims under this Agreement, the Ancillary Agreements and the Bankruptcy Code, of whatever kind or nature, as set forth in Sections 544 through 551 (inclusive), 553, 558 and any other applicable provisions of the Bankruptcy Code, and any related Claims and actions arising under such sections by operation of Law or otherwise, including any and all proceeds of the foregoing (the "Bankruptcy Avoidance Actions"), but in all cases, excluding all rights and Claims identified on Section 2.2(b)(xi) of the Sellers' Disclosure Schedule;

(xii) all credits, deferred charges, prepaid expenses, deposits and advances, warranties, rights, guarantees, surety bonds, letters of credit, trust arrangements and other similar financial arrangements, in each case, relating exclusively to the Excluded Assets or Retained Liabilities;

(xiii) all insurance policies identified on Section 2.2(b)(xiii) of the Sellers' Disclosure Schedule and the rights to proceeds thereof (collectively, the "Excluded Insurance Policies"), other than any rights to proceeds to the extent such proceeds relate to any Purchased Asset or Assumed Liability;

(xiv) all Permits, to the extent that they relate exclusively to the Excluded Assets or Retained Liabilities;

(xv) all Retained Plans; and

(xvi) those assets identified on Section 2.2(b)(xvi) of the Sellers' Disclosure Schedule.

Section 2.3 Assumed and Retained Liabilities.

(a) The "Assumed Liabilities" shall consist only of the following Liabilities of Sellers:

(i) $7,072,488,605 of Indebtedness incurred under the DIP Facility, to be restructured pursuant to the terms of **Section 6.9** (the "Purchaser Assumed Debt");

(ii) all Liabilities under each Purchased Contract;

(iii) all Intercompany Obligations owed or due, directly or indirectly, by Sellers to (A) any Purchased Subsidiary or (B) any joint venture or other entity in which a Seller or a Purchased Subsidiary has any Equity Interest (other than an Excluded Entity);

(iv) all Cure Amounts under each Assumable Executory Contract that becomes a Purchased Contract;

(v) all Liabilities of Sellers (A) arising in the Ordinary Course of Business during the Bankruptcy Case through and including the Closing Date, to the extent such Liabilities are administrative expenses of Sellers' estates pursuant to Section 503(b) of the Bankruptcy Code and (B) arising prior to the commencement of the Bankruptcy Cases to the extent approved by the Bankruptcy Court for payment by Sellers pursuant to a Final Order (and for the avoidance of doubt, Sellers' Liabilities in clauses (A) and (B) above include Sellers' Liabilities for personal property Taxes, real estate and/or other ad valorem Taxes, use Taxes, sales Taxes, franchise Taxes, income Taxes, gross receipt Taxes, excise Taxes, Michigan Business Taxes and Michigan Single Business Taxes), in each case, other than (1) Liabilities of the type described in

Section 2.3(b)(iv), **Section 2.3(b)(vi)** and **Section 2.3(b)(ix)**, (2) Liabilities arising under any dealer sales and service Contract and any Contract related thereto, to the extent such Contract has been designated as a Rejectable Executory Contract, and (3) Liabilities otherwise assumed in this **Section 2.3(a)**;

(vi) all Transfer Taxes payable in connection with the sale, transfer, assignment, conveyance and delivery of the Purchased Assets pursuant to the terms of this Agreement;

(vii) (A) all Liabilities arising under express written warranties of Sellers that are specifically identified as warranties and delivered in connection with the sale of new, certified used or pre-owned vehicles or new or remanufactured motor vehicle parts and equipment (including service parts, accessories, engines and transmissions) manufactured or sold by Sellers or Purchaser prior to or after the Closing and (B) all obligations under Lemon Laws;

(viii) all Liabilities arising under any Environmental Law (A) relating to conditions present on the Transferred Real Property, other than those Liabilities described in **Section 2.3(b)(iv)**, (B) resulting from Purchaser's ownership or operation of the Transferred Real Property after the Closing or (C) relating to Purchaser's failure to comply with Environmental Laws after the Closing;

(ix) all Liabilities to third parties for death, personal injury, or other injury to Persons or damage to property caused by motor vehicles designed for operation on public roadways or by the component parts of such motor vehicles and, in each case, manufactured, sold or delivered by Sellers (collectively, "Product Liabilities"), which arise directly out of accidents, incidents or other distinct and discreet occurrences that happen on or after the Closing Date and arise from such motor vehicles' operation or performance (for avoidance of doubt, Purchaser shall not assume, or become liable to pay, perform or discharge, any Liability arising or contended to arise by reason of exposure to materials utilized in the assembly or fabrication of motor vehicles manufactured by Sellers and delivered prior to the Closing Date, including asbestos, silicates or fluids, regardless of when such alleged exposure occurs);

(x) all Liabilities of Sellers arising out of, relating to, in respect of, or in connection with workers' compensation claims against any Seller, except for Retained Workers' Compensation Claims;

(xi) all Liabilities arising out of, relating to, in respect of, or in connection with the use, ownership or sale of the Purchased Assets after the Closing;

(xii) all Liabilities (A) specifically assumed by Purchaser pursuant to **Section 6.17** and (B) arising out of, relating to or in connection with the salaries and/or wages and vacation of all Transferred Employees that are accrued and unpaid (or with respect to vacation, unused) as of the Closing Date;

(xiii) (A) all Employment-Related Obligations and (B) Liabilities under any Assumed Plan, in each case, relating to any Employee that is or was covered by the UAW Collective Bargaining Agreement, except for Retained Workers Compensation Claims;

(xiv) all Liabilities of Sellers underlying any construction liens that constitute Permitted Encumbrances with respect to Transferred Real Property; and

(xv) those other Liabilities identified on Section 2.3(a)(xv) of the Sellers' Disclosure Schedule.

(b) Each Seller acknowledges and agrees that pursuant to the terms and provisions of this Agreement, Purchaser shall not assume, or become liable to pay, perform or discharge, any Liability of any Seller, whether occurring or accruing before, at or after the Closing, other than the Assumed Liabilities. In furtherance and not in limitation of the foregoing, and in all cases with the exception of the Assumed Liabilities, neither Purchaser nor any of its Affiliates shall assume, or be deemed to have assumed, any Indebtedness, Claim or other Liability of any Seller or any predecessor, Subsidiary or Affiliate of any Seller whatsoever, whether occurring or accruing before, at or after the Closing, including the following (collectively, the "Retained Liabilities"):

(i) all Liabilities arising out of, relating to, in respect of or in connection with any Indebtedness of Sellers (other than Intercompany Obligations and the Purchaser Assumed Debt), including those items identified on Section 2.3(b)(i) of the Sellers' Disclosure Schedule;

(ii) all Intercompany Obligations owed or due, directly or indirectly, by Sellers to (A) another Seller, (B) any Excluded Subsidiary or (C) any joint venture or other entity in which a Seller or an Excluded Subsidiary has an Equity Interest (other than a Transferred Entity);

(iii) all Liabilities arising out of, relating to, in respect of or in connection with the Excluded Assets, other than Liabilities otherwise retained in this **Section 2.3(b)**;

(iv) all Liabilities (A) associated with noncompliance with Environmental Laws (including for fines, penalties, damages and remedies); (B) arising out of, relating to, in respect of or in connection with the transportation, off-site storage or off-site disposal of any Hazardous Materials generated or located at any Transferred Real Property; (C) arising out of, relating to, in respect of or in connection with third-party Claims related to Hazardous Materials that were or are located at or that migrated or may migrate from any Transferred Real Property, except as otherwise required under applicable Environmental Laws; (D) arising under Environmental Laws related to the Excluded Real Property; or (E) for environmental Liabilities with respect to real property formerly owned, operated or leased by Sellers (as of the Closing), which, in the case of clauses (A),

(B) and (C), arose prior to or at the Closing, and which, in the case of clause (D) and (E), arise prior to, at or after the Closing;

(v) except for Taxes assumed in **Section 2.3(a)(v)** and **Section 2.3(a)(vi)**, all Liabilities with respect to any (A) Taxes arising in connection with Sellers' business, the Purchased Assets or the Assumed Liabilities and that are attributable to a Pre-Closing Tax Period (including any Taxes incurred in connection with the sale of the Purchased Assets, other than all Transfer Taxes), (B) other Taxes of any Seller and (C) Taxes of any Seller Group, including any Liability of any Seller or any Seller Group member for Taxes arising as a result of being or ceasing to be a member of any Seller Group (it being understood, for the avoidance of doubt, that no provision of this Agreement shall cause Sellers to be liable for Taxes of any Purchased Subsidiary for which Sellers would not be liable absent this Agreement);

(vi) all Liabilities for (A) costs and expenses relating to the preparation, negotiation and entry into this Agreement and the Ancillary Agreements (and the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements, which, for the avoidance of doubt, shall not include any Transfer Taxes), including Advisory Fees, (B) administrative fees, professional fees and all other expenses under the Bankruptcy Code and (C) all other fees and expenses associated with the administration of the Bankruptcy Cases;

(vii) all Employment-Related Obligations not otherwise assumed in **Section 2.3(a)** and **Section 6.17**, including those arising out of, relating to, in respect of or in connection with the employment, potential employment or termination of employment of any individual (other than any Employee that is or was covered by the UAW Collective Bargaining Agreement) (A) prior to or at the Closing (including any severance policy, plan or program that exists or arises, or may be deemed to exist or arise, as a result of, or in connection with, the transactions contemplated by this Agreement) or (B) who is not a Transferred Employee arising after the Closing and with respect to both clauses (A) and (B) above, including any Liability arising out of, relating to, in respect of or in connection with any Collective Bargaining Agreement (other than the UAW Collective Bargaining Agreement);

(viii) all Liabilities arising out of, relating to, in respect of or in connection with Claims for infringement or misappropriation of third party intellectual property rights;

(ix) all Product Liabilities arising in whole or in part from any accidents, incidents or other occurrences that happen prior to the Closing Date;

(x) all Liabilities to third parties for death, personal injury, other injury to Persons or damage to property, in each case, arising out of asbestos exposure;

(xi) all Liabilities to third parties for Claims based upon Contract, tort or any other basis;

(xii) all workers' compensation Claims with respect to Employees residing in or employed in, as the case may be as defined by applicable Law, the states set forth on **Exhibit G** (collectively, "Retained Workers' Compensation Claims");

(xiii) all Liabilities arising out of, relating to, in respect of or in connection with any Retained Plan;

(xiv) all Liabilities arising out of, relating to, in respect of or in connection with any Assumed Plan or Purchased Subsidiaries Employee Benefit Plan, but only to the extent such Liabilities result from the failure of such Assumed Plan or Purchased Subsidiaries Employee Benefit Plan to comply in all respects with TARP or such Liability related to any changes to or from the administration of such Assumed Plan or Purchased Subsidiaries Employee Benefit Plan prior to the Closing Date;

(xv) the Settlement Agreement, except as provided with respect to Liabilities under Section 5A of the UAW Retiree Settlement Agreement; and

(xvi) all Liabilities arising out of, related to or in connection with any (A) implied warranty or other implied obligation arising under statutory or common law without the necessity of an express warranty or (B) allegation, statement or writing by or attributable to Sellers.

Section 2.4 Non-Assignability.

(a) If any Contract, Transferred Equity Interest (or any interest therein), Permit or other asset, which by the terms of this Agreement, is intended to be included in the Purchased Assets is determined not capable of being assigned or transferred (whether pursuant to Sections 363 or 365 of the Bankruptcy Code) to Purchaser at the Closing without the consent of another party thereto, the issuer thereof or any third party (including a Governmental Authority) ("Non-Assignable Assets"), this Agreement shall not constitute an assignment thereof, or an attempted assignment thereof, unless and until any such consent is obtained. Subject to **Section 6.3**, Sellers shall use reasonable best efforts, and Purchaser shall use reasonable best efforts to cooperate with Sellers, to obtain the consents necessary to assign to Purchaser the Non-Assignable Assets before, at or after the Closing; provided, however, that neither Sellers nor Purchaser shall be required to make any expenditure, incur any Liability, agree to any modification to any Contract or forego or alter any rights in connection with such efforts.

(b) To the extent that the consents referred to in **Section 2.4(a)** are not obtained by Sellers, except as otherwise provided in the Ancillary Documents to which one or more Sellers is a party, Sellers' sole responsibility with respect to such Non-Assignable Assets shall be to use reasonable best efforts, at no cost to Sellers, to (i) provide to Purchaser the benefits of any Non-Assignable Assets; (ii) cooperate in any

reasonable and lawful arrangement designed to provide the benefits of any Non-Assignable Assets to Purchaser without incurring any financial obligation to Purchaser; and (iii) enforce for the account of Purchaser and at the cost of Purchaser any rights of Sellers arising from any Non-Assignable Asset against such party or parties thereto; provided, however, that any such efforts described in clauses (i) through (iii) above shall be made only with the consent, and at the direction, of Purchaser. Without limiting the generality of the foregoing, with respect to any Non-Assignable Asset that is a Contract of Leased Real Property for which a consent is not obtained on or prior to the Closing Date, Purchaser shall enter into a sublease containing the same terms and conditions as such lease (unless such lease by its terms prohibits such subleasing arrangement), and entry into and compliance with such sublease shall satisfy the obligations of the Parties under this **Section 2.4(b)** until such consent is obtained.

(c) If Purchaser is provided the benefits of any Non-Assignable Asset pursuant to **Section 2.4(b)**, Purchaser shall perform, on behalf of the applicable Seller, for the benefit of the issuer thereof or the other party or parties thereto, the obligations (including payment obligations) of the applicable Seller thereunder or in connection therewith arising from and after the Closing Date and if Purchaser fails to perform to the extent required herein, Sellers, without waiving any rights or remedies that they may have under this Agreement or applicable Laws, may (i) suspend their performance under **Section 2.4(b)** in respect of the Non-Assignable Asset that is the subject of such failure to perform unless and until such situation is remedied, or (ii) perform at Purchaser's sole cost and expense, in which case, Purchaser shall reimburse Sellers' costs and expenses of such performance immediately upon receipt of an invoice therefor. To the extent that Purchaser is provided the benefits of any Non-Assignable Asset pursuant to **Section 2.4(b),** Purchaser shall indemnify, defend and hold Sellers harmless from and against any and all Liabilities relating to such Non-Assignable Asset and arising from and after the Closing Date (other than such Damages that have resulted from the gross negligence or willful misconduct of Sellers).

(d) For the avoidance of doubt, the inability of any Contract, Transferred Equity Interest (or any other interest therein), Permit or other asset, which by the terms of this Agreement is intended to be included in the Purchased Assets to be assigned or transferred to Purchaser at the Closing shall not (i) give rise to a basis for termination of this Agreement pursuant to **ARTICLE VIII** or (ii) give rise to any right to any adjustment to the Purchase Price.

ARTICLE III
CLOSING; PURCHASE PRICE

Section 3.1 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall occur on the date that falls at least three (3) Business Days following the satisfaction and/or waiver of all conditions to the Closing set forth in **ARTICLE VII** (other than any of such conditions that by its nature is to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions), or on such other date as the Parties mutually agree, at the offices of Jenner & Block LLP, 919 Third Avenue, New York City, New York 10022-3908, or at such other place or such other date as the Parties may agree in

writing. The date on which the Closing actually occurs shall be referred to as the "Closing Date," and except as otherwise expressly provided herein, the Closing shall for all purposes be deemed effective as of 9:00 a.m., New York City time, on the Closing Date.

Section 3.2 Purchase Price.

(a) The purchase price (the "Purchase Price") shall be equal to the sum of:

(i) a Bankruptcy Code Section 363(k) credit bid in an amount equal to: (A) the amount of Indebtedness of Parent and its Subsidiaries as of the Closing pursuant to the UST Credit Facilities, and (B) the amount of Indebtedness of Parent and its Subsidiaries as of the Closing under the DIP Facility, less $8,022,488,605 of Indebtedness under the DIP Facility (such amount, the "UST Credit Bid Amount");

(ii) the UST Warrant (which the Parties agree has a value of no less than $1,000);

(iii) the valid issuance by Purchaser to Parent of (A) 50,000,000 shares of Common Stock (collectively, the "Parent Shares") and (B) the Parent Warrants; and

(iv) the assumption by Purchaser or its designated Subsidiaries of the Assumed Liabilities.

(b) On the terms and subject to the conditions set forth in this Agreement, at the Closing, Purchaser shall (i) offset, pursuant to Section 363(k) of the Bankruptcy Code, the UST Credit Bid Amount against Indebtedness of Parent and its Subsidiaries owed to Purchaser as of the Closing under the UST Credit Facilities and the DIP Facility; (ii) transfer to Parent, in accordance with the instructions provided by Parent to Purchaser prior to the Closing, the UST Warrant; and (iii) issue to Parent, in accordance with the instructions provided by Parent to Purchaser prior to the Closing, the Parent Shares and the Parent Warrants.

(c)

(i) Sellers may, at any time, seek an Order of the Bankruptcy Court (the "Claims Estimate Order"), which Order may be the Order confirming Sellers' Chapter 11 plan, estimating the aggregate allowed general unsecured claims against Sellers' estates. If in the Claims Estimate Order, the Bankruptcy Court makes a finding that the estimated aggregate allowed general unsecured claims against Sellers' estates exceed $35,000,000,000, then Purchaser will, within five (5) days of entry of the Claims Estimate Order, issue 10,000,000 additional shares of Common Stock (the "Adjustment Shares") to Parent, as an adjustment to the Purchase Price.

(ii) The number of Adjustment Shares shall be adjusted to take into account any stock dividend, stock split, combination of shares, recapitalization,

merger, consolidation, reorganization or similar transaction with respect to the Common Stock, effected from and after the Closing and before issuance of the Adjustment Shares.

(iii) At the Closing, Purchaser shall have authorized and, thereafter, shall reserve for issuance the Adjustment Shares that may be issued hereunder.

Section 3.3 Allocation. Following the Closing, Purchaser shall prepare and deliver to Sellers an allocation of the aggregate consideration among Sellers and, for any transactions contemplated by this Agreement that do not constitute an Agreed G Transaction pursuant to **Section 6.16**, Purchaser shall also prepare and deliver to the applicable Seller a proposed allocation of the Purchase Price and other consideration paid in exchange for the Purchased Assets, prepared in accordance with Section 1060, and if applicable, Section 338, of the Tax Code (the "Allocation"). The applicable Seller shall have thirty (30) days after the delivery of the Allocation to review and consent to the Allocation in writing, which consent shall not be unreasonably withheld, conditioned or delayed. If the applicable Seller consents to the Allocation, such Seller and Purchaser shall use such Allocation to prepare and file in a timely manner all appropriate Tax filings, including the preparation and filing of all applicable forms in accordance with applicable Law, including Forms 8594 and 8023, if applicable, with their respective Tax Returns for the taxable year that includes the Closing Date and shall take no position in any Tax Return that is inconsistent with such Allocation; provided, however, that nothing contained herein shall prevent the applicable Seller and Purchaser from settling any proposed deficiency or adjustment by any Governmental Authority based upon or arising out of such Allocation, and neither the applicable Seller nor Purchaser shall be required to litigate before any court, any proposed deficiency or adjustment by any Taxing Authority challenging such Allocation. If the applicable Seller does not consent to such Allocation, the applicable Seller shall notify Purchaser in writing of such disagreement within such thirty (30) day period, and thereafter, the applicable Seller shall attempt in good faith to promptly resolve any such disagreement. If the Parties cannot resolve a disagreement under this **Section 3.3**, such disagreement shall be resolved by an independent accounting firm chosen by Purchaser and reasonably acceptable to the applicable Seller, and such resolution shall be final and binding on the Parties. The fees and expenses of such accounting firm shall be borne equally by Purchaser, on the one hand, and the applicable Seller, on the other hand. The applicable Seller shall provide Purchaser, and Purchaser shall provide the applicable Seller, with a copy of any information described above required to be furnished to any Taxing Authority in connection with the transactions contemplated herein.

Section 3.4 Prorations.

(a) The following prorations relating to the Purchased Assets shall be made:

(i) Except as provided in **Section 2.3(a)(v)** and **Section 2.3(a)(vi)**, in the case of Taxes with respect to a Straddle Period, for purposes of Retained Liabilities, the portion of any such Tax that is allocable to Sellers with respect to any Purchased Asset shall be:

(A) in the case of Taxes that are either (1) based upon or related to income or receipts, or (2) imposed in connection with any sale or other transfer or assignment of property (real or personal, tangible or intangible), other than Transfer Taxes, equal to the amount that would be payable if the taxable period ended on the Closing Date; and

(B) in the case of Taxes imposed on a periodic basis, or otherwise measured by the level of any item, deemed to be the amount of such Taxes for the entire Straddle Period (after giving effect to amounts which may be deducted from or offset against such Taxes) (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period), multiplied by a fraction, the numerator of which is the number of days in the period ending on the Closing Date and the denominator of which is the number of days in the entire Straddle Period.

In the case of any Tax based upon or measured by capital (including net worth or long-term debt) or intangibles, any amount thereof required to be allocated under this clause (i) shall be computed by reference to the level of such items on the Closing Date. All determinations necessary to effect the foregoing allocations shall be made in a manner consistent with prior practice of the applicable Seller, Seller Group member, or Seller Subsidiary.

(ii) All charges for water, wastewater treatment, sewers, electricity, fuel, gas, telephone, garbage and other utilities relating to the Transferred Real Property shall be prorated as of the Closing Date, with Sellers being liable to the extent such items relate to the Pre-Closing Tax Period, and Purchaser being liable to the extent such items relate to the Post-Closing Tax Period.

(b) If any of the foregoing proration amounts cannot be determined as of the Closing Date due to final invoices not being issued as of the Closing Date, Purchasers and Sellers shall prorate such items as and when the actual invoices are issued to the appropriate Party. The Party owing amounts to the other by means of such prorations shall pay the same within thirty (30) days after delivery of a written request by the paying Party.

Section 3.5 Post-Closing True-up of Certain Accounts.

(a) Sellers shall promptly reimburse Purchaser in U.S. Dollars for the aggregate amount of all checks, drafts and similar instruments of disbursement, including wire and similar transfers of funds, written or initiated by Sellers prior to the Closing in respect of any obligations that would have constituted Retained Liabilities at the Closing, and that clear or settle in accounts maintained by Purchaser (or its Affiliates) at or following the Closing.

(b) Purchaser shall promptly reimburse Sellers in U.S. Dollars for the aggregate amount of all checks, drafts and similar instruments of disbursement, including

wire and similar transfers of funds, written or initiated by Sellers following the Closing in respect of any obligations that would have constituted Assumed Liabilities at the Closing, and that clear or settle in accounts maintained by Sellers (or their Affiliates) at or following the Closing.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as disclosed in the Parent SEC Documents or in the Sellers' Disclosure Schedule, each Seller represents and warrants severally, and not jointly, to Purchaser as follows:

Section 4.1 Organization and Good Standing. Each Seller and each Purchased Subsidiary is duly organized and validly existing under the Laws of its jurisdiction of organization. Subject to the limitations imposed on Sellers as a result of having filed the Bankruptcy Cases, each Seller and each Purchased Subsidiary has all requisite corporate, limited liability company, partnership or similar power, as the case may be, and authority to own, lease and operate its properties and assets and to carry on its business as now being conducted. Each Seller and each Purchased Subsidiary is duly qualified or licensed or admitted to do business, and is in good standing in (where such concept is recognized under applicable Law), the jurisdictions in which the ownership of its property or the conduct of its business requires such qualification or license, in each case, except where the failure to be so qualified, licensed or in good standing would not reasonably be expected to have a Material Adverse Effect. Sellers have made available to Purchaser prior to the execution of this Agreement true and complete copies of Sellers' Organizational Documents, in each case, as in effect on the date of this Agreement.

Section 4.2 Authorization; Enforceability. Subject to the entry and effectiveness of the Sale Approval Order, each Seller has the requisite corporate or limited liability company power and authority, as the case may be, to (a) execute and deliver this Agreement and the Ancillary Agreements to which such Seller is a party; (b) perform its obligations hereunder and thereunder; and (c) consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which such Seller is a party. Subject to the entry and effectiveness of the Sale Approval Order, this Agreement constitutes, and each Ancillary Agreement, when duly executed and delivered by each Seller that is a party thereto, shall constitute, a valid and legally binding obligation of such Seller (assuming that this Agreement and such Ancillary Agreements constitute valid and legally binding obligations of Purchaser), enforceable against such Seller in accordance with its respective terms and conditions, except as enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent transfer and other similar Laws relating to or affecting the enforcement of creditors' rights generally from time to time in effect and by general equitable principles relating to enforceability, including principles of commercial reasonableness, good faith and fair dealing.

Section 4.3 Noncontravention; Consents.

(a) Subject, in the case of clauses (i), (iii) and (iv), to the entry and effectiveness of the Sale Approval Order, the execution, delivery and performance by each Seller of this Agreement and the Ancillary Agreements to which it is a party, and (subject to the entry of the Sale Approval Order) the consummation by such Seller of the

transactions contemplated hereby and thereby, do not (i) violate any Law to which the Purchased Assets are subject; (ii) conflict with or result in a breach of any provision of the Organizational Documents of such Seller; (iii) result in a material breach or constitute a material default under, or create in any Person the right to terminate, cancel or accelerate any material obligation of such Seller pursuant to any material Purchased Contract (including any material License); or (iv) result in the creation or imposition of any Encumbrance, other than a Permitted Encumbrance, upon the Purchased Assets, except for any of the foregoing in the case of clauses (i), (iii) and (iv), that would not reasonably be expected to have a Material Adverse Effect.

(b) Subject to the entry and effectiveness of the Sale Approval Order, no consent, waiver, approval, Order, Permit, qualification or authorization of, or declaration or filing with, or notification to, any Person or Governmental Authority (other than the Bankruptcy Court) is required by any Seller for the consummation by each Seller of the transactions contemplated by this Agreement or by the Ancillary Agreements to which such Seller is a party or the compliance by such Seller with any of the provisions hereof or thereof, except for (i) compliance with the applicable requirements of any Antitrust Laws and (ii) such consent, waiver, approval, Order, Permit, qualification or authorization of, or declaration or filing with, or notification to, any Person or Governmental Authority, the failure of which to be received or made would not reasonably be expected to have a Material Adverse Effect.

Section 4.4 Subsidiaries. Section 4.4 of the Sellers' Disclosure Schedule identifies each Purchased Subsidiary and the jurisdiction of organization thereof. There are no Equity Interests in any Purchased Subsidiary issued, reserved for issuance or outstanding. All of the outstanding shares of capital stock, if applicable, of each Purchased Subsidiary have been duly authorized, validly issued, are fully paid and nonassessable and are owned, directly or indirectly, by Sellers, free and clear of all Encumbrances other than Permitted Encumbrances. Sellers, directly or indirectly, have good and valid title to the outstanding Equity Interests of the Purchased Subsidiaries and, upon delivery by Sellers to Purchaser of the outstanding Equity Interests of the Purchased Subsidiaries (either directly or indirectly) at the Closing, good and valid title to the outstanding Equity Interests of the Purchased Subsidiaries will pass to Purchaser (or, with respect to any Purchased Subsidiary that is not a direct Subsidiary of a Seller, the Purchased Subsidiary with regard to which it is a Subsidiary will continue to have good and valid title to such outstanding Equity Interests). None of the outstanding Equity Interests in the Purchased Subsidiaries has been conveyed in violation of, and none of the outstanding Equity Interests in the Purchased Subsidiaries has been issued in violation of (a) any preemptive or subscription rights, rights of first offer or first refusal or similar rights or (b) any voting trust, proxy or other Contract (including options or rights of first offer or first refusal) with respect to the voting, purchase, sale or other disposition thereof.

Section 4.5 Reports and Financial Statements; Internal Controls.

(a) (i) Parent has filed or furnished, or will file or furnish, as applicable, all forms, documents, schedules and reports, together with any amendments required to be made with respect thereto, required to be filed or furnished with the SEC from April 1, 2007 until the Closing (the "Parent SEC Documents"), and (ii) as of their respective

filing dates, or, if amended, as of the date of the last such amendment, the Parent SEC Documents complied or will comply in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the Parent SEC Documents contained or will contain any untrue statement of a material fact or omitted or will omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, subject, in the case of Parent SEC Documents filed or furnished during the period beginning on the date of the Original Agreement and ending on the Closing Date, to any modification by Parent of its reporting obligations under Section 12 or Section 15(d) of the Exchange Act as a result of the filing of the Bankruptcy Cases.

(b) (i) The consolidated financial statements of Parent included in the Parent SEC Documents (including all related notes and schedules, where applicable) fairly present or will fairly present in all material respects the consolidated financial position of Parent and its consolidated Subsidiaries, as at the respective dates thereof, and (ii) the consolidated results of their operations and their consolidated cash flows for the respective periods then ended (subject, in the case of the unaudited statements, to normal year-end audit adjustments and to any other adjustments described therein, including the notes thereto) in conformity with GAAP (except, in the case of the unaudited statements, as permitted by the SEC) applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto), subject, in the case of Parent SEC Documents filed or furnished during the period beginning on the date of the Original Agreement and ending on the Closing Date, to any modification by Parent of its reporting obligations under Section 12 or Section 15(d) of the Exchange Act as a result of the filing of the Bankruptcy Cases.

(c) Parent maintains a system of internal control over financial reporting designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for inclusion in the Parent SEC Documents in accordance with GAAP and maintains records that (i) in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of Parent and its consolidated Subsidiaries, (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures are made only in accordance with appropriate authorizations and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets. There are no (A) material weaknesses in the design or operation of the internal controls of Parent or (B) to the Knowledge of Sellers, any fraud, whether or not material, that involves management or other employees of Parent or any Purchased Subsidiary who have a significant role in internal control.

Section 4.6 Absence of Certain Changes and Events. From January 1, 2009 through the date hereof, except as otherwise contemplated, required or permitted by this Agreement, there has not been:

(a) (i) any declaration, setting aside or payment of any dividend or other distribution (whether in cash, securities or other property or by allocation of additional Indebtedness to any Seller or any Key Subsidiary without receipt of fair value) with

respect to any Equity Interests in any Seller or any Key Subsidiary or any repurchase for value of any Equity Interests or rights of any Seller or any Key Subsidiary (except for dividends and distributions among its Subsidiaries) or (ii) any split, combination or reclassification of any Equity Interests in Sellers or any issuance or the authorization of any issuance of any other Equity Interests in respect of, in lieu of or in substitution for Equity Interests of Sellers;

(b) other than as is required by the terms of the Parent Employee Benefit Plans and Policies, the Settlement Agreement, the UAW Collective Bargaining Agreement or consistent with the expiration of a Collective Bargaining Agreement or as may be required by applicable Law, in each case, as may be permitted by TARP or under any enhanced restrictions on executive compensation agreed to by Parent and Sponsor, any (i) grant to any Seller Key Personnel of any increase in compensation, except increases required under employment Contracts in effect as of January 1, 2009, or as a result of a promotion to a position of additional responsibility, (ii) grant to any Seller Key Personnel of any increase in retention, change in control, severance or termination compensation or benefits, except as required under any employment Contracts in effect as of January 1, 2009, (iii) other than in the Ordinary Course of Business, adoption, termination of, entry into or amendment or modification of, in a material manner, any Benefit Plan, (iv) adoption, termination of, entry into or amendment or modification of, in a material manner, any employment, retention, change in control, severance or termination Contract with any Seller Key Personnel or (v) entry into or amendment, modification or termination of any Collective Bargaining Agreement or other Contract with any Union of any Seller or Purchased Subsidiary;

(c) any material change in accounting methods, principles or practices by any Seller, Purchased Subsidiary or Seller Group member or any material joint venture to which any Seller or Purchased Subsidiary is a party, in each case, materially affecting the consolidated assets or Liabilities of Parent, except to the extent required by a change in GAAP or applicable Law, including Tax Laws;

(d) any sale, transfer, pledge or other disposition by any Seller or any Purchased Subsidiary of any portion of its assets or properties not in the Ordinary Course of Business and with a sale price or fair value in excess of $100,000,000;

(e) aggregate capital expenditures by any Seller or any Purchased Subsidiary in excess of $100,000,000 in a single project or group of related projects or capital expenditures in excess of $100,000,000 in the aggregate;

(f) any acquisition by any Seller or any Purchased Subsidiary (including by merger, consolidation, combination or acquisition of any Equity Interests or assets) of any Person or business or division thereof (other than acquisitions of portfolio assets and acquisitions in the Ordinary Course of Business) in a transaction (or series of related transactions) where the aggregate consideration paid or received (including non-cash equity consideration) exceeded $100,000,000;

(g) any discharge or satisfaction of any Indebtedness by any Seller or any Purchased Subsidiary in excess of $100,000,000, other than the discharge or satisfaction of any Indebtedness when due in accordance with its terms;

(h) any alteration, whether through a complete or partial liquidation, dissolution, merger, consolidation, restructuring, reorganization or in any other manner, the legal structure or ownership of any Seller or any Key Subsidiary or any material joint venture to which any Seller or any Key Subsidiary is a party, or the adoption or alteration of a plan with respect to any of the foregoing;

(i) any amendment or modification to the material adverse detriment of any Key Subsidiary of any material Affiliate Contract or Seller Material Contract, or termination of any material Affiliate Contract or Seller Material Contract to the material adverse detriment of any Seller or any Key Subsidiary, in each case, other than in the Ordinary Course of Business;

(j) any event, development or circumstance involving, or any change in the financial condition, properties, assets, liabilities, business, or results of operations of Sellers or any circumstance, occurrence or development (including any adverse change with respect to any circumstance, occurrence or development existing on or prior to the end of the most recent fiscal year end) of Sellers that has had or would reasonably be expected to have a Material Adverse Effect; or

(k) any commitment by any Seller, any Key Subsidiary (in the case of clauses (a), (g) and (h) above) or any Purchased Subsidiary (in the case of clauses (b) through (f) and clauses (h) and (j) above) to do any of the foregoing.

Section 4.7 Title to and Sufficiency of Assets.

(a) Subject to the entry and effectiveness of the Sale Approval Order, at the Closing, Sellers will obtain good and marketable title to, or a valid and enforceable right by Contract to use, the Purchased Assets, which shall be transferred to Purchaser, free and clear of all Encumbrances other than Permitted Encumbrances.

(b) The tangible Purchased Assets of each Seller are in normal operating condition and repair, subject to ordinary wear and tear, and sufficient for the operation of such Seller's business as currently conducted, except where such instances of noncompliance with the foregoing would not reasonably be expected to have a Material Adverse Effect.

Section 4.8 Compliance with Laws; Permits.

(a) Each Seller and each Purchased Subsidiary is in compliance with and is not in default under or in violation of any applicable Law, except where such non-compliance, default or violation would not reasonably be expected to have a Material Adverse Effect. Notwithstanding anything contained in this **Section 4.8(a)**, no representation or warranty shall be deemed to be made in this **Section 4.8(a)** in respect of

the matters referenced in **Section 4.5**, **Section 4.9**, **Section 4.10**, **Section 4.11** or **Section 4.13**, each of which matters is addressed by such other Sections of this Agreement.

(b) (i) Each Seller has all Permits necessary for such Seller to own, lease and operate the Purchased Assets and (ii) each Purchased Subsidiary has all Permits necessary for such entity to own, lease and operate its properties and assets, except in each case, where the failure to possess such Permits would not reasonably be expected to have a Material Adverse Effect. All such Permits are in full force and effect, except where the failure to be in full force and effect would not reasonably be expected to have a Material Adverse Effect.

Section 4.9 Environmental Laws. Except as would not reasonably be expected to have a Material Adverse Effect, to the Knowledge of Sellers, (a) each Seller and each Purchased Subsidiary has conducted its business on the Transferred Real Property in compliance with all applicable Environmental Laws; (b) none of the Transferred Real Property currently contains any Hazardous Materials, which could reasonably be expected to give rise to an undisclosed Liability under applicable Environmental Laws; (c) as of the date of this Agreement, no Seller or Purchased Subsidiary has received any currently unresolved written notices, demand letters or written requests for information from any Governmental Authority indicating that such entity may be in violation of any Environmental Law in connection with the ownership or operation of the Transferred Real Property; and (d) since April 1, 2007, no Hazardous Materials have been transported in violation of any applicable Environmental Law, or in a manner reasonably foreseen to give rise to any Liability under any Environmental Law, from any Transferred Real Property as a result of any activity of any Seller or Purchased Subsidiary. Except as provided in **Section 4.8(b)** with respect to Permits under Environmental Laws, Purchaser agrees and understands that no representation or warranty is made in respect of environmental matters in any Section of this Agreement other than this **Section 4.9**.

Section 4.10 Employee Benefit Plans.

(a) Section 4.10 of the Sellers' Disclosure Schedule sets forth all material Parent Employee Benefit Plans and Policies and Purchased Subsidiaries Employee Benefit Plans (collectively, the "Benefit Plans"). Sellers have made available, upon reasonable request, to Purchaser true, complete and correct copies of (i) each material Benefit Plan, (ii) the three (3) most recent annual reports on Form 5500 (including all schedules, auditor's reports and attachments thereto) filed with the IRS with respect to each such Benefit Plan (if any such report was required by applicable Law), (iii) the most recent actuarial or other financial report prepared with respect to such Benefit Plan, if any, (iv) each trust agreement and insurance or annuity Contract or other funding or financing arrangement relating to such Benefit Plan and (v) to the extent not subject to confidentiality restrictions, any material written communications received by Sellers or any Subsidiaries of Sellers from any Governmental Authority relating to a Benefit Plan, including any communication from the Pension Benefit Guaranty Corporation (the "PBGC"), in respect of any Benefit Plan, subject to Title IV of ERISA.

(b) Except as would not reasonably be expected to have a Material Adverse Effect, (i) each Benefit Plan has been administered in accordance with its terms, (ii) each

of Sellers, any of their Subsidiaries and each Benefit Plan is in compliance with the applicable provisions of ERISA, the Tax Code, all other applicable Laws (including Section 409A of the Tax Code, TARP or under any enhanced restrictions on executive compensation agreed to by Sellers with Sponsor) and the terms of all applicable Collective Bargaining Agreements, (iii) there are no (A) investigations by any Governmental Authority, (B) termination proceedings or other Claims (except routine Claims for benefits payable under any Benefit Plans) or (C) Claims, in each case, against or involving any Benefit Plan or asserting any rights to or Claims for benefits under any Benefit Plan that could give rise to any Liability, and there are not any facts or circumstances that could give rise to any Liability in the event of any such Claim and (iv) each Benefit Plan that is intended to be a Tax-qualified plan under Section 401(a) of the Tax Code (or similar provisions for Tax-registered or Tax-favored plans of non-United States jurisdictions) is qualified and any trust established in connection with any Benefit Plan that is intended to be exempt from taxation under Section 501(a) of the Tax Code (or similar provisions for Tax-registered or Tax-favored plans of non-United States jurisdictions) is exempt from United States federal income Taxes under Section 501(a) of the Tax Code (or similar provisions under non-United States law). To the Knowledge of Sellers, no circumstance and no fact or event exists that would be reasonably expected to adversely affect the qualified status of any Benefit Plan.

(c) None of the Parent Employee Benefit Plans and Policies or any material Purchased Subsidiaries Employee Benefit Plans that is an "employee pension benefit plan" (as defined in Section 3(2) of ERISA) has failed to satisfy, as applicable, the minimum funding standards (as described in Section 302 of ERISA or Section 412 of the Tax Code), whether or not waived, nor has any waiver of the minimum funding standards of Section 302 of ERISA or Section 412 of the Tax Code been requested.

(d) No Seller or any ERISA Affiliate of any Seller (including any Purchased Subsidiary) (i) has any actual or contingent Liability (A) under any employee benefit plan subject to Title IV of ERISA other than the Benefit Plans (except for contributions not yet due), (B) to the PBGC (except for the payment of premiums not yet due), which Liability, in each case, has not been fully paid as of the date hereof, or, if applicable, which has not been accrued in accordance with GAAP or (C) under any "multiemployer plan" (as defined in Section 3(37) of ERISA), or (ii) will incur withdrawal Liability under Title IV of ERISA as a result of the consummation of the transactions contemplated hereby, except for Liabilities with respect to any of the foregoing that would not reasonably be expected to have a Material Adverse Effect.

(e) Neither the execution of this Agreement or any Ancillary Agreement nor the consummation of the transactions contemplated hereby (alone or in conjunction with any other event, including termination of employment) will entitle any member of the board of directors of Parent or any Applicable Employee who is an officer or member of senior management of Parent to any increase in compensation or benefits, any grant of severance, retention, change in control or other similar compensation or benefits, any acceleration of the time of payment or vesting of any compensation or benefits (but not including, for this purpose, any retention, stay bonus or other incentive plan, program, arrangement that is a Retained Plan) or will require the securing or funding of any

compensation or benefits or limit the right of Sellers, any Subsidiary of Sellers or Purchaser or any Affiliates of Purchaser to amend, modify or terminate any Benefit Plan. Any new grant of severance, retention, change in control or other similar compensation or benefits to any Applicable Employee, and any payout to any Transferred Employee under any such existing arrangements, that would otherwise occur as a result of the execution of this Agreement or any Ancillary Agreement (alone or in conjunction with any other event, including termination of employment), has been waived by such Applicable Employee or otherwise cancelled.

(f) No amount or other entitlement currently in effect that could be received (whether in cash or property or the vesting of property) as a result of the actions contemplated by this Agreement and the Ancillary Agreements (alone or in combination with any other event) by any Person who is a "disqualified individual" (as defined in Treasury Regulation Section 1.280G-1) (each, a "Disqualified Individual") with respect to Sellers would be an "excess parachute payment" (as defined in Section 280G(b)(1) of the Tax Code). No Disqualified Individual or Applicable Employee is entitled to receive any additional payment (e.g., any Tax gross-up or any other payment) from Sellers or any Subsidiaries of Sellers in the event that the additional or excise Tax required by Section 409A or 4999 of the Tax Code, respectively is imposed on such individual.

(g) All individuals covered by the UAW Collective Bargaining Agreement are either Applicable Employees or employed by a Purchased Subsidiary.

(h) Section 4.10(h) of the Sellers' Disclosure Schedule lists all non-standard individual agreements currently in effect providing for compensation, benefits and perquisites for any current and former officer, director or top twenty-five (25) most highly paid employee of Parent and any other such material non-standard individual agreements with non-top twenty-five (25) employees.

Section 4.11 Labor Matters. There is not any labor strike, work stoppage or lockout pending, or, to the Knowledge of Sellers, threatened in writing against or affecting any Seller or any Purchased Subsidiary. Except as would not reasonably be expected to have a Material Adverse Effect: (a) none of Sellers or any Purchased Subsidiary is engaged in any material unfair labor practice; (b) there are not any unfair labor practice charges or complaints against Sellers or any Purchased Subsidiary pending, or, to the Knowledge of Sellers, threatened, before the National Labor Relations Board; (c) there are not any pending or, to the Knowledge of Sellers, threatened in writing, union grievances against Sellers or any Purchased Subsidiary as to which there is a reasonable possibility of adverse determination; (d) there are not any pending, or, to the Knowledge of Sellers, threatened in writing, charges against Sellers or any Purchased Subsidiary or any of their current or former employees before the Equal Employment Opportunity Commission or any state or local agency responsible for the prevention of unlawful employment practices; (e) no union organizational campaign is in progress with respect to the employees of any Seller or any Purchased Subsidiary and no question concerning representation of such employees exists; and (f) no Seller nor any Purchased Subsidiary has received written communication during the past five (5) years of the intent of any Governmental Authority responsible for the enforcement of labor or employment Laws to conduct an investigation of or

affecting Sellers or any Subsidiary of Sellers and, to the Knowledge of Sellers, no such investigation is in progress.

Section 4.12 Investigations; Litigation. (a) To the Knowledge of Sellers, there is no investigation or review pending by any Governmental Authority with respect to any Seller that would reasonably be expected to have a Material Adverse Effect, and (b) there are no actions, suits, inquiries or proceedings, or to the Knowledge of Sellers, investigations, pending against any Seller, or relating to any of the Transferred Real Property, at law or in equity before, and there are no Orders of or before, any Governmental Authority, in each case that would reasonably be expected to have a Material Adverse Effect.

Section 4.13 Tax Matters. Except as would not reasonably be expected to have a Material Adverse Effect, (a) all Tax Returns required to have been filed by, with respect to or on behalf of any Seller, Seller Group member or Purchased Subsidiary have been timely filed (taking into account any extension of time to file granted or obtained) and are correct and complete in all respects, (b) all amounts of Tax required to be paid with respect to any Seller, Seller Group member or Purchased Subsidiary (whether or not shown on any Tax Return) have been timely paid or are being contested in good faith by appropriate proceedings and have been reserved for in accordance with GAAP in Parent's consolidated audited financial statements, (c) no deficiency for any amount of Tax has been asserted or assessed by a Taxing Authority in writing relating to any Seller, Seller Group member or Purchased Subsidiary that has not been satisfied by payment, settled or withdrawn, (d) there are no audits, Claims or controversies currently asserted or threatened in writing with respect to any Seller, Seller Group member or Purchased Subsidiary in respect of any amount of Tax or failure to file any Tax Return, (e) no Seller, Seller Group member or Purchased Subsidiary has agreed to any extension or waiver of the statute of limitations applicable to any Tax Return, or agreed to any extension of time with respect to a Tax assessment or deficiency, which period (after giving effect to such extension or waiver) has not yet expired, (f) no Seller, Seller Group member or Purchased Subsidiary is a party to or the subject of any ruling requests, private letter rulings, closing agreements, settlement agreements or similar agreements with any Taxing Authority for any periods for which the statute of limitations has not yet run, (g) no Seller, Seller Group member or Purchased Subsidiary (A) has any Liability for Taxes of any Person (other than any Purchased Subsidiary), including as a transferee or successor, or pursuant to any contractual obligation (other than pursuant to any commercial Contract not primarily related to Tax), or (B) is a party to or bound by any Tax sharing agreement, Tax allocation agreement or Tax indemnity agreement (in every case, other than this Agreement and those Tax sharing, Tax allocation or Tax indemnity agreements that will be terminated prior to Closing and with respect to which no post-Closing Liabilities will exist), (h) each of the Purchased Subsidiaries and each Seller and Seller Group member has withheld or collected all Taxes required to have been withheld or collected and, to the extent required, has paid such Taxes to the proper Taxing Authority, (i) no Seller, Seller Group member or Purchased Subsidiary will be required to make any adjustments in taxable income for any Tax period (or portion thereof) ending after the Closing Date, including pursuant to Section 481(a) or 263A of the Tax Code or any similar provision of foreign, provincial, state, local or other Law as a result of transactions or events occurring, or accounting methods employed, prior to the Closing, nor is any application pending with any Taxing Authority requesting permission for any changes in accounting methods that relate to any Seller, Seller Group member or Purchased Subsidiary, (j) the Assumed Liabilities were incurred through the

Ordinary Course of Business, (k) there are no Tax Encumbrances on any of the Purchased Assets or the assets of any Purchased Subsidiary (other than Permitted Encumbrances for which appropriate reserves have been established (and to the extent that such liens relate to a period ending on or before December 31, 2008, the amount of any such Liability is accrued or reserved for as a Liability in accordance with GAAP in the audited consolidated balance sheet of Sellers at December 31, 2008)), (l) none of the Purchased Subsidiaries or Sellers has been a "distributing corporation" or a "controlled corporation" in a distribution intended to qualify under Section 355(a) of the Tax Code, (m) none of the Purchased Subsidiaries, Sellers or Seller Group members has participated in any "listed transactions" or "reportable transactions" within the meaning of Treasury Regulations Section 1.6011-4, (n) there are no unpaid Taxes with respect to any Seller, Seller Group member or Purchased Asset for which Purchaser will have liability as a transferee or successor and (o) the most recent financial statements contained in the Parent SEC Documents reflect an adequate reserve for all Taxes payable by Sellers, the Purchased Subsidiaries and the members of all Seller Groups for all taxable periods and portions thereof through the date of such financial statements.

Section 4.14 Intellectual Property and IT Systems.

(a) Except as would not reasonably be expected to have a Material Adverse Effect: (i) each Seller and each Purchased Subsidiary owns, controls, or otherwise possesses sufficient rights to use, free and clear of all Encumbrances (other than Permitted Encumbrances) all Intellectual Property necessary for the conduct of its business in substantially the same manner as conducted as of the date hereof; and (ii) all Intellectual Property owned by Sellers that is necessary for the conduct of the business of Sellers and each Purchased Subsidiary as conducted as of the date hereof is subsisting and in full force and effect, has not been adjudged invalid or unenforceable, has not been abandoned or allowed to lapse, in whole or in part, and to the Knowledge of Sellers, is valid and enforceable.

(b) Except as would not reasonably be expected to have a Material Adverse Effect, all necessary registration, maintenance and renewal fees in connection with the Intellectual Property owned by Sellers have been paid and all necessary documents and certificates in connection with such Intellectual Property have been filed with the relevant patent, copyright, trademark or other authorities in the United States or applicable foreign jurisdictions, as the case may be, for the purposes of prosecuting, maintaining or renewing such Intellectual Property.

(c) Except as would not reasonably be expected to have a Material Adverse Effect, no Intellectual Property owned by Sellers is the subject of any licensing or franchising Contract that prohibits or materially restricts the conduct of business as presently conducted by any Seller or Purchased Subsidiary or the transfer of such Intellectual Property.

(d) Except as would not reasonably be expected to have a Material Adverse Effect: (i) the Intellectual Property or the conduct of Sellers' and the Purchased Subsidiaries' businesses does not infringe, misappropriate, dilute, or otherwise violate or conflict with the trademarks, patents, copyrights, inventions, trade secrets, proprietary

information and technology, know-how, formulae, rights of publicity or any other intellectual property rights of any Person; (ii) to the Knowledge of Sellers, no other Person is now infringing or in conflict with any Intellectual Property owned by Sellers or Sellers' rights thereunder; and (iii) no Seller or any Purchased Subsidiary has received any written notice that it is violating or has violated the trademarks, patents, copyrights, inventions, trade secrets, proprietary information and technology, know-how, formulae, rights of publicity or any other intellectual property rights of any third party.

(e) Except as would not reasonably be expected to have a Material Adverse Effect, no holding, decision or judgment has been rendered by any Governmental Authority against any Seller, which would limit, cancel or invalidate any Intellectual Property owned by Sellers.

(f) No action or proceeding is pending, or to the Knowledge of Sellers, threatened, on the date hereof that (i) seeks to limit, cancel or invalidate any Intellectual Property owned by Sellers or such Sellers' ownership interest therein; and (ii) if adversely determined, would reasonably be expected to have a Material Adverse Effect.

(g) Except as would not reasonably be expected to have a Material Adverse Effect, Sellers and the Purchased Subsidiaries have taken reasonable actions to (i) maintain, enforce and police their Intellectual Property; and (ii) protect their material Software, websites and other systems (and the information therein) from unauthorized access or use.

(h) Except as would not reasonably be expected to have a Material Adverse Effect: (i) each Seller and Purchased Subsidiary has taken reasonable steps to protect its rights in, and confidentiality of, all the Trade Secrets, and any other confidential information owned by such Seller or Purchased Subsidiary; and (ii) to the Knowledge of Sellers, such Trade Secrets have not been disclosed by Sellers to any Person except pursuant to a valid and appropriate non-disclosure, license or any other appropriate Contract that has not been breached.

(i) Except as would not reasonably be expected to have a Material Adverse Effect, there has not been any malfunction with respect to any of the Software, electronic data processing, data communication lines, telecommunication lines, firmware, hardware, Internet websites or other information technology equipment of any Seller or Purchased Subsidiary since April 1, 2007, which has not been remedied or replaced in all respects.

(j) Except as would not reasonably be expected to have a Material Adverse Effect: (i) the consummation of the transactions contemplated by this Agreement will not cause to be provided or licensed to any third Person, or give rise to any rights of any third Person with respect to, any source code that is part of the Software owned by Sellers; and (ii) Sellers have implemented reasonable disaster recovery and back-up plans with respect to the Software.

Section 4.15 Real Property. Each Seller owns and has valid title to the Transferred Real Property that is Owned Real Property owned by it and has valid leasehold or

subleasehold interests, as the case may be, in all of the Transferred Real Property that is Leased Real Property leased or subleased by it, in each case, free and clear of all Encumbrances, other than Permitted Encumbrances. Each of Sellers and the Purchased Subsidiaries has complied with the terms of each lease, sublease, license or other Contract relating to the Transferred Real Property to which it is a party, except any failure to comply that would not reasonably be expected to have a Material Adverse Effect.

Section 4.16 Material Contracts.

(a) Except for this Agreement, the Parent Employee Benefit Plans and Policies, except as filed with, or disclosed or incorporated in, the Parent SEC Documents or except as set forth on Section 4.16 of the Sellers' Disclosure Schedule, as of the date hereof, no Seller is a party to or bound by (i) any "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC); (ii) any non-compete or exclusivity agreement that materially restricts the operation of Sellers' core business; (iii) any asset purchase agreement, stock purchase agreement or other agreement entered into within the past six years governing a material joint venture or the acquisition or disposition of assets or other property where the consideration paid or received for such assets or other property exceeded $500,000,000 (whether in cash, stock or otherwise); (iv) any agreement or series of related agreements with any supplier of Sellers who directly support the production of vehicles, which provided collectively for payments by Sellers to such supplier in excess of $250,000,000 during the 12-month period ended December 31, 2008; (v) any agreement or series of related agreements with any supplier of Sellers who does not directly support the production of vehicles, which, provided collectively for payments by Sellers to such supplier in excess of $100,000,000 during the 12-month period ended April 30, 2009; (vi) any Contract relating to the lease or purchase of aircraft; (vii) any settlement agreement where a Seller has paid or may be required to pay an amount in excess of $100,000,000 to settle the Claims covered by such settlement agreement; (viii) any material Contract that will, following the Closing, as a result of transactions contemplated hereby, be between or among a Seller or any Retained Subsidiary, on the one hand, and Purchaser or any Purchased Subsidiary, on the other hand (other than the Ancillary Agreements); and (ix) agreements entered into in connection with a material joint venture (all Contracts of the type described in this **Section 4.16(a)** being referred to herein as "Seller Material Contracts").

(b) No Seller is in breach of or default under, or has received any written notice alleging any breach of or default under, the terms of any Seller Material Contract or material License, where such breach or default would reasonably be expected to have a Material Adverse Effect. To the Knowledge of Sellers, no other party to any Seller Material Contract or material License is in breach of or default under the terms of any Seller Material Contract or material License, where such breach or default would reasonably be expected to have a Material Adverse Effect. Except as would not reasonably be expected to have a Material Adverse Effect, each Seller Material Contract or material License is a valid, binding and enforceable obligation of such Seller that is party thereto and, to the Knowledge of Sellers, of each other party thereto, and is in full force and effect, except as enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent transfer and other similar Laws

relating to or affecting the enforcement of creditors' rights generally from time to time in effect and by general equitable principles relating to enforceability, including principles of commercial reasonableness, good faith and fair dealing.

Section 4.17 Dealer Sales and Service Agreements for Continuing Brands. Parent is not in breach of or default under the terms of any United States dealer sales and service Contract for Continuing Brands other than any Excluded Continuing Brand Dealer Agreement (each, a "Dealer Agreement"), where such breach or default would reasonably be expected to have a Material Adverse Effect. To the Knowledge of Sellers, no other party to any Dealer Agreement is in breach of or default under the terms of such Dealer Agreement, where such breach or default would not reasonably be expected to have a Material Adverse Effect. Except as would not reasonably be expected to have a Material Adverse Effect, each Dealer Agreement is a valid and binding obligation of Parent and, to the Knowledge of Sellers, of each other party thereto, and is in full force and effect, except as enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent transfer and other similar Laws relating to or affecting the enforcement of creditors' rights generally from time to time in effect and by general equitable principles relating to enforceability, including principles of commercial reasonableness, good faith and fair dealing.

Section 4.18 Sellers' Products.

(a) To the Knowledge of Sellers, since April 1, 2007, neither Sellers nor any Purchased Subsidiary has conducted or decided to conduct any material recall or other field action concerning any product developed, designed, manufactured, sold, provided or placed in the stream of commerce by or on behalf of any Seller or any Purchased Subsidiary.

(b) As of the date hereof, there are no material pending actions for negligence, manufacturing negligence or improper workmanship, or material pending actions, in whole or in part, premised upon product liability, against or otherwise naming as a party any Seller, Purchased Subsidiary or any predecessor-in-interest of any of the foregoing Persons, or to the Knowledge of Sellers, threatened in writing or of which Seller has received written notice that involve a product liability Claim resulting from the ownership, possession or use of any product manufactured, sold or delivered by any Seller, any Purchased Subsidiary or any predecessor-in-interest of any of the foregoing Persons, which would reasonably be expected to have a Material Adverse Effect.

(c) To the Knowledge of Sellers and except as would not reasonably be expected to have a Material Adverse Effect, no supplier to any Seller has threatened in writing to cease the supply of products or services that could impair future production at a major production facility of such Seller.

Section 4.19 Certain Business Practices. Each of Sellers and the Purchased Subsidiaries is in compliance with the legal requirements under the Foreign Corrupt Practices Act, as amended (the "FCPA"), except for such failures, whether individually or in the aggregate, to maintain books and records or internal controls as required thereunder that are not

material. To the Knowledge of Sellers, since April 1, 2007, no Seller or Purchased Subsidiary, nor any director, officer, employee or agent thereof, acting on its, his or her own behalf or on behalf of any of the foregoing Persons, has offered, promised, authorized the payment of, or paid, any money, or the transfer of anything of value, directly or indirectly, to or for the benefit of: (a) any employee, official, agent or other representative of any foreign Governmental Authority, or of any public international organization; or (b) any foreign political party or official thereof or candidate for foreign political office for the purpose of influencing any act or decision of such recipient in the recipient's official capacity, or inducing such recipient to use his, her or its influence to affect any act or decision of such foreign government or department, agency or instrumentality thereof or of such public international organization, or securing any improper advantage, in the case of both clause (a) and (b) above, in order to assist any Seller or any Purchased Subsidiary to obtain or retain business for, or to direct business to, any Seller or any Purchased Subsidiary and under circumstances that would subject any Seller or any Purchased Subsidiary to material Liability under any applicable Laws of the United States (including the FCPA) or of any foreign jurisdiction where any Seller or any Purchased Subsidiary does business relating to corruption, bribery, ethical business conduct, money laundering, political contributions, gifts and gratuities, or lawful expenses.

Section 4.20 Brokers and Other Advisors. No broker, investment banker, financial advisor, counsel (other than legal counsel) or other Person is entitled to any broker's, finder's or financial advisor's fee or commission (collectively, "Advisory Fees") in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Sellers or any Affiliate of any Seller.

Section 4.21 Investment Representations.

(a) Each Seller is acquiring the Parent Shares for its own account solely for investment and not with a view to, or for sale in connection with, any distribution thereof in violation of the Securities Act or the applicable securities Laws of any jurisdiction. Each Seller agrees that it shall not transfer any of the Parent Shares, except in compliance with the Securities Act and with the applicable securities Laws of any other jurisdiction.

(b) Each Seller is an "Accredited Investor" as defined in Rule 501(a) promulgated under the Securities Act.

(c) Each Seller understands that the acquisition of the Parent Shares to be acquired by it pursuant to the terms of this Agreement involves substantial risk. Each Seller and its officers have experience as an investor in the Equity Interests of companies such as the ones being transferred pursuant to this Agreement and each Seller acknowledges that it can bear the economic risk of its investment and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of its investment in the Parent Shares to be acquired by it pursuant to the transactions contemplated by this Agreement.

(d) Each Seller further understands and acknowledges that the Parent Shares have not been registered under the Securities Act or under the applicable securities Laws of any jurisdiction and agrees that the Parent Shares may not be sold, transferred, offered

for sale, pledged, hypothecated or otherwise disposed of without registration under the Securities Act or under the applicable securities Laws of any jurisdiction, or, in each case, an applicable exemption therefrom.

(e) Each Seller acknowledges that the offer and sale of the Parent Shares has not been accomplished by the publication of any advertisement.

Section 4.22 No Other Representations or Warranties of Sellers. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS **ARTICLE IV**, NONE OF SELLERS AND ANY PERSON ACTING ON BEHALF OF A SELLER MAKES ANY OTHER EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WITH RESPECT TO SELLERS, ANY OF THEIR AFFILIATES, SELLERS' BUSINESS, THE PURCHASED ASSETS, THE ASSUMED LIABILITIES OR WITH RESPECT TO ANY OTHER INFORMATION PROVIDED TO PURCHASER OR ANY OF ITS AFFILIATES OR REPRESENTATIVES IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, EXCEPT AS SET FORTH IN THE REPRESENTATIONS AND WARRANTIES OF SELLERS CONTAINED IN THIS **ARTICLE IV**, SELLERS MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, WITH RESPECT TO (A) MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR USE, TITLE OR NON-INFRINGEMENT OF THE PURCHASED ASSETS, (B) ANY INFORMATION, WRITTEN OR ORAL AND IN ANY FORM PROVIDED OR MADE AVAILABLE (WHETHER BEFORE OR, IN CONNECTION WITH ANY SUPPLEMENT, MODIFICATION OR UPDATE TO THE SELLERS' DISCLOSURE SCHEDULE PURSUANT TO **SECTION 6.5**, **SECTION 6.6** OR **SECTION 6.26,** AFTER THE DATE HEREOF) TO PURCHASER OR ANY OF ITS AFFILIATES OR REPRESENTATIVES, INCLUDING IN "DATA ROOMS" (INCLUDING ON-LINE DATA ROOMS), MANAGEMENT PRESENTATIONS, FUNCTIONAL "BREAK-OUT" DISCUSSIONS, RESPONSES TO QUESTIONS SUBMITTED ON BEHALF OF THEM OR OTHER COMMUNICATIONS BETWEEN THEM OR ANY OF THEIR REPRESENTATIVES, ON THE ONE HAND, AND SELLERS, THEIR AFFILIATES, OR ANY OF THEIR REPRESENTATIVES, ON THE OTHER HAND, OR ON THE ACCURACY OR COMPLETENESS OF ANY SUCH INFORMATION, OR ANY PROJECTIONS, ESTIMATES, BUSINESS PLANS OR BUDGETS DELIVERED TO OR MADE AVAILABLE TO PURCHASER OR ANY OF ITS AFFILIATES OR REPRESENTATIVES OR (C) FUTURE REVENUES, EXPENSES OR EXPENDITURES, FUTURE RESULTS OF OPERATIONS (OR ANY COMPONENT THEREOF), FUTURE CASH FLOWS OR FUTURE FINANCIAL CONDITION (OR ANY COMPONENT THEREOF) OF SELLERS' BUSINESS OR THE PURCHASED ASSETS.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Sellers as follows:

Section 5.1 Organization and Good Standing. Purchaser is a legal entity duly organized, validly existing and in good standing under the Laws of its jurisdiction of

incorporation. Purchaser has the requisite corporate power and authority to own, lease and operate its assets and to carry on its business as now being conducted.

Section 5.2 Authorization; Enforceability.

(a) Purchaser has the requisite corporate power and authority to (i) execute and deliver this Agreement and the Ancillary Agreements to which it is a party; (ii) perform its obligations hereunder and thereunder; and (iii) consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is a party.

(b) This Agreement constitutes, and each of the Ancillary Agreements to which Purchaser is a party, when duly executed and delivered by Purchaser, shall constitute, a valid and legally binding obligation of Purchaser (assuming that this Agreement and such Ancillary Agreements constitute valid and legally binding obligations of each Seller that is a party thereto and the other applicable parties thereto), enforceable against Purchaser in accordance with its respective terms and conditions, except as may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent transfer and other similar Laws relating to or affecting the enforcement of creditors' rights generally from time to time in effect and by general equitable principles relating to enforceability, including principles of commercial reasonableness, good faith and fair dealing.

Section 5.3 Noncontravention; Consents.

(a) The execution and delivery by Purchaser of this Agreement and the Ancillary Agreements to which it is a party, and (subject to the entry of the Sale Approval Order) the consummation by Purchaser of the transactions contemplated hereby and thereby, do not (i) violate any Law to which Purchaser or its assets is subject; (ii) conflict with or result in a breach of any provision of the Organizational Documents of Purchaser; or (iii) create a breach, default, termination, cancellation or acceleration of any obligation of Purchaser under any Contract to which Purchaser is a party or by which Purchaser or any of its assets or properties is bound or subject, except for any of the foregoing in the cases of clauses (i) and (iii), that would not reasonably be expected to have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereby or thereby or to perform any of its obligations under this Agreement or any Ancillary Agreement to which it is a party (a "Purchaser Material Adverse Effect").

(b) No consent, waiver, approval, Order, Permit or authorization of, or declaration or filing with, or notification to, any Person or Governmental Authority is required by Purchaser for the consummation by Purchaser of the transactions contemplated by this Agreement or the Ancillary Agreements to which it is a party or the compliance by Purchaser with any of the provisions hereof or thereof, except for (i) compliance with the applicable requirements of any Antitrust Laws and (ii) such consent, waiver, approval, Order, Permit, qualification or authorization of, or declaration or filing with, or notification to, any Governmental Authority, the failure of which to be received

or made would not, individually or in the aggregate, reasonably be expected to have a Purchaser Material Adverse Effect.

Section 5.4 Capitalization.

(a) As of the date hereof, Sponsor holds beneficially and of record 1,000 shares of common stock, par value $0.01 per share, of Purchaser, which constitutes all of the outstanding capital stock of Purchaser, and all such capital stock is validly issued, fully paid and nonassessable.

(b) Immediately following the Closing, the authorized capital stock of Purchaser (or, if a Holding Company Reorganization has occurred prior to the Closing, Holding Company) will consist of 2,500,000,000 shares of common stock, par value $0.01 per share ("Common Stock"), and 1,000,000,000 shares of preferred stock, par value $0.01 per share ("Preferred Stock"), of which 360,000,000 shares of Preferred Stock are designated as Series A Fixed Rate Cumulative Perpetual Preferred Stock, par value $0.01 per share (the "Series A Preferred Stock").

(c) Immediately following the Closing, (i) Canada or one or more of its Affiliates will hold beneficially and of record 58,368,644 shares of Common Stock and 16,101,695 shares of Series A Preferred Stock (collectively, the "Canada Shares"), (ii) Sponsor or one or more of its Affiliates collectively will hold beneficially and of record 304,131,356 shares of Common Stock and 83,898,305 shares of Series A Preferred Stock (collectively, the "Sponsor Shares") and (iii) the New VEBA will hold beneficially and of record 87,500,000 shares of Common Stock and 260,000,000 shares of Series A Preferred Stock (collectively, the "VEBA Shares"). Immediately following the Closing, there will be no other holders of Common Stock or Preferred Stock.

(d) Except as provided under the Parent Warrants, VEBA Warrants, Equity Incentive Plans or as disclosed on the Purchaser's Disclosure Schedule, there are and, immediately following the Closing, there will be no outstanding options, warrants, subscriptions, calls, convertible securities, phantom equity, equity appreciation or similar rights, or other rights or Contracts (contingent or otherwise) (including any right of conversion or exchange under any outstanding security, instrument or other Contract or any preemptive right) obligating Purchaser to deliver or sell, or cause to be issued, delivered or sold, any shares of its capital stock or other equity securities, instruments or rights that are, directly or indirectly, convertible into or exercisable or exchangeable for any shares of its capital stock. There are no outstanding contractual obligations of Purchaser to repurchase, redeem or otherwise acquire any shares of its capital stock or to provide funds to, or make any material investment (in the form of a loan, capital contribution or otherwise) in, any other Person. There are no voting trusts, shareholder agreements, proxies or other Contracts or understandings in effect with respect to the voting or transfer of any of the shares of Common Stock to which Purchaser is a party or by which Purchaser is bound. Except as provided under the Equity Registration Rights Agreement or as disclosed in the Purchaser's Disclosure Schedule, Purchaser has not granted or agreed to grant any holders of shares of Common Stock or securities

convertible into shares of Common Stock registration rights with respect to such shares under the Securities Act.

(e) Immediately following the Closing, (i) all of the Canada Shares, the Parent Shares and the Sponsor Shares will be duly and validly authorized and issued, fully paid and nonassessable, and will be issued in accordance with the registration or qualification provisions of the Securities Act or pursuant to valid exemptions therefrom and (ii) none of the Canada Shares, the Parent Shares or the Sponsor Shares will be issued in violation of any preemptive rights.

Section 5.5 Valid Issuance of Shares. The Parent Shares, Adjustment Shares and the Common Stock underlying the Parent Warrants, when issued, sold and delivered in accordance with the terms and for the consideration set forth in this Agreement and the related warrant agreement, as applicable, will be (a) validly issued, fully paid and nonassessable and (b) free of restrictions on transfer other than restrictions on transfer under applicable state and federal securities Laws and Encumbrances created by or imposed by Sellers. Assuming the accuracy of the representations of Sellers in **Section 4.21**, the Parent Shares, Adjustment Shares and Parent Warrants will be issued in compliance with all applicable federal and state securities Laws.

Section 5.6 Investment Representations.

(a) Purchaser is acquiring the Transferred Equity Interests for its own account solely for investment and not with a view to, or for sale in connection with, any distribution thereof in violation of the Securities Act or the applicable securities Laws of any jurisdiction. Purchaser agrees that it shall not transfer any of the Transferred Equity Interests, except in compliance with the Securities Act and with the applicable securities Laws of any other jurisdiction.

(b) Purchaser is an "Accredited Investor" as defined in Rule 501(a) promulgated under the Securities Act.

(c) Purchaser understands that the acquisition of the Transferred Equity Interests to be acquired by it pursuant to the terms of this Agreement involves substantial risk. Purchaser and its officers have experience as an investor in Equity Interests of companies such as the ones being transferred pursuant to this Agreement and Purchaser acknowledges that it can bear the economic risk of its investment and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of its investment in the Transferred Equity Interests to be acquired by it pursuant to the transactions contemplated hereby.

(d) Purchaser further understands and acknowledges that the Transferred Equity Interests have not been registered under the Securities Act or under the applicable securities Laws of any jurisdiction and agrees that the Transferred Equity Interests may not be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of without registration under the Securities Act or under the applicable securities Laws of any jurisdiction, or, in each case, an applicable exemption therefrom.

(e) Purchaser acknowledges that the offer and sale of the Transferred Equity Interests has not been accomplished by the publication of any advertisement.

Section 5.7 Continuity of Business Enterprise. It is the present intention of Purchaser to directly, or indirectly through its Subsidiaries, continue at least one significant historic business line of each Seller, or use at least a significant portion of each Seller's historic business assets in a business, in each case, within the meaning of Treas. Reg. § 1.368-1(d).

Section 5.8 Integrated Transaction. Sponsor has contributed, or will, prior to the Closing, contribute the UST Credit Facilities, a portion of the DIP Facility that is owed as of the Closing and the UST Warrant to Purchaser solely for the purposes of effectuating the transactions contemplated by this Agreement.

Section 5.9 No Other Representations or Warranties of Sellers. PURCHASER HEREBY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED IN **ARTICLE IV**, NONE OF SELLERS AND ANY PERSON ACTING ON BEHALF OF A SELLER MAKES ANY OTHER EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WITH RESPECT TO SELLERS, ANY OF THEIR AFFILIATES, SELLERS' BUSINESS, THE PURCHASED ASSETS, THE ASSUMED LIABILITIES OR WITH RESPECT TO ANY OTHER INFORMATION PROVIDED TO PURCHASER OR ANY OF ITS AFFILIATES OR REPRESENTATIVES IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, EXCEPT AS SET FORTH IN THE REPRESENTATIONS AND WARRANTIES OF SELLERS CONTAINED IN **ARTICLE IV**, PURCHASER FURTHER HEREBY ACKNOWLEDGES AND AGREES THAT SELLERS MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, WITH RESPECT TO (A) MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR USE, TITLE OR NON-INFRINGEMENT OF THE PURCHASED ASSETS, (B) ANY INFORMATION, WRITTEN OR ORAL AND IN ANY FORM PROVIDED OR MADE AVAILABLE (WHETHER BEFORE OR, IN CONNECTION WITH ANY SUPPLEMENT, MODIFICATION OR UPDATE TO THE SELLERS' DISCLOSURE SCHEDULE PURSUANT TO **SECTION 6.5**, **SECTION 6.6** OR **SECTION 6.26,** AFTER THE DATE HEREOF) TO PURCHASER OR ANY OF ITS REPRESENTATIVES, INCLUDING IN "DATA ROOMS" (INCLUDING ON-LINE DATA ROOMS), MANAGEMENT PRESENTATIONS, FUNCTIONAL "BREAK-OUT" DISCUSSIONS, RESPONSES TO QUESTIONS SUBMITTED ON BEHALF OF IT OR OTHER COMMUNICATIONS BETWEEN IT OR ANY OF ITS AFFILIATES OR REPRESENTATIVES, ON THE ONE HAND, AND SELLERS, THEIR AFFILIATES, OR ANY OF THEIR REPRESENTATIVES, ON THE OTHER HAND, OR ON THE ACCURACY OR COMPLETENESS OF ANY SUCH INFORMATION OR (C) ANY PROJECTIONS, ESTIMATES, BUSINESS PLANS OR BUDGETS DELIVERED TO OR MADE AVAILABLE TO PURCHASER OR ANY OF ITS AFFILIATES OR REPRESENTATIVES OR (D) FUTURE REVENUES, EXPENSES OR EXPENDITURES, FUTURE RESULTS OF OPERATIONS (OR ANY COMPONENT THEREOF), FUTURE CASH FLOWS OR FUTURE FINANCIAL CONDITION (OR ANY COMPONENT THEREOF) OF SELLERS' BUSINESS OR THE PURCHASED ASSETS.

ARTICLE VI
COVENANTS

Section 6.1 Access to Information.

(a) Sellers agree that, until the earlier of the Executory Contract Designation Deadline and the termination of this Agreement, Purchaser shall be entitled, through its Representatives or otherwise, to have reasonable access to the executive officers and Representatives of Sellers and the properties and other facilities, businesses, books, Contracts, personnel, records and operations (including the Purchased Assets and Assumed Liabilities) of Sellers and their Subsidiaries, including access to systems, data, databases for benefit plan administration; provided however, that no such investigation or examination shall be permitted to the extent that it would, in Sellers' reasonable determination, require any Seller, any Subsidiary of any Seller or any of their respective Representatives to disclose information subject to attorney-client privilege or in conflict with any confidentiality agreement to which any Seller, any Subsidiary of any Seller or any of their respective Representatives are bound (in which case, to the extent requested by Purchaser, Sellers will use reasonable best efforts to seek an amendment or appropriate waiver, or necessary consents, as may be required to avoid such conflict, or restructure the form of access, so as to permit the access requested); provided further, that notwithstanding the notice provisions in **Section 9.2** hereof, all such requests for access to the executive officers of Sellers shall be directed, prior to the Closing, to the Chief Financial Officer of Parent or his designee, and following the Closing, to the Chief Restructuring Officer of Parent or his or her designee. If any material is withheld pursuant to this **Section 6.1(a)**, Seller shall inform Purchaser in writing as to the general nature of what is being withheld and the reason for withholding such material.

(b) Any investigation and examination contemplated by this **Section 6.1** shall be subject to restrictions set forth in **Section 6.24** and under applicable Law. Sellers shall cooperate, and shall cause their Subsidiaries and each of their respective Representatives to cooperate, with Purchaser and its Representatives in connection with such investigation and examination, and each of Purchaser and its Representatives shall use their reasonable best efforts to not materially interfere with the business of Sellers and their Subsidiaries. Without limiting the generality of the foregoing, subject to **Section 6.1(a),** such investigation and examination shall include reasonable access to Sellers' executive officers (and employees of Sellers and their respective Subsidiaries identified by such executive officers), offices, properties and other facilities, and books, Contracts and records (including any document retention policies of Sellers) and access to accountants of Sellers and each of their respective Subsidiaries (provided that Sellers and each of their respective Subsidiaries, as applicable, shall have the right to be present at any meeting between any such accountant and Purchaser or Representative of Purchaser, whether such meeting is in person, telephonic or otherwise) and Sellers and each of their respective Subsidiaries and their Representatives shall prepare and furnish to Purchaser's Representatives such additional financial and operating data and other information as Purchaser may from time to time reasonably request, subject, in each case, to the confidentiality restrictions outlined in this **Section 6.1**. Notwithstanding anything contained herein to the contrary, Purchaser shall consult with Sellers prior to conducting

any environmental investigations or examinations of any nature, including Phase I and Phase II site assessments and any environmental sampling in respect of the Transferred Real Property.

Section 6.2 Conduct of Business.

(a) Except as (i) otherwise expressly contemplated by or permitted under this Agreement, including the DIP Facility; (ii) disclosed on Section 6.2 of the Sellers' Disclosure Schedule; (iii) approved by the Bankruptcy Court (or any other court or other Governmental Authority in connection with any other bankruptcy, insolvency or similar proceeding filed by or in respect of any Subsidiary of Parent); or (iv) required by or resulting from any changes to applicable Laws, from and after the date of this Agreement and until the earlier of the Closing and the termination of this Agreement, Sellers shall and shall cause each Purchased Subsidiary to (A) conduct their operations in the Ordinary Course of Business, (B) not take any action inconsistent with this Agreement or with the consummation of the Closing, (C) use reasonable best efforts to preserve in the Ordinary Course of Business and in all material respects the present relationships of Sellers and each of their Subsidiaries with their respective customers, suppliers and others having significant business dealings with them, (D) not take any action to cause any of Sellers' representations and warranties set forth in **ARTICLE IV** to be untrue in any material respect as of any such date when such representation or warranty is made or deemed to be made and (E) not take any action that would reasonably be expected to materially prevent or delay the Closing.

(b) Subject to the exceptions contained in clauses (i) through (iv) of **Section 6.2(a)**, each Seller agrees that, from and after the date of this Agreement and until the earlier of the Closing and the termination of this Agreement, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed), such Seller shall not, and shall not permit any of the Key Subsidiaries (and in the case of clauses (i), (ix), (xiii) or (xvi), shall not permit any Purchased Subsidiary) to:

(i) take any action with respect to which any Seller has granted approval rights to Sponsor under any Contract, including under the UST Credit Facilities, without obtaining the prior approval of such action from Sponsor;

(ii) issue, sell, pledge, create an Encumbrance or otherwise dispose of or authorize the issuance, sale, pledge, Encumbrance or disposition of any Equity Interests of the Transferred Entities, or grant any options, warrants or other rights to purchase or obtain (including upon conversion, exchange or exercise) any such Equity Interests;

(iii) declare, set aside or pay any dividend or make any distribution (whether in cash, securities or other property or by allocation of additional Indebtedness to any Seller or any Key Subsidiary without receipt of fair value with respect to any Equity Interest of Seller or any Key Subsidiary), except for dividends and distributions among the Purchased Subsidiaries;

(iv) directly or indirectly, purchase, redeem or otherwise acquire any Equity Interests or any rights to acquire any Equity Interests of any Seller or Key Subsidiary;

(v) materially change any of its financial accounting policies or procedures or any of its methods of reporting income, deductions or other material items for financial accounting purposes, except as permitted by GAAP, a SEC rule, regulation or policy or applicable Law, or as modified by Parent as a result of the filing of the Bankruptcy Cases;

(vi) adopt any amendments to its Organizational Documents or permit the adoption of any amendment of the Organizational Documents of any Key Subsidiary or effect a split, combination or reclassification or other adjustment of Equity Interests of any Purchased Subsidiary or a recapitalization thereof;

(vii) sell, pledge, lease, transfer, assign or dispose of any Purchased Asset or permit any Purchased Asset to become subject to any Encumbrance, other than a Permitted Encumbrance, in each case, except in the Ordinary Course of Business or pursuant to a Contract in existence as of the date hereof (or entered into in compliance with this **Section 6.2**);

(viii) (A) incur or assume any Indebtedness for borrowed money or issue any debt securities, except for Indebtedness for borrowed money incurred by Purchased Subsidiaries under existing lines of credit (including through the incurrence of Intercompany Obligations) to fund operations of Purchased Subsidiaries and Indebtedness for borrowed money incurred by Sellers under the DIP Facility or (B) assume, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for the obligations of any other Person, except for Indebtedness for borrowed money among any Seller and Subsidiary or among the Subsidiaries;

(ix) discharge or satisfy any Indebtedness in excess of $100,000,000 other than the discharge or satisfaction of any Indebtedness when due in accordance with its originally scheduled terms;

(x) other than as is required by the terms of a Parent Employee Benefit Plan and Policy (in effect on the date hereof and set forth on Section 4.10 of the Sellers' Disclosure Schedule), any Assumed Plan (in effect on the date hereof) the UAW Collective Bargaining Agreement or consistent with the expiration of a Collective Bargaining Agreement, the Settlement Agreement, the UAW Retiree Settlement Agreement or as may be required by applicable Law or TARP or under any enhanced restrictions on executive compensation agreed to by Sellers and Sponsor, (A) increase the compensation or benefits of any Employee of Sellers or any Purchased Subsidiary (except for increases in salary or wages in the Ordinary Course of Business with respect to Employees who are not current or former directors or officers of Sellers or Seller Key Personnel), (B) grant any severance or termination pay to any Employee of Sellers or any Purchased

Subsidiary except for severance or termination pay provided under any Parent Employee Benefit Plan and Policy or as the result of a settlement of any pending Claim or charge involving a Governmental Authority or litigation with respect to Employees who are not current or former officers or directors of Sellers or Seller Key Personnel), (C) establish, adopt, enter into, amend or terminate any Benefit Plan (including any change to any actuarial or other assumption used to calculate funding obligations with respect to any Benefit Plan or any change to the manner in which contributions to any Benefit Plan are made or the basis on which such contributions are determined), except where any such action would reduce Sellers' costs or Liabilities pursuant to such plan, (D) grant any awards under any Benefit Plan (including any equity or equity-based awards), (E) increase or promise to increase or provide for the funding under any Benefit Plan, (F) forgive any loans to Employees of Sellers or any Purchased Subsidiary (other than as part of a settlement of any pending Claim or charge involving a Governmental Authority or litigation in the Ordinary Course of Business or with respect to obligations of Employees whose employment is terminated by Sellers or a Purchased Subsidiary in the Ordinary Course of Business, other than Employees who are current or former officers or directors of Sellers or Seller Key Personnel or directors of Sellers or a Purchased Subsidiary) or (G) exercise any discretion to accelerate the time of payment or vesting of any compensation or benefits under any Benefit Plan;

(xi) modify, amend, terminate or waive any rights under any Affiliate Contract or Seller Material Contract (except for any dealer sales and service Contracts or as contemplated by **Section 6.7**) in any material respect in a manner that is adverse to any Seller that is a party thereto, other than in the Ordinary Course of Business;

(xii) enter into any Seller Material Contract other than as contemplated by **Section 6.7**;

(xiii) acquire (including by merger, consolidation, combination or acquisition of Equity Interests or assets) any Person or business or division thereof (other than acquisitions of portfolio assets and acquisitions in the Ordinary Course of Business) in a transaction (or series of related transactions) where the aggregate consideration paid or received (including non-cash equity consideration) exceeds $100,000,000;

(xiv) alter, whether through a complete or partial liquidation, dissolution, merger, consolidation, restructuring, reorganization or in any other manner, the legal structure or ownership of any Key Subsidiary, or adopt or approve a plan with respect to any of the foregoing;

(xv) enter into any Contract that limits or otherwise restricts or that would reasonably be expected to, after the Closing, restrict or limit in any material respect (A) Purchaser or any of its Subsidiaries or any successor thereto or (B) any Affiliates of Purchaser or any successor thereto, in the case of each of

clause (A) or (B), from engaging or competing in any line of business or in any geographic area;

(xvi) enter into any Contracts for capital expenditures, exceeding $100,000,000 in the aggregate in connection with any single project or group of related projects;

(xvii) open or reopen any major production facility; and

(xviii) agree, in writing or otherwise, to take any of the foregoing actions.

Section 6.3 Notices and Consents.

(a) Sellers shall and shall cause each of their Subsidiaries to, and Purchaser shall use reasonable best efforts to, promptly give all notices to, obtain all material consents, approvals or authorizations from, and file all notifications and related materials with, any third parties (including any Governmental Authority) that may be or become necessary to be given or obtained by Sellers or their Affiliates, or Purchaser, respectively, in connection with the transactions contemplated by this Agreement.

(b) Each of Purchaser and Parent shall, to the extent permitted by Law, promptly notify the other Party of any communication it or any of its Affiliates receives from any Governmental Authority relating to the transactions contemplated by this Agreement and permit the other Party to review in advance any proposed substantive communication by such Party to any Governmental Authority. Neither Purchaser nor Parent shall agree to participate in any material meeting with any Governmental Authority in respect of any significant filings, investigation (including any settlement of the investigation), litigation or other inquiry unless it consults with the other Party in advance and, to the extent permitted by such Governmental Authority, gives the other Party the opportunity to attend and participate at such meeting; provided, however, in the event either Party is prohibited by applicable Law or such Governmental Authority from participating in or attending any such meeting, then the Party who participates in such meeting shall keep the other Party apprised with respect thereto to the extent permitted by Law. To the extent permitted by Law, Purchaser and Parent shall coordinate and cooperate fully with each other in exchanging such information and providing such assistance as the other Party may reasonably request in connection with the foregoing, including, to the extent reasonably practicable, providing to the other Party in advance of submission, drafts of all material filings, submissions, correspondences or other written communications, providing the other Party with an opportunity to comment on the drafts, and, where practicable, incorporating such comments, if any, into the final documents. To the extent permitted by applicable Law, Purchaser and Parent shall provide each other with copies of all material correspondences, filings or written communications between them or any of their Representatives, on the one hand, and any Governmental Authority or members of its staff, on the other hand, with respect to this Agreement or the transactions contemplated by this Agreement.

(c) None of Purchaser, Parent or their respective Affiliates shall be required to pay any fees or other payments to any Governmental Authorities in order to obtain any authorization, consent, Order or approval (other than normal filing fees and administrative fees that are imposed by Law on Purchaser), and in the event that any fees in addition to normal filing fees imposed by Law may be required to obtain any such authorization, consent, Order or approval, such fees shall be for the account of Purchaser.

(d) Notwithstanding anything to the contrary contained herein, no Seller shall be required to make any expenditure or incur any Liability in connection with the requirements set forth in this **Section 6.3**.

Section 6.4 Sale Procedures; Bankruptcy Court Approval.

(a) This Agreement is subject to approval by the Bankruptcy Court and the consideration by Sellers and the Bankruptcy Court of higher or better competing Bids with respect to an Alternative Transaction. Nothing contained herein shall be construed to prohibit Sellers and their respective Affiliates and Representatives from soliciting, considering, negotiating, agreeing to, or otherwise taking action in furtherance of, any Alternative Transaction but only to the extent that Sellers determine in good faith that such actions are permitted or required by the Sale Procedures Order.

(b) On the Petition Date, Sellers filed with the Bankruptcy Court the Bankruptcy Cases under the Bankruptcy Code and a motion (and related notices and proposed Orders) (the "Sale Procedures and Sale Motion"), seeking entry of (i) the sale procedures order, in the form attached hereto as **Exhibit H** (the "Sale Procedures Order"), and (ii) the sale approval order, in the form attached hereto as **Exhibit I** (the "Sale Approval Order"). The Sale Approval Order shall declare that if there is an Agreed G Transaction, (A) this Agreement constitutes a "plan" of Parent and Purchaser solely for purposes of Sections 368 and 354 of the Tax Code and (B) the transactions with respect to Parent described herein, in combination with the subsequent liquidation of Sellers, are intended to constitute a reorganization of Parent pursuant to Section 368(a)(1)(G) of the Tax Code. To the extent reasonably practicable, Sellers shall consult with and provide Purchaser and the UAW a reasonable opportunity to review and comment on material motions, applications and supporting papers prepared by Sellers in connection with this Agreement prior to the filing or delivery thereof in the Bankruptcy Cases.

(c) Purchaser acknowledges that Sellers may receive bids ("Bids") from prospective purchasers (such prospective purchasers, the "Bidders") with respect to an Alternative Transaction, as provided in the Sale Procedures Order. All Bids (other than Bids submitted by Purchaser) shall be submitted with two copies of this Agreement marked to show changes requested by the Bidder.

(d) If Sellers receive any Bids, Sellers shall have the right to select, and seek final approval of the Bankruptcy Court for, the highest or otherwise best Bid or Bids from the Bidders (the "Superior Bid"), which will be determined in accordance with the Sale Procedure Order.

(e) Sellers shall use their reasonable best efforts to obtain entry of the Sale Approval Order on the Bankruptcy Court's docket as soon as practicable, and in no event no later than July 10, 2009.

(f) Sellers shall use reasonable best efforts to comply (or obtain an Order from the Bankruptcy Court waiving compliance) with all requirements under the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure in connection with obtaining approval of the transactions contemplated by this Agreement, including serving on all required Persons in the Bankruptcy Cases (including all holders of Encumbrances and parties to the Purchased Contracts), a notice of the Sale Procedures and Sale Motion, the Sale Hearing and the objection deadline in accordance with Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (as modified by Orders of the Bankruptcy Court), the Sale Procedures Order or other Orders of the Bankruptcy Court, including General Order M-331 issued by the Bankruptcy Court, and any applicable local rules of the Bankruptcy Court.

(g) Sellers shall provide Purchaser with a reasonable opportunity to review and comment on all motions, applications and supporting papers prepared by Sellers in connection with this Agreement (including forms of Orders and of notices to interested parties) prior to the filing or delivery thereof in the Bankruptcy Cases. All motions, applications and supporting papers prepared by Sellers and relating to the approval of this Agreement (including forms of Orders and of notices to interested parties) to be filed or delivered on behalf of Sellers shall be reasonably acceptable in form and substance to Purchaser. Sellers shall provide written notice to Purchaser of all matters that are required to be served on Sellers' creditors pursuant to the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure. In the event the Sale Procedures Order and the Sale Approval Order is appealed, Sellers shall use their reasonable best efforts to defend such appeal.

(h) Purchaser agrees, to the extent reasonably requested by Sellers, to cooperate with and assist Sellers in seeking entry of the Sale Procedures Order and the Sale Approval Order by the Bankruptcy Court, including attending all hearings on the Sale Procedures and Sale Motion.

Section 6.5 Supplements to Purchased Assets. Purchaser shall, from the date hereof until the Executory Contract Designation Deadline, have the right to designate in writing additional Personal Property it wishes to designate as Purchased Assets if such Personal Property is located at a parcel of leased real property where the underlying lease has been designated as a Rejectable Executory Contract pursuant to **Section 6.6** following the Closing.

Section 6.6 Assumption or Rejection of Contracts.

(a) The Assumable Executory Contract Schedule sets forth a list of Executory Contracts entered into by Sellers that Sellers may assume and assign to Purchaser in accordance with this **Section 6.6(a)** (each, an "Assumable Executory Contract"). Any Contract identified on Section 6.6(a)(i) of the Sellers' Disclosure Schedule and Section 6.6(a)(ii) of the Sellers' Disclosure Schedule shall automatically be designated as an

Assumable Executory Contract and deemed to be set forth on the Assumable Executory Contract Schedule. Purchaser may, until the Executory Contract Designation Deadline, designate in writing any additional Executory Contract it wishes to designate as an Assumable Executory Contract and include on the Assumable Executory Contract Schedule, or any Assumable Executory Contract it no longer wishes to designate as an Assumable Executory Contract and remove from the Assumable Executory Contract Schedule; provided, however, that (i) Purchaser may not designate as an Assumable Executory Contract any (A) Rejectable Executory Contract, unless Sellers have consented to such designation in writing or (B) Contract that has previously been rejected by Sellers pursuant to Section 365 of the Bankruptcy Code, and (ii) Purchaser may not remove from the Assumable Executory Contract Schedule (v) the UAW Collective Bargaining Agreement, (w) any Contract identified on Section 6.6(a)(i) of the Sellers' Disclosure Schedule or Section 6.6(a)(ii) of the Sellers' Disclosure Schedule, (x) any Contract that has been previously assumed by Sellers pursuant to Section 365 of the Bankruptcy Code, (y) any Deferred Termination Agreement (or the related Discontinued Brand Dealer Agreement or Continuing Brand Dealer Agreement) or (z) any Participation Agreement (or the related Continuing Brand Dealer Agreement). Except as otherwise provided above, for each Assumable Executory Contract, Purchaser must determine, prior to the Executory Contract Designation Deadline, the date on which it seeks to have the assumption and assignment become effective, which date may be the Closing Date or a later date (but not an earlier date). The term "Executory Contract Designation Deadline" shall mean the date that is thirty (30) calendar days following the Closing Date, or if such date is not a Business Day, the next Business Day, or if mutually agreed upon by the Parties, any later date up to and including the Business Day immediately prior to the date of the confirmation hearing for Sellers' plan of liquidation or reorganization. For the avoidance of doubt, the Executory Contract Designation Deadline may be extended by mutual agreement of the Parties with respect to any single unassumed and unassigned Executory Contract, groups of unassumed and unassigned Executory Contracts or all of the unassumed and unassigned Executory Contracts.

(b) Sellers may, until the Closing, provide written notice (a "Notice of Intent to Reject") to Purchaser of Sellers' intent to designate any Executory Contract (that has not been designated as an Assumable Executory Contract) as a Rejectable Executory Contract (each a "Proposed Rejectable Executory Contract"). Following receipt of a Notice of Intent to Reject, Purchaser shall as soon as reasonably practicable, but in no event later than fifteen (15) calendar days following receipt of a Notice of Intent to Reject (the "Option Period"), provide Sellers written notice of Purchaser's designation of one or more Proposed Rejectable Executory Contracts identified in such Notice of Intent to Reject as an Assumable Executory Contract. Each Proposed Rejectable Executory Contract that has not been designated by Purchaser as an Assumable Executory Contract during the applicable Option Period shall automatically, without further action by Sellers, be designated as a Rejectable Executory Contract. A "Rejectable Executory Contract" is an Executory Contract that Sellers may, but are not obligated to, reject pursuant Section 365 of the Bankruptcy Code.

(c) Immediately following the Closing, each Executory Contract entered into by Sellers and then in existence that has not previously been designated as an Assumable

Executory Contract, a Rejectable Executory Contract or a Proposed Rejectable Executory Contract, and that has not otherwise been assumed or rejected by Sellers pursuant to Section 365 of the Bankruptcy Code, shall be deemed to be an Executory Contract subject to subsequent designation by Purchaser as an Assumable Executory Contract or a Rejectable Executory Contract (each a "Deferred Executory Contract").

(d) All Assumable Executory Contracts shall be assumed and assigned to Purchaser on the date (the "Assumption Effective Date") that is the later of (i) the date designated by the Purchaser and (ii) the date following expiration of the objection deadline if no objection, other than to the Cure Amount, has been timely filed or the date of resolution of any objection unrelated to Cure Amount, as provided in the Sale Procedures Order; provided, however, that in the case of each (A) Assumable Executory Contract identified on Section 6.6(a)(i) of the Sellers' Disclosure Schedule, (2) Deferred Termination Agreement (and the related Discontinued Brand Dealer Agreement or Continuing Brand Dealer Agreement) designated as an Assumable Executory Contract and (3) Participation Agreement (and the related Continuing Brand Dealer Agreement) designated as an Assumable Executory Contract, the Assumption Effective Date shall be the Closing Date and (B) Assumable Executory Contract identified on Section 6.6(a)(ii) of the Sellers' Disclosure Schedule, the Assumption Effective Date shall be a date that is no later than the date set forth with respect to such Executory Contract on Section 6.6(a)(ii) of the Sellers' Disclosure Schedule. On the Assumption Effective Date for any Assumable Executory Contract, such Assumable Executory Contract shall be deemed to be a Purchased Contract hereunder. If it is determined under the procedures set forth in the Sale Procedures Order that Sellers may not assume and assign to Purchaser any Assumable Executory Contract, such Executory Contract shall cease to be an Assumable Executory Contract and shall be an Excluded Contract and a Rejectable Executory Contract. Except as provided in **Section 6.31**, notwithstanding anything else to the contrary herein, any Executory Contract that has not been specifically designated as an Assumable Executory Contract as of the Executory Contract Designation Deadline applicable to such Executory Contract, including any Deferred Executory Contract, shall automatically be deemed to be a Rejectable Executory Contract and an Excluded Contract hereunder. Sellers shall have the right, but not the obligation, to reject, at any time, any Rejectable Executory Contract; provided, however, that Sellers shall not reject any Contract that affects both Owned Real Property and Excluded Real Property (whether designated on **Exhibit F** or now or hereafter designated on Section 2.2(b)(v) of the Sellers' Disclosure Schedule), including any such Executory Contract that involves the provision of water, water treatment, electric, fuel, gas, telephone and other utilities to any facilities located at the Excluded Real Property, whether designated on **Exhibit F** or now or hereafter designated on Section 2.2(b)(v) of the Sellers' Disclosure Schedule (the "Shared Executory Contracts"), without the prior written consent of Purchaser.

(e) From and after the Closing and during the applicable period specified below, Purchaser shall be obligated to pay or cause to be paid all amounts due in respect of Sellers' performance (i) under each Proposed Rejectable Executory Contract, during the pendency of the applicable Option Period under such Proposed Rejectable Executory Contract, (ii) under each Deferred Executory Contract, for so long as such Contract remains a Deferred Executory Contract, (iii) under each Assumable Executory Contract,

as long as such Contract remains an Assumable Executory Contract and (iv) under each GM Assumed Contract, until the applicable Assumption Effective Date. At and after the Closing and until such time as any Shared Executory Contract is either (y) rejected by Sellers pursuant to the provision set forth in this **Section 6.6** or (z) assumed by Sellers and subsequently modified with Purchaser's consent so as to no longer be applicable to the affected Owned Real Property, Purchaser shall reimburse Sellers as and when requested by Sellers for Purchasers' and its Affiliates' allocable share of all costs and expenses incurred under such Shared Executory Contract.

(f) Sellers and Purchaser shall comply with the procedures set forth in the Sale Procedures Order with respect to the assumption and assignment or rejection of any Executory Contract pursuant to, and in accordance with, this **Section 6.6**.

(g) No designation of any Executory Contract for assumption and assignment or rejection in accordance with this **Section 6.6** shall give rise to any right to any adjustment to the Purchase Price.

(h) Without limiting the foregoing, if, following the Executory Contract Designation Deadline, Sellers or Purchaser identify an Executory Contract that has not previously been identified as a Contract for assumption and assignment, and such Contract is important to Purchaser's ability to use or hold the Purchased Assets or operate its businesses in connection therewith, Sellers will assume and assign such Contract and assign it to Purchaser without any adjustment to the Purchase Price; provided that Purchaser consents and agrees at such time to (i) assume such Executory Contract and (ii) and discharge all Cure Amounts in respect hereof.

Section 6.7 Deferred Termination Agreements; Participation Agreements.

(a) Sellers shall, and shall cause their Affiliates to, use reasonable best efforts to enter into short-term deferred voluntary termination agreements in substantially the form attached hereto as **Exhibit J-1** (in respect of all Saturn Discontinued Brand Dealer Agreements), **Exhibit J-2** (in respect of all Hummer Discontinued Brand Dealer Agreements) and **Exhibit J-3** (in respect of all non-Saturn and non-Hummer Discontinued Brand Dealer Agreements and all Excluded Continuing Brand Dealer Agreements) that will, when executed by the relevant dealer counterparty thereto, modify the respective Discontinued Brand Dealer Agreements and selected Continuing Brand Dealer Agreements (collectively, the "Deferred Termination Agreements"). For the avoidance of doubt, (i) each Deferred Termination Agreement, and the related Discontinued Brand Dealer Agreement or Continuing Brand Dealer Agreement modified thereby, will automatically be an Assumable Executory Contract hereunder upon valid execution of such Deferred Termination Agreement by the parties thereto and (ii) all Discontinued Brand Dealer Agreements that are not modified by a Deferred Termination Agreement, and all Continuing Brand Dealer Agreements that are not modified by either a Deferred Termination Agreement or a Participation Agreement, will automatically be a Rejectable Executory Contract hereunder.

(b) Sellers shall, and shall cause their Affiliates to, use reasonable best efforts to enter into agreements, substantially in the form attached hereto as **Exhibit K** that will modify all Continuing Brand Dealer Agreements (other than the Continuing Brand Dealer Agreements that are proposed to be modified by Deferred Termination Agreements) (the "Participation Agreements"). For the avoidance of doubt, (i) all Participation Agreements, and the related Continuing Brand Dealer Agreements, will automatically be Assumable Executory Contracts hereunder upon valid execution of such Participation Agreement and (ii) all Continuing Brand Dealer Agreements that are proposed to be modified by a Participation Agreement and are not modified by a Participation Agreement will be offered Deferred Termination Agreements pursuant to **Section 6.7(a)**.

Section 6.8 [Reserved]

Section 6.9 Purchaser Assumed Debt; Wind Down Facility.

(a) Purchaser shall use reasonable best efforts to agree with Sponsor on the terms of a restructuring of the Purchaser Assumed Debt so as to be assumed by Purchaser immediately prior to the Closing. Purchaser shall use reasonable best efforts to enter into definitive financing agreements with respect to the Purchaser Assumed Debt so that such agreements are in effect as promptly as practicable but in any event no later than the Closing.

(b) Sellers shall use reasonable best efforts to agree with Sponsor on the terms of a restructuring of $950,000,000 of Indebtedness accrued under the DIP Facility (as restructured, the "Wind Down Facility") to provide for such Wind Down Facility to be non-recourse, to accrue payment-in-kind interest at LIBOR plus 300 basis points, to be secured by all assets of Sellers (other than the Parent Shares, Adjustment Shares, Parent Warrants and any securities received in respect thereof), and to be subject to mandatory repayment from the proceeds of asset sales (other than the sale of Parent Shares, Adjustment Shares, Parent Warrants and any securities received in respect thereof). Sellers shall use reasonable best efforts to enter into definitive financing agreements with respect to the Wind Down Facility so that such agreements are in effect as promptly as practicable but in any event no later than the Closing.

Section 6.10 Litigation and Other Assistance. In the event and for so long as any Party is actively contesting or defending against any action, investigation, charge, Claim or demand by a third party in connection with any transaction contemplated by this Agreement, the other Parties shall reasonably cooperate with the contesting or defending Party and its counsel in such contest or defense, make available its personnel and provide such testimony and access to its books, records and other materials as shall be reasonably necessary in connection with the contest or defense, all at the sole cost and expense of the contesting or defending Party; provided, however, that no Party shall be required to provide the contesting or defending party with any access to its books, records or materials if such access would violate the attorney-client privilege or conflict with any confidentiality obligations to which the non-contesting or defending Party is subject. In addition, the Parties agree to cooperate in connection with the making or filing of claims, requests for information, document retrieval and other activities in connection with any

and all Claims made under insurance policies specified on Section 2.2(b)(xiii) of the Sellers' Disclosure Schedule to the extent any such Claim relates to any Purchased Asset or Assumed Liability. For the avoidance of doubt, this **Section 6.10** shall not apply to any action, investigation, charge, Claim or demand by any of Sellers or their Affiliates, on the one hand, or Purchaser or any of its Affiliates, on the other hand.

Section 6.11 Further Assurances.

(a) Upon the terms and subject to the conditions set forth in this Agreement, each of the Parties shall use their reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all actions necessary, proper or advisable to consummate and make effective as promptly as practicable, the transactions contemplated by this Agreement in accordance with the terms hereof and to bring about the satisfaction of all other conditions to the other Parties' obligations hereunder; provided, however, that nothing in this Agreement shall obligate Sellers or Purchaser, or any of their respective Affiliates, to waive or modify any of the terms and conditions of this Agreement or any documents contemplated hereby, except as expressly set forth herein. The Parties acknowledge that Sponsor's acquisition of interest is a sovereign act and that no filings should be made by Sponsor or Purchaser in non-United States jurisdictions.

(b) The Parties shall negotiate the forms, terms and conditions of the Ancillary Agreements, to the extent the forms thereof are not attached to this Agreement, on the basis of the respective term sheets attached to this Agreement, in good faith, with such Ancillary Agreements to set forth terms on an Arms-Length Basis and incorporate usual and customary provisions for similar agreements.

(c) Until the Closing, Sellers shall maintain a team of appropriate personnel (each such team, a "Transition Team") to assist Purchaser and its Representatives in connection with Purchaser's efforts to complete prior to the Closing the activities described below. Sellers shall use their reasonable best efforts to cause the Transition Team to (A) meet with Purchaser and its Representatives on a regular basis at such times as Purchaser may reasonably request and (B) take such action and provide such information, including background and summary information, as Purchaser and its Representatives may reasonably request in connection with the following activities:

(i) evaluation and identification of all Contracts that Purchaser may elect to designate as Purchased Contracts or Excluded Contracts, consistent with its rights under this Agreement;

(ii) evaluation and identification of all assets and entities that Purchaser may elect to designate as Purchased Assets or Excluded Assets, consistent with its rights under this Agreement;

(iii) maintaining and obtaining necessary governmental consents, permits, authorizations, licenses and financial assurance for operation of the business by Purchaser following the Closing;

(iv) obtaining necessary third party consents for operation of the business by Purchaser following the Closing;

(v) implementing the optimal structure for Purchaser and its subsidiaries to acquire and hold the Purchased Assets and operate the business following the Closing;

(vi) implementing the assumption of all Assumed Plans and otherwise satisfying the obligations of Purchaser as provided in **Section 6.17** with respect to Employment Related Obligations; and

(vii) such other transition matters as Purchaser may reasonably determine are necessary for Purchaser to fulfill its obligations and exercise its rights under this Agreement.

Section 6.12 Notifications.

(a) Sellers shall give written notice to Purchaser as soon as practicable upon becoming aware of any event, circumstance, condition, fact, effect or other matter that resulted in, or that would reasonably be likely to result in (i) any representation or warranty set forth in **ARTICLE IV** being or becoming untrue or inaccurate in any material respect as of any date on or after the date hereof (as if then made, except to the extent such representation or warranty is expressly made only as of a specific date, in which case, as of such date), (ii) the failure by Sellers to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by Sellers under this Agreement or (iii) a condition to the Closing set forth in **Section 7.1** or **Section 7.2** becoming incapable of being satisfied; provided, however, that no such notification shall affect or cure a breach of any of Sellers' representations or warranties, a failure to perform any of the covenants or agreements of Sellers or a failure to have satisfied the conditions to the obligations of Sellers under this Agreement. Such notice shall be in form of a certificate signed by an executive officer of Parent setting forth the details of such event and the action which Parent proposes to take with respect thereto.

(b) Purchaser shall give written notice to Sellers as soon as practicable upon becoming aware of any event, circumstance, condition, fact, effect or other matter that resulted in, or that would reasonably be likely to result in (i) any representation or warranty set forth in **ARTICLE V** being or becoming untrue or inaccurate in any material respect with respect to Purchaser as of any date on or after the date hereof (as if then made, except to the extent such representation or warranty is expressly made only as of a specific date, in which case as of such date), (ii) the failure by Purchaser to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by Purchaser under this Agreement or (iii) a condition to the Closing set forth in **Section 7.1** or **Section 7.3** becoming incapable of being satisfied; provided, however, that no such notification shall affect or cure a breach of any of Purchaser's representations or warranties, a failure to perform any of the covenants or agreements of Purchaser or a failure to have satisfied the conditions to the obligations of Purchaser under this Agreement. Such notice shall be in a form of a certificate signed by

an executive officer of Purchaser setting forth the details of such event and the action which Purchaser proposes to take with respect thereto.

Section 6.13 Actions by Affiliates. Each of Purchaser and Sellers shall cause their respective controlled Affiliates, and shall use their reasonable best efforts to ensure that each of their respective other Affiliates (other than Sponsor in the case of Purchaser) takes all actions reasonably necessary to be taken by such Affiliate in order to fulfill the obligations of Purchaser or Sellers, as the case may be, under this Agreement.

Section 6.14 Compliance Remediation. Except with respect to the Excluded Assets or Retained Liabilities, prior to the Closing, Sellers shall use reasonable best efforts to, and shall use reasonable best efforts to cause their Subsidiaries to use their reasonable best efforts to, cure in all material respects any instances of non-compliance with Laws or Orders, failures to possess or maintain Permits or defaults under Permits.

Section 6.15 Product Certification, Recall and Warranty Claims.

(a) From and after the Closing, Purchaser shall comply with the certification, reporting and recall requirements of the National Traffic and Motor Vehicle Safety Act, the Transportation Recall Enhancement, Accountability and Documentation Act, the Clean Air Act, the California Health and Safety Code and similar Laws, in each case, to the extent applicable in respect of vehicles and vehicle parts manufactured or distributed by Seller.

(b) From and after the Closing, Purchaser shall be responsible for the administration, management and payment of all Liabilities arising under (i) express written warranties of Sellers that are specifically identified as warranties and delivered in connection with the sale of new, certified used or pre-owned vehicles or new or remanufactured motor vehicle parts and equipment (including service parts, accessories, engines and transmissions) manufactured or sold by Sellers or Purchaser prior to or after the Closing and (ii) Lemon Laws. In connection with the foregoing clause (ii), (A) Purchaser shall continue to address Lemon Law Claims using the same procedural mechanisms previously utilized by the applicable Sellers and (B) for avoidance of doubt, Purchaser shall not assume Liabilities arising under the law of implied warranty or other analogous provisions of state Law, other than Lemon Laws, that provide consumer remedies in addition to or different from those specified in Sellers' express warranties.

(c) For the avoidance of doubt, Liabilities of the Transferred Entities arising from or in connection with products manufactured or sold by the Transferred Entities remain the responsibility of the Transferred Entities and shall be neither Assumed Liabilities nor Retained Liabilities for the purposes of this Agreement.

Section 6.16 Tax Matters; Cooperation.

(a) Prior to the Closing Date, Sellers shall prepare and timely file (or cause to be prepared and timely filed) all Tax Returns required to be filed prior to such date (taking into account any extension of time to file granted or obtained) that relate to Sellers, the Purchased Subsidiaries and the Purchased Assets in a manner consistent with

past practices (except as otherwise required by Law), and shall provide Purchaser prompt opportunity for review and comment and shall obtain Purchaser's written approval prior to filing any such Tax Returns. After the Closing Date, at Purchaser's election, Purchaser shall prepare, and the applicable Seller, Seller Subsidiary or Seller Group member shall timely file, any Tax Return relating to any Seller, Seller Subsidiary or Seller Group member for any Pre-Closing Tax Period or Straddle Period due after the Closing Date or other taxable period of any entity that includes the Closing Date, subject to the right of the applicable Seller to review any such material Tax Return. Purchaser shall prepare and file all other Tax Returns required to be filed after the Closing Date in respect of the Purchased Assets. Sellers shall prepare and file all other Tax Returns relating to the Post-Closing Tax Period of Sellers, subject to the prior review and approval of Purchaser, which approval may be withheld, conditioned or delayed with good reason. No Seller or Seller Group member shall be entitled to any payment or other consideration in addition to the Purchase Price with respect to the acquisition or use of any Tax items or attributes by Purchaser, any Purchased Subsidiary or Affiliates thereof. At Purchaser's request, any Seller or Seller Group member shall designate Purchaser or any of its Affiliates as a substitute agent for the Seller Group for Tax purposes. Purchaser shall be entitled to make all determinations, including the right to make or cause to be made any elections with respect to Taxes and Tax Returns of Sellers, Seller Subsidiaries, Seller Groups and Seller Group members with respect to Pre-Closing Tax Periods and Straddle Periods and with respect to the Tax consequences of the Relevant Transactions (including the treatment of such transactions as an Agreed G Transaction) and the other transactions contemplated by this Agreement, including (i) the "date of distribution or transfer" for purposes of Section 381(b) of the Tax Code, if applicable; (ii) the relevant Tax periods and members of the Seller Group and the Purchaser and its Affiliates; (iii) whether the Purchaser and/or any of its Affiliates shall be treated as a continuation of Seller Group; and (iv) any other determinations required under Section 381 of the Tax Code. Purchaser shall have the sole right to represent the interests, as applicable, of any Seller, Seller Group member or Purchased Subsidiary in any Tax proceeding in connection with any Tax Liability or any Tax item for any Pre-Closing Tax Period, Straddle Period or other Tax period affecting any such earlier Tax period. After the Closing, Purchaser shall have the right to assume control of any PLR or CA request filed by Sellers or any Affiliate thereof, including the right to represent Sellers and their Affiliates and to direct all professionals acting on their behalf in connection with such request, and no settlement, concession, compromise, commitment or other agreements in respect of such PLR or CA request shall be made without Purchaser's prior written consent.

(b) All Taxes required to be paid by any Seller or Seller Group member for any Pre-Closing Tax Period or any Straddle Period shall be timely paid. To the extent a Party hereto is liable for a Tax pursuant to this Agreement and such Tax is paid or payable by another Party or such other Party's Affiliates, the Party liable for such Tax shall make payment in the amount of such Tax to the other Party no later than three (3) days prior to the due date for payment of such Tax, unless a later time for payment is agreed to in writing by such other Party. To the extent that any Seller or Seller Group member receives or realizes the benefit of any Tax refund, abatement or credit that is a Purchased Asset, such Seller or Seller Group member receiving the benefit shall transfer

an amount equal to such refund, abatement or credit to Purchaser within fourteen (14) days of receipt or realization of the benefit.

(c) Purchaser and Sellers shall provide each other with such assistance and non-privileged information relating to the Purchased Assets as may reasonably be requested in connection with any Tax matter, including the matters contemplated by this **Section 6.16**, the preparation of any Tax Return or the performance of any audit, examination or other proceeding by any Taxing Authority, whether conducted in a judicial or administrative forum. Purchaser and Sellers shall retain and provide to each other all non-privileged records and other information reasonably requested by the other and that may be relevant to any such Tax Return, audit, examination or other proceeding.

(d) After the Closing, at Purchaser's election, Purchaser shall exercise exclusive control over the handling, disposition and settlement of any inquiry, examination or proceeding (including an audit) by a Governmental Authority (or that portion of any inquiry, examination or proceeding by a Governmental Authority) with respect to Sellers, any Subsidiary of Sellers or any Seller Group, provided that to the extent any such inquiry, examination or proceeding by a Governmental Authority could materially affect the Taxes due or payable by Sellers, Purchaser shall control the handling, disposition and settlement thereof, subject to reasonable consultation rights of Sellers. Each Party shall notify the other Party (or Parties) in writing promptly upon learning of any such inquiry, examination or proceeding. The Parties and their Affiliates shall cooperate with each other in any such inquiry, examination or proceeding as a Party may reasonably request. Neither Parent nor any of its Affiliates shall extend, without Purchaser's prior written consent, the statute of limitations for any Tax for which Purchaser or any of its Affiliates may be liable.

(e) Notwithstanding anything contained herein, Purchaser shall prepare and Sellers shall timely file all Tax Returns required to be filed in connection with the payment of Transfer Taxes.

(f) From the date of this Agreement to and including the Closing Date, except to the extent relating solely to an Excluded Asset or Retained Liability, no Seller, Seller Group member or Purchased Subsidiary shall, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed, and shall not be withheld if not resulting in any Tax impact on Purchaser or any Purchased Asset), (i) make, change, or terminate any material election with respect to Taxes (including elections with respect to the use of Tax accounting methods) of any Seller, Seller Group member or Purchased Subsidiary or any material joint venture to which any Seller or Purchased Subsidiary is a party, (ii) settle or compromise any Claim or assessment for Taxes (including refunds) that could be reasonably expected to result in any adverse consequence on Purchaser or any Purchased Asset following the Closing Date, (iii) agree to an extension of the statute of limitations with respect to the assessment or collection of the Taxes of any Seller, Seller Group member or Purchased Subsidiary or any material joint venture of which any Seller or Purchased Subsidiary is a party or (iv) make or surrender any Claim for a refund of a material amount of the Taxes of any of

Sellers or Purchased Subsidiaries or file an amended Tax Return with respect to a material amount of Taxes.

(g)

(i) Purchaser shall treat the transactions with respect to Parent described herein, in combination with the subsequent liquidation of Sellers (such transactions, collectively, the "Relevant Transactions"), as a reorganization pursuant to Section 368(a)(1)(G) of the Tax Code with any actual or deemed distribution by Parent qualifying solely under Sections 354 and 356 of the Tax Code but not under Section 355 of the Tax Code (a "G Transaction") if (x) the IRS issues a private letter ruling ("PLR") or executes a closing agreement ("CA"), in each case reasonably acceptable to Purchaser, confirming that the Relevant Transactions shall qualify as a G Transaction for U.S. federal income Tax purposes, or (y) Purchaser determines to treat the Relevant Transactions as so qualifying (clause (x) or (y), an "Agreed G Transaction"). In connection with the foregoing, Sellers shall use their reasonable best efforts to obtain a PLR or execute a CA with respect to the Relevant Transactions at least seven (7) days prior to the Closing Date. At least three (3) days prior to the Closing Date, Purchaser shall advise Parent in writing as to whether Purchaser has made a determination regarding the treatment of the Relevant Transactions for U.S. federal income Tax purposes and, if applicable, the outcome of any such determination.

(ii) On or prior to the Closing Date, Sellers shall deliver to Purchaser all information in the possession of Sellers and their Affiliates that is reasonably related to the determination of whether the Relevant Transactions constitute an Agreed G Transaction ("Relevant Information"), and, after the Closing, Sellers shall promptly provide to Purchaser any newly produced or obtained Relevant Information. For the avoidance of doubt, the Parties shall cooperate in taking any actions and providing any information that Purchaser determines is necessary or appropriate in furtherance of the intended U.S. federal income Tax treatment of the Relevant Transactions and the other transactions contemplated by this Agreement.

(iii) If Purchaser has not determined as of the Closing Date whether to treat the Relevant Transactions as an Agreed G Transaction, Purchaser shall make such determination in accordance with this **Section 6.16** prior to the due date (including validly obtained extensions) for filing the corporate income Tax Return for Parent's U.S. affiliated group (as defined in Section 1504 of the Tax Code) for the taxable year in which the Closing Date occurs, and shall convey such decision in writing to Parent, which decision shall be binding on Parent.

(iv) If the Relevant Transactions constitute an Agreed G Transaction under this **Section 6.16**: (A) Sellers shall use their reasonable best efforts, and Purchaser shall use reasonable best efforts to assist Sellers, to effectuate such treatment and the Parties shall not take any action or position inconsistent with, or

fail to take any necessary action in furtherance of, such treatment (subject to **Section 6.16(g)(vi)**); (B) the Parties agree that this Agreement shall constitute a "plan" of Parent and Purchaser for purposes of Sections 368 and 354 of the Tax Code; (C) the board of directors of Parent and Purchaser shall, by resolution, approve the execution of this Agreement and expressly recognize its treatment as a "plan" of Parent and Purchaser for purposes of Sections 368 and 354 of the Tax Code, and the treatment of the Relevant Transactions as a G Transaction for federal income Tax purposes; (D) Sellers shall provide Purchaser with a statement setting forth the adjusted Tax basis of the Purchased Assets and the amount of net operating losses and other material Tax attributes of Sellers and any Purchased Subsidiary that are available as of the Closing Date and after the close of any taxable year of any Seller or Seller Group member that impacts the numbers previously provided, all based on the best information available, but with no Liability for any errors or omissions in information; and (E) Sellers shall provide Purchaser with an estimate of the cancellation of Indebtedness income that Sellers and any Seller Group member anticipate realizing for the taxable year that includes the Closing Date, and shall provide revised numbers after the close of any taxable year of any Seller or Seller Group member that impacts this number.

(v) If the Relevant Transactions do not constitute an Agreed G Transaction under this **Section 6.16**, the Parties hereby agree, and Sellers hereby consent, to treat the sale of the Purchased Assets by Parent as a taxable asset sale for all Tax purposes, to make any elections pursuant to Section 338 of the Tax Code requested by Purchaser, and to report consistently herewith for purposes of **Section 3.3**. In addition, the Parties hereby agree, and Sellers hereby consent, to treat the sales of the Purchased Assets by S Distribution and Harlem as taxable asset sales for all Tax purposes, to make any elections pursuant to Section 338 of the Tax Code requested by Purchaser, and to report consistently herewith for purposes of **Section 3.3**.

(vi) No Party shall take any position with respect to the Relevant Transactions that is inconsistent with the position determined in accordance with this **Section 6.16**, unless, and then only to the extent, otherwise required to do so by a Final Determination.

(vii) Each Seller shall liquidate, as determined for U.S. federal income Tax purposes and to the satisfaction of Purchaser, no later than December 31, 2011, and each such liquidation may include a distribution of assets to a "liquidating trust" within the meaning of Treas. Reg. § 301.7701-4, the terms of which shall be satisfactory to Purchaser.

(viii) Effective no later than the Closing Date, Purchaser shall be treated as a corporation for federal income Tax purposes.

Section 6.17 Employees; Benefit Plans; Labor Matters.

(a) *Transferred Employees*. Effective as of the Closing Date, Purchaser or one of its Affiliates shall make an offer of employment to each Applicable Employee. Notwithstanding anything herein to the contrary and except as provided in an individual employment Contract with any Applicable Employee or as required by the terms of an Assumed Plan, offers of employment to Applicable Employees whose employment rights are subject to the UAW Collective Bargaining Agreement as of the Closing Date, shall be made in accordance with the applicable terms and conditions of the UAW Collective Bargaining Agreement and Purchaser's obligations under the Labor Management Relations Act of 1974, as amended. Each offer of employment to an Applicable Employee who is not covered by the UAW Collective Bargaining Agreement shall provide, until at least the first anniversary of the Closing Date, for (i) base salary or hourly wage rates initially at least equal to such Applicable Employee's base salary or hourly wage rate in effect as of immediately prior to the Closing Date and (ii) employee pension and welfare benefits, Contracts and arrangements that are not less favorable in the aggregate than those listed on Section 4.10 of the Sellers' Disclosure Schedule, but not including any Retained Plan, equity or equity-based compensation plans or any Benefit Plan that does not comply in all respects with TARP. For the avoidance of doubt, each Applicable Employee on layoff status, leave status or with recall rights as of the Closing Date, shall continue in such status and/or retain such rights after Closing in the Ordinary Course of Business. Each Applicable Employee who accepts employment with Purchaser or one of its Affiliates and commences working for Purchaser or one of its Affiliates shall become a "Transferred Employee." To the extent such offer of employment by Purchaser or its Affiliates is not accepted, Sellers shall, as soon as practicable following the Closing Date, terminate the employment of all such Applicable Employees. Nothing in this **Section 6.17(a)** shall prohibit Purchaser or any of its Affiliates from terminating the employment of any Transferred Employee after the Closing Date, subject to the terms and conditions of the UAW Collective Bargaining Agreement. It is understood that the intent of this **Section 6.17(a)** is to provide a seamless transition from Sellers to Purchaser of any Applicable Employee subject to the UAW Collective Bargaining Agreement. Except for Applicable Employees with non-standard individual agreements providing for severance benefits, until at least the first anniversary of the Closing Date, Purchaser further agrees and acknowledges that it shall provide to each Transferred Employee who is not covered by the UAW Collective Bargaining Agreement and whose employment is involuntarily terminated by Purchaser or its Affiliates on or prior to the first anniversary of the Closing Date, severance benefits that are not less favorable than the severance benefits such Transferred Employee would have received under the applicable Benefit Plans listed on Section 4.10 of the Sellers' Disclosure Schedule. Purchaser or one of its Affiliates shall take all actions necessary such that Transferred Employees shall be credited for their actual and credited service with Sellers and each of their respective Affiliates, for purposes of eligibility, vesting and benefit accrual (except in the case of a defined benefit pension plan sponsored by Purchaser or any of its Affiliates in which Transferred Employees may commence participation after the Closing that is not an Assumed Plan), in any employee benefit plans (excluding equity compensation plans or programs) covering Transferred Employees after the Closing to the same extent as such Transferred Employee was

entitled as of immediately prior to the Closing Date to credit for such service under any similar employee benefit plans, programs or arrangements of any of Sellers or any Affiliate of Sellers; provided, however, that such crediting of service shall not operate to duplicate any benefit to any such Transferred Employee or the funding for any such benefit. Such benefits shall not be subject to any exclusion for any pre-existing conditions to the extent such conditions were satisfied by such Transferred Employees under a Parent Employee Benefit Plan as of the Closing Date, and credit shall be provided for any deductible or out-of-pocket amounts paid by such Transferred Employee during the plan year in which the Closing Date occurs.

(b) *Employees of Purchased Subsidiaries*. As of the Closing Date, those employees of Purchased Subsidiaries who participate in the Assumed Plans, may, subject to the applicable Collective Bargaining Agreement, for all purposes continue to participate in such Assumed Plans, in accordance with their terms in effect from time to time. For the avoidance of any doubt, Purchaser shall continue the employment of any current Employee of any Purchased Subsidiary covered by the UAW Collective Bargaining Agreement on the terms and conditions of the UAW Collective Bargaining Agreement in effect immediately prior to the Closing Date, subject to its terms; provided, however, that nothing in this Agreement shall be construed to terminate the coverage of any UAW-represented Employee in an Assumed Plan if such Employee was a participant in the Assumed Plan immediately prior to the Closing Date. Further provided, that nothing in this Agreement shall create a direct employment relationship between Parent or Purchaser and an Employee of a Purchased Subsidiary or an Affiliate of Parent.

(c) *No Third Party Beneficiaries*. Nothing contained herein, express or implied, (i) is intended to confer or shall confer upon any Employee or Transferred Employee any right to employment or continued employment for any period of time by reason of this Agreement, or any right to a particular term or condition of employment, (ii) except as set forth in **Section 9.11**, is intended to confer or shall confer upon any individual or any legal Representative of any individual (including employees, retirees, or dependents or beneficiaries of employees or retirees and including collective bargaining agents or representatives) any right as a third-party beneficiary of this Agreement or (iii) shall be deemed to confer upon any such individual or legal Representative any rights under or with respect to any plan, program or arrangement described in or contemplated by this Agreement, and each such individual or legal Representative shall be entitled to look only to the express terms of any such plans, program or arrangement for his or her rights thereunder. Nothing herein is intended to override the terms and conditions of the UAW Collective Bargaining Agreement.

(d) *Plan Authority.* Nothing contained herein, express or implied, shall prohibit Purchaser or its Affiliates, as applicable, from, subject to applicable Law and the terms of the UAW Collective Bargaining Agreement, adding, deleting or changing providers of benefits, changing, increasing or decreasing co-payments, deductibles or other requirements for coverage or benefits (e.g., utilization review or pre-certification requirements), and/or making other changes in the administration or in the design, coverage and benefits provided to such Transferred Employees. Without reducing the obligations of Purchaser as set forth in **Section 6.17(a)**, no provision of this Agreement

shall be construed as a limitation on the right of Purchaser or its Affiliates, as applicable, to suspend, amend, modify or terminate any employee benefit plan, subject to the terms of the UAW Collective Bargaining Agreement. Further, (i) no provision of this Agreement shall be construed as an amendment to any employee benefit plan, and (ii) no provision of this Agreement shall be construed as limiting Purchaser's or its Affiliate's, as applicable, discretion and authority to interpret the respective employee benefit and compensation plans, agreements arrangements, and programs, in accordance with their terms and applicable Law.

(e) *Assumption of Certain Parent Employee Benefit Plans and Policies*. As of the Closing Date, Purchaser or one of its Affiliates shall assume (i) the Parent Employee Benefit Plans and Policies set forth on Section 6.17(e) of the Sellers' Disclosure Schedule as modified thereon, and all assets, trusts, insurance policies and other Contracts relating thereto, except for any that do not comply in all respects with TARP or as otherwise provided in **Section 6.17(h)** and (ii) all employee benefit plans, programs, policies, agreements or arrangements (whether written or oral) in which Employees who are covered by the UAW Collective Bargaining Agreement participate and all assets, trusts, insurance and other Contracts relating thereto (the "Assumed Plans"), for the benefit of the Transferred Employees and Sellers and Purchaser shall cooperate with each other to take all actions and execute and deliver all documents and furnish all notices necessary to establish Purchaser or one of its Affiliates as the sponsor of such Assumed Plans including all assets, trusts, insurance policies and other Contracts relating thereto. Other than with respect to any Employee who was or is covered by the UAW Collective Bargaining Agreement, Purchaser shall have no Liability with respect to any modifications or changes to Benefit Plans contemplated by Section 6.17(e) of the Sellers' Disclosure Schedule, or changes made by Parent prior to the Closing Date, and Purchaser shall not assume any Liability with respect to any such decisions or actions related thereto, and Purchaser shall only assume the Liabilities for benefits provided pursuant to the written terms and conditions of the Assumed Plan as of the Closing Date. Notwithstanding the foregoing, the assumption of the Assumed Plans is subject to Purchaser taking all necessary action, including reduction of benefits, to ensure that the Assumed Plans comply in all respects with TARP. Notwithstanding the foregoing, but subject to the terms of any Collective Bargaining Agreement to which Purchaser or one of its Affiliates is a party, Purchaser and its Affiliates may, in its sole discretion, amend, suspend or terminate any such Assumed Plan at any time in accordance with its terms.

(f) *UAW Collective Bargaining Agreement.* Parent shall assume and assign to Purchaser, as of the Closing, the UAW Collective Bargaining Agreement and all rights and Liabilities of Parent relating thereto (including Liabilities for wages, benefits and other compensation, unfair labor practices, grievances, arbitrations and contractual obligations). With respect to the UAW Collective Bargaining Agreement, Purchaser agrees to (i) recognize the UAW as the exclusive collective bargaining representative for the Transferred Employees covered by the terms of the UAW Collective Bargaining Agreement, (ii) offer employment to all Applicable Employees covered by the UAW Collective Bargaining Agreement with full recognition of all seniority rights, (iii) negotiate with the UAW over the terms of any successor collective bargaining agreement upon the expiration of the UAW Collective Bargaining Agreement and upon timely

demand by the UAW, (iv) with the agreement of the UAW or otherwise as provided by Law and to the extent necessary, adopt or assume or replace, effective as of the Closing Date, employee benefit plans, policies, programs, agreements and arrangements specified in or covered by the UAW Collective Bargaining Agreement as required to be provided to the Transferred Employees covered by the UAW Collective Bargaining Agreement, and (v) otherwise abide by all terms and conditions of the UAW Collective Bargaining Agreement. For the avoidance of doubt, the provisions of this **Section 6.17(f)** are not intended to (A) give, and shall not be construed as giving, the UAW or any Transferred Employee any enhanced or additional rights or (B) otherwise restrict the rights that Purchaser and its Affiliates have, under the terms of the UAW Collective Bargaining Agreement.

(g) *UAW Retiree Settlement Agreement.* Prior to the Closing, Purchaser and the UAW shall have entered into the UAW Retiree Settlement Agreement.

(h) *Assumption of Existing Internal VEBA*. Purchaser or one of its Affiliates shall, effective as of the Closing Date, assume from Sellers the sponsorship of the voluntary employees' beneficiary association trust between Sellers and State Street Bank and Trust Company dated as of December 17, 1997, that is funded and maintained by Sellers ("Existing Internal VEBA") and, in connection therewith, Purchaser shall, or shall cause one of its Affiliates to, (i) succeed to all of the rights, title and interest (including the rights of Sellers, if any) as plan sponsor, plan administrator or employer) under the Existing Internal VEBA, (ii) assume any responsibility or Liability relating to the Existing Internal VEBA and each Contract established thereunder or relating thereto, and (iii) to operate the Existing Internal VEBA in accordance with, and to otherwise comply with the Purchaser's obligations under, the New UAW Retiree Settlement Agreement between Purchaser and the UAW, effective as of the Closing and subject to approval by a court having jurisdiction over this matter, including the obligation to direct the trustee of the Existing Internal VEBA to transfer the UAW's share of assets in the Existing Internal VEBA to the New VEBA. The Parties shall cooperate in the execution of any documents, the adoption of any corporate resolutions or the taking of any other reasonable actions to effectuate such succession of the settlor rights, title, and interest with respect to the Existing Internal VEBA. For avoidance of doubt, Purchaser shall not assume any Liabilities relating to the Existing Internal VEBA except with respect to such Contracts set forth in Section 6.17(h) of the Sellers' Disclosure Schedule.

(i) *Wage and Tax Reporting.* Sellers and Purchaser agree to apply, and cause their Affiliates to apply, the standard procedure for successor employers set forth in Revenue Procedure 2004-53 for wage and employment Tax reporting.

(j) *Non-solicitation*. Sellers shall not, for a period of two (2) years from the Closing Date, without Purchaser's written consent, solicit, offer employment to or hire any Transferred Employee.

(k) *Cooperation*. Purchaser and Sellers shall provide each other with such records and information as may be reasonably necessary, appropriate and permitted under applicable Law to carry out their obligations under this **Section 6.17**; provided, that all

records, information systems data bases, computer programs, data rooms and data related to any Assumed Plan or Liabilities of such, assumed by Purchaser, shall be transferred to Purchaser.

(l) *Union Notifications.* Purchaser and Sellers shall reasonably cooperate with each other in connection with any notification required by Law to, or any required consultation with, or the provision of documents and information to, the employees, employee representatives, the UAW and relevant Governmental Authorities and governmental officials concerning the transactions contemplated by this Agreement, including any notice to any of Sellers' retired Employees represented by the UAW, describing the transactions contemplated herein.

(m) *Union-Represented Employees (Non-UAW).*

(i) Effective as of the Closing Date, Purchaser or one of its Affiliates shall assume the collective bargaining agreements, as amended, set forth on Section 6.17(m)(i) of the Sellers' Disclosure Schedule (collectively, the "Non-UAW Collective Bargaining Agreements") and make offers of employment to each current employee of Parent who is covered by them in accordance with the applicable terms and conditions of such Non-UAW Collective Bargaining Agreements, such assumption and offers conditioned upon (A) the non-UAW represented employees' ratification of the amendments thereto (including termination of the application of the Supplemental Agreements Covering Health Care Program to retirees and the reduction to retiree life insurance coverage) and (B) Bankruptcy Court approval of Settlement Agreements between Purchaser and such Unions and Proposed Memorandum of Understanding Regarding Retiree Health Care and Life Insurance between Sellers and such Unions, as identified on Section 6.17(m)(ii) of the Sellers' Disclosure Schedule and satisfaction of all conditions stated therein. Each such non-UAW hourly employee on layoff status, leave status or with recall rights as of the Closing Date shall continue in such status and/or retain such rights after the Closing in the Ordinary Course of Business, subject to the terms of the applicable Non-UAW Collective Bargaining Agreement. Other than as set forth in this **Section 6.17(m)**, no non-UAW collective bargaining agreement shall be assumed by Purchaser.

(ii) Section 6.17(m)(ii) of the Sellers' Disclosure Schedule sets forth agreements relating to post-retirement health care and life insurance coverage for non-UAW retired employees (the "Non-UAW Settlement Agreements"), including those agreements covering retirees who once belonged to Unions that no longer have any active employees at Sellers. Conditioned on both the approval of the Bankruptcy Court and the non-UAW represented employees' ratification of the amendments to the applicable Non-UAW Collective Bargaining Agreement providing for such coverage as described in **Section 6.17(m)(i)** above, Purchaser or one of its Affiliates shall assume and enter into the agreements identified on Section 6.17(m)(ii) of the Sellers' Disclosure Schedule. Except as set forth in those agreements identified on Section 6.17(m)(i) and Section 6.17(m)(ii) of the Sellers' Disclosure Schedule, Purchaser shall not assume any Liability to provide

post-retirement health care or life insurance coverage for current or future hourly non-UAW retirees.

(iii) Other than as expressly set forth in this **Section 6.17(m)**, Purchaser assumes no Employment-Related Obligations for non-UAW hourly Employees. For the avoidance of doubt, (A) the provisions of **Section 6.17(f)** shall not apply to this **Section 6.17(m)** and (B) the provisions of this **Section 6.17(m)** are not intended to (y) give, and shall not be construed as giving, any non-UAW Union or the covered employee or retiree of any Non-UAW Collective Bargaining Agreement any enhanced or additional rights or (z) otherwise restrict the rights that Purchaser and its Affiliates have under the terms of the Non-UAW Collective Bargaining Agreements identified on Section 6.17(m)(i) of the Sellers' Disclosure Schedule.

Section 6.18 TARP. From and after the date hereof and until such time as all amounts under the UST Credit Facilities have been paid in full, forgiven or otherwise extinguished or such longer period as may be required by Law, subject to any applicable Order of the Bankruptcy Court, each of Sellers and Purchaser shall, and shall cause each of their respective Subsidiaries to, take all necessary action to ensure that it complies in all material respects with TARP or any enhanced restrictions on executive compensation agreed to by Sellers and Sponsor prior to the Closing.

Section 6.19 Guarantees; Letters of Credit. Purchaser shall use its reasonable best efforts to cause Purchaser or one or more of its Subsidiaries to be substituted in all respects for each Seller and Excluded Entity, effective as of the Closing Date, in respect of all Liabilities of each Seller and Excluded Entity under each of the guarantees, letters of credit, letters of comfort, bid bonds and performance bonds (a) obtained by any Seller or Excluded Entity for the benefit of the business of Sellers and their Subsidiaries and (b) which is assumed by Purchaser as an Assumed Liability. As a result of such substitution, each Seller and Excluded Entity shall be released of its obligations of, and shall have no Liability following the Closing from, or in connection with any such guarantees, letters of credit, letters of comfort, bid bonds and performance bonds.

Section 6.20 Customs Duties. Purchaser shall reimburse Sellers for all customs-related duties, fees and associated costs incurred by Sellers on behalf of Purchaser with respect to periods following the Closing, including all such duties, fees and costs incurred in connection with co-loaded containers that clear customs intentionally or unintentionally under any Seller's importer or exporter identification numbers and bonds or guarantees with respect to periods following the Closing.

Section 6.21 Termination of Intellectual Property Rights. Each Seller agrees that any rights of any Seller, including any rights arising under Contracts, if any, to any and all of the Intellectual Property transferred to Purchaser pursuant to this Agreement (including indirect transfers resulting from the transfer of the Transferred Equity Interests and including transfers resulting from this **Section 6.21**), whether owned or licensed, shall terminate as of the Closing. Before and after the Closing, each Seller agrees to use its reasonable best efforts to cause the Retained Subsidiaries to do the following, but only to the extent that such Seller can do so

without incurring any Liabilities to such Retained Subsidiaries or their equity owners or creditors as a result thereof: (a) enter into a written Contract with Purchaser that expressly terminates any rights of such Retained Subsidiaries, including any rights arising under Contracts, if any, to any and all of the Intellectual Property transferred to Purchaser pursuant to this Agreement (including indirect transfers resulting from the transfer of the Transferred Equity Interests), whether owned or licensed; and (b) assign to Purchaser or its designee(s): (i) all domestic and foreign trademarks, service marks, collective marks, certification marks, trade dress, trade names, business names, d/b/a's, Internet domain names, designs, logos and other source or business identifiers and all general intangibles of like nature, now or hereafter owned, adopted, used, acquired, or licensed by any Seller, all applications, registrations and recordings thereof (including applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country or any political subdivision thereof), and all reissues, extensions or renewals thereof, together with all goodwill of the business symbolized by or associated with such marks, in each case, that are owned by such Retained Subsidiaries and that contain or are confusingly similar with (whether in whole or in part) any of the Trademarks; and (ii) all other intellectual property owned by such Retained Subsidiaries. Nothing in this **Section 6.21** shall preserve any rights of Sellers or the Retained Subsidiaries, or any third parties, that are otherwise terminated or extinguished pursuant to this Agreement or applicable Law, and nothing in this **Section 6.21** shall create any rights of Sellers or the Retained Subsidiaries, or any third parties, that do not already exist as of the date hereof. Notwithstanding anything to the contrary in this **Section 6.21**, Sellers may enter into (and may cause or permit any of the Purchased Subsidiaries to enter into) any of the transactions contemplated by Section 6.2 of the Sellers' Disclosure Schedule.

Section 6.22 Trademarks.

(a) At or before the Closing (i) Parent shall take any and all actions that are reasonably necessary to change the corporate name of Parent to a new name that bears no resemblance to Parent's present corporate name and that does not contain, and is not confusingly similar with, any of the Trademarks; and (ii) to the extent that the corporate name of any Seller (other than Parent) or any Retained Subsidiary resembles Parent's present corporate name or contains or is confusingly similar with any of the Trademarks, Sellers (including Parent) shall take any and all actions that are reasonably necessary to change such corporate names to new names that bear no resemblance to Parent's present corporate name, and that do not contain and are not confusingly similar with any of the Trademarks.

(b) As promptly as practicable following the Closing, but in no event later than ninety (90) days after the Closing (except as set forth in this **Section 6.22(b)**), Sellers shall cease, and shall cause the Retained Subsidiaries to cease, using the Trademarks in any form, whether by removing, permanently obliterating, covering, or otherwise eliminating all Trademarks that appear on any of their assets, including all signs, promotional or advertising literature, labels, stationery, business cards, office forms and packaging materials. During such time period, Sellers and the Retained Subsidiaries may continue to use Trademarks in a manner consistent with their usage of the Trademarks as of immediately prior to the Closing, but only to the extent reasonably necessary for them to continue their operations as contemplated by the Parties as of the

Closing. If requested by Purchaser within a reasonable time after the Closing, Sellers and Retained Subsidiaries shall enter into a written agreement that specifies quality control of such Trademarks and their underlying goods and services. For signs and the like that exist as of the Closing on the Excluded Real Property, if it is not reasonably practicable for Sellers or the Retained Subsidiaries to remove, permanently obliterate, cover or otherwise eliminate the Trademarks from such signs and the like within the time period specified above, then Sellers and the Retained Subsidiaries shall do so as soon as practicable following such time period, but in no event later than one-hundred eighty (180) days following the Closing.

(c) From and after the date of this Agreement and, until the earlier of the Closing or termination of this Agreement, each Seller shall use its reasonable best efforts to protect and maintain the Intellectual Property owned by Sellers that is material to the conduct of its business in a manner that is consistent with the value of such Intellectual Property.

(d) At or prior to the Closing, Sellers shall provide a true, correct and complete list setting forth all worldwide patents, patent applications, trademark registrations and applications and copyright registrations and applications included in the Intellectual Property owned by Sellers.

Section 6.23 Preservation of Records. The Parties shall preserve and keep all books and records that they own immediately after the Closing relating to the Purchased Assets, the Assumed Liabilities and Sellers' operation of the business related thereto prior to the Closing for a period of six (6) years following the Closing Date or for such longer period as may be required by applicable Law, unless disposed of in good faith pursuant to a document retention policy. During such retention period, duly authorized Representatives of a Party shall, upon reasonable notice, have reasonable access during normal business hours to examine, inspect and copy such books and records held by the other Parties for any proper purpose, except as may be prohibited by Law or by the terms of any Contract (including any confidentiality agreement); provided that to the extent that disclosing any such information would reasonably be expected to constitute a waiver of attorney-client, work product or other legal privilege with respect thereto, the Parties shall take all reasonable best efforts to permit such disclosure without the waiver of any such privilege, including entering into an appropriate joint defense agreement in connection with affording access to such information. The access provided pursuant to this **Section 6.23** shall be subject to such additional confidentiality provisions as the disclosing Party may reasonably deem necessary.

Section 6.24 Confidentiality. During the Confidentiality Period, Sellers and their Affiliates shall treat all trade secrets and all other proprietary, legally privileged or sensitive information related to the Transferred Entities, the Purchased Assets and/or the Assumed Liabilities (collectively, the "Confidential Information"), whether furnished before or after the Closing, whether documentary, electronic or oral, labeled or otherwise identified as confidential, and regardless of the form of communication or the manner in which it is or was furnished, as confidential, preserve the confidentiality thereof, not use or disclose to any Person such Confidential Information and instruct their Representatives who have had access to such information to keep confidential such Confidential Information. The "Confidentiality Period"

shall be a period commencing on the date of the Original Agreement and (a) with respect to a trade secret, continuing for as long as it remains a trade secret and (b) for all other Confidential Information, ending four (4) years from the Closing Date. Confidential Information shall be deemed not to include any information that (i) is now available to or is hereafter disclosed in a manner making it available to the general public, in each case, through no act or omission of Sellers, any of their Affiliates or any of their Representatives, or (ii) is required by Law to be disclosed, including any applicable requirements of the SEC or any other Governmental Authority responsible for securities Law regulation and compliance or any stock market or stock exchange on which any Seller's securities are listed.

Section 6.25 Privacy Policies. At or prior to the Closing, Purchaser shall, or shall cause its Subsidiaries to, establish Privacy Policies that are substantially similar to the Privacy Policies of Parent and the Purchased Subsidiaries as of immediately prior to the Closing, and Purchaser or its Affiliates, as applicable, shall honor all "opt-out" requests or preferences made by individuals in accordance with the Privacy Policies of Parent and the Purchased Subsidiaries and applicable Law; provided that such Privacy Policies and any related "opt-out" requests or preferences are delivered or otherwise made available to Purchaser prior to the Closing, to the extent not publicly available.

Section 6.26 Supplements to Sellers' Disclosure Schedule. At any time and from time to time prior to the Closing, Sellers shall have the right to supplement, modify or update Section 4.1 through Section 4.22 of the Sellers' Disclosure Schedule (a) to reflect changes and developments that have arisen after the date of the Original Agreement and that, if they existed prior to the date of the Original Agreement, would have been required to be set forth on such Sellers' Disclosure Schedule or (b) as may be necessary to correct any disclosures contained in such Sellers' Disclosure Schedule or in any representation and warranty of Sellers that has been rendered inaccurate by such changes or developments. No supplement, modification or amendment to Section 4.1 through Section 4.22 of the Sellers' Disclosure Schedule shall without the prior written consent of Purchaser, (i) cure any inaccuracy of any representation and warranty made in this Agreement by Sellers or (ii) give rise to Purchaser's right to terminate this Agreement unless and until this Agreement shall be terminable by Purchaser in accordance with **Section 8.1(f)**.

Section 6.27 Real Property Matters.

(a) Sellers and Purchaser acknowledge that certain real properties (the "Subdivision Properties") may need to be subdivided or otherwise legally partitioned in accordance with applicable Law (a "Required Subdivision") so as to permit the affected Owned Real Property to be conveyed to Purchaser separate and apart from adjacent Excluded Real Property. Section 6.27 of the Sellers' Disclosure Schedule contains a list of the Subdivision Properties that was determined based on the current list of Excluded Real Property. Section 6.27 of the Sellers' Disclosure Schedule may be updated at any time prior to the Closing to either (i) add additional Subdivision Properties or (ii) remove any Subdivision Properties, which have been determined to not require a Required Subdivision or for which a Required Subdivision has been obtained. Purchaser shall pay for all costs incurred to complete all Required Subdivisions. Sellers shall cooperate in good faith with Purchaser in connection with the completion with all Required

Subdivisions, including executing all required applications or other similar documents with Governmental Authorities. To the extent that any Required Subdivision for a Subdivision Property is not completed prior to Closing, then at Closing, Sellers shall lease to Purchaser only that portion of such Subdivision Property that constitutes Owned Real Property pursuant to the Master Lease Agreement (Subdivision Properties) substantially in the form attached hereto as **Exhibit L** (the "Subdivision Master Lease"). Upon completion of a Required Subdivision affecting an Owned Real Property that is subject to the Subdivision Master Lease, the Subdivision Master Lease shall be terminated as to such Owned Real Property and such Owned Real Property shall be conveyed to Purchaser by Quitclaim Deed for One Dollar ($1.00) in stated consideration.

(b) Sellers and Purchaser acknowledge that the Saginaw Nodular Iron facility in Saginaw, Michigan (the "Saginaw Nodular Iron Land") contains a wastewater treatment facility (the "Existing Saginaw Wastewater Facility") and a landfill (the "Saginaw Landfill") that currently serve the Owned Real Property commonly known as the GMPT - Saginaw Metal Casting facility (the "Saginaw Metal Casting Land"). The Saginaw Nodular Iron Land has been designated as an Excluded Real Property under Section 2.2(b)(v) of the Sellers' Disclosure Schedule. At the Closing (or within sixty (60) days after the Closing with respect to the Saginaw Landfill), Sellers shall enter into one or more service agreements with one or more third party contractors (collectively, the "Saginaw Service Contracts") to operate the Existing Saginaw Wastewater Facility and the Saginaw Landfill for the benefit of the Saginaw Metal Casting Land. The terms and conditions of the Saginaw Service Contracts shall be mutually acceptable to Purchaser and Sellers; provided that the term of each Saginaw Service Contract shall not extend beyond December 31, 2012, and Purchaser shall have the right to terminate any Saginaw Service Contract upon prior written notice of not less than forty-five (45) days. At any time during the term of the Saginaw Service Contracts, Purchaser may elect to purchase the Existing Saginaw Wastewater Facility, the Saginaw Landfill, or both, for One Dollar ($1.00) in stated consideration; provided that (i) Purchaser shall pay all costs and fees related to such purchase, including the costs of completing any Required Subdivision necessary to effectuate the terms of this **Section 6.27(b)**, (ii) Sellers shall convey title to the Existing Saginaw Wastewater Facility, the Saginaw Landfill and/or such other portion of the Saginaw Nodular Iron Land as is required by Purchaser to operate the Existing Saginaw Wastewater Facility and/or the Saginaw Landfill, including lagoons, but not any other portion of the Saginaw Nodular Iron Land, to Purchaser by quitclaim deed and (iii) Sellers shall grant Purchaser such easements for utilities over the portion of the Saginaw Nodular Iron Land retained by Sellers as may be required to operate the Existing Saginaw Wastewater Facility and/or the Saginaw Landfill.

(c) Sellers and Purchaser acknowledge that access to certain Excluded Real Property owned by Sellers or other real properties owned by Excluded Entities and certain Owned Real Property that may hereafter be designated as Excluded Real Property on Section 2.2(b)(v) of the Sellers' Disclosure Schedule (a "Landlocked Parcel") is provided over land that is part of the Owned Real Property. To the extent that direct access to a public right-of-way is not obtained for any Landlocked Parcel by the Closing, then at Closing, Purchaser, in its sole election, shall for each such Landlocked Parcel either (i) grant an access easement over a mutually agreeable portion of the adjacent

Owned Real Property for the benefit of the Landlocked Parcel until such time as the Landlocked Parcel obtains direct access to the public right-of-way, pursuant to the terms of a mutually acceptable easement agreement, or (ii) convey to the owner of the affected Landlocked Parcel by quitclaim deed such portion of the adjacent Owned Real Property as is required to provide the Landlocked Parcel with direct access to a public right-of-way.

(d) At and after Closing, Sellers and Purchasers shall cooperate in good faith to investigate and resolve all issues reasonably related to or arising in connection with Shared Executory Contracts that involve the provision of water, water treatment, electricity, fuel, gas, telephone and other utilities to both Owned Real Property and Excluded Real Property.

(e) Parent shall use reasonable best efforts to cause the Willow Run Landlord to execute, within thirty (30) days after the Closing, or at such later date as may be mutually agreed upon, an amendment to the Willow Run Lease which extends the term of the Willow Run Lease until December 31, 2010 with three (3) one-month options to extend, all at the current rental rate under the Willow Run Lease (the "Willow Run Lease Amendment"). In the event that the Willow Run Lease Amendment is approved and executed by the Willow Run Landlord, then Purchaser shall designate the Willow Run Lease as an Assumable Executory Contract and Parent and Purchaser, or one of its designated Subsidiaries, shall enter into an assignment and assumption of the Willow Run Lease substantially in the form attached hereto as **Exhibit M** (the "Assignment and Assumption of Willow Run Lease").

Section 6.28 Equity Incentive Plans. Within a reasonable period of time following the Closing, Purchaser, through its board of directors, will adopt equity incentive plans to be maintained by Purchaser for the benefit of officers, directors, and employees of Purchaser that will provide the opportunity for equity incentive benefits for such persons ("Equity Incentive Plans").

Section 6.29 Purchase of Personal Property Subject to Executory Contracts. With respect to any Personal Property subject to an Executory Contract that is nominally an unexpired lease of Personal Property, if (a) such Contract is recharacterized by a Final Order of the Bankruptcy Court as a secured financing or (b) Purchaser, Sellers and the counterparty to such Contract agree, then Purchaser shall have the option to purchase such personal property by paying to the applicable Seller for the benefit of the counterparty to such Contract an amount equal to the amount, as applicable (i) of such counterparty's allowed secured Claim arising in connection with the recharacterization of such Contract as determined by such Order or (ii) agreed to by Purchaser, Sellers and such counterparty.

Section 6.30 Transfer of Riverfront Holdings, Inc. Equity Interests or Purchased Assets; Ren Cen Lease. Notwithstanding anything to the contrary set forth in this Agreement, in lieu of or in addition to the transfer of Sellers' Equity Interest in Riverfront Holdings, Inc., a Delaware corporation ("RHI"), Purchaser shall have the right at the Closing or at any time during the RHI Post-Closing Period, to require Sellers to cause RHI to transfer good and marketable title to, or a valid and enforceable right by Contract to use, all or any portion of the assets of RHI

to Purchaser. Purchaser shall, at its option, have the right to cause Sellers to postpone the transfer of Sellers' Equity Interest in RHI and/or title to the assets of RHI to Purchaser up until the earlier of (i) January 31, 2010 and (ii) the Business Day immediately prior to the date of the confirmation hearing for Sellers' plan of liquidation or reorganization (the "RHI Post-Closing Period"); provided, however, that (a) Purchaser may cause Sellers to effectuate said transfers at any time and from time to time during the RHI-Post Closing Period upon at least five (5) Business Days' prior written notice to Sellers and (b) at the closing, RHI, as landlord, and Purchaser, or one of its designated Subsidiaries, as tenant, shall enter into a lease agreement substantially in the form attached hereto as **Exhibit N** (the "Ren Cen Lease") for the premises described therein.

Section 6.31 Delphi Agreements. Notwithstanding anything to the contrary in this Agreement, including **Section 6.6**:

(a) Subject to and simultaneously with the consummation of the transactions contemplated by the MDA or of an Acceptable Alternative Transaction (in each case, as defined in the Delphi Motion), (i) the Delphi Transaction Agreements shall, effective immediately upon and simultaneously with such consummation, (A) be deemed to be Assumable Executory Contracts and (B) be assumed and assigned to Purchaser and (ii) the Assumption Effective Date with respect thereto shall be deemed to be the date of such consummation.

(b) The LSA Agreement shall, effective at the Closing, (i) be deemed to be an Assumable Executory Contract and (B) be assumed and assigned to Purchaser and (ii) the Assumption Effective Date with respect thereto shall be deemed to be the Closing Date. To the extent that any such agreement is not an Executory Contract, such agreement shall be deemed to be a Purchased Contract.

Section 6.32 GM Strasbourg S.A. Restructuring. The Parties acknowledge and agree that General Motors International Holdings, Inc., a direct Subsidiary of Parent and the direct parent of GM Strasbourg S.A., may, prior to the Closing, dividend its Equity Interest in GM Strasbourg S.A. to Parent, such that following such dividend, GM Strasbourg S.A. will become a wholly-owned direct Subsidiary of Parent. Notwithstanding anything to the contrary in this Agreement, the Parties further acknowledge and agree that following the consummation of such restructuring at any time prior to the Closing, GM Strasbourg S.A. shall automatically, without further action by the Parties, be designated as an Excluded Entity and deemed to be set forth on Section 2.2(b)(iv) of the Sellers' Disclosure Schedule.

Section 6.33 Holding Company Reorganization. The Parties agree that Purchaser may, with the prior written consent of Sellers, reorganize prior to the Closing such that Purchaser may become a direct or indirect, wholly-owned Subsidiary of Holding Company on such terms and in such manner as is reasonably acceptable to Sellers, and Purchaser may assign all or a portion of its rights and obligations under this Agreement to Holding Company (or one or more newly formed, direct or indirect, wholly-owned Subsidiaries of Holding Company) in accordance with **Section 9.5**. In connection with any restructuring effected pursuant to this **Section 6.33**, the Parties further agree that, notwithstanding anything to the contrary in this Agreement (a) Parent shall receive securities of Holding Company with the same rights and

privileges, and in the same proportions, as the Parent Shares and the Parent Warrants, in each case, in lieu of the Parent Shares and Parent Warrants, as Purchase Price hereunder, (b) Canada, New VEBA and Sponsor shall receive securities of Holding Company with the same rights and privileges, and in the same proportions, as the Canada Shares, VEBA Shares, VEBA Warrant and Sponsor Shares, as applicable, in each case, in connection with the Closing and (c) New VEBA shall receive the VEBA Note issued by the same entity that becomes the obligor on the Purchaser Assumed Debt.

Section 6.34 Transfer of Promark Global Advisors Limited and Promark Investment Trustees Limited Equity Interests. Notwithstanding anything to the contrary set forth in this Agreement, in the event approval by the Financial Services Authority (the "FSA Approval") of the transfer of Sellers' Equity Interests in Promark Global Advisors Limited and Promark Investments Trustees Limited (together, the "Promark UK Subsidiaries") has not been obtained as of the Closing Date, Sellers shall, at their option, have the right to postpone the transfer of Sellers' Equity Interests in the Promark UK Subsidiaries until such time as the FSA Approval is obtained. If the transfer of Sellers' Equity Interests in the Promark UK Subsidiaries is postponed pursuant to this **Section 6.34**, then (a) Sellers and Purchaser shall effectuate the transfer of Sellers' Equity Interests in the Promark UK Subsidiaries no later than five (5) Business Days following the date that the FSA Approval is obtained and (b) Sellers shall enter into a transitional services agreement with Promark Global Advisors, Inc. in the form provided by Promark Global Advisors, Inc., which shall include terms and provisions regarding: (i) certain transitional services to be provided by Promark Global Advisors, Inc. to the Promark UK Subsidiaries, (ii) the continued availability of director and officer liability insurance for directors and officers of the Promark UK Subsidiaries and (iii) certain actions on the part of the Promark UK Subsidiaries to require the prior written consent of Promark Global Advisors, Inc., including changes to employee benefits or compensation, declaration of dividends, material financial transactions, disposition of material assets, entry into material agreements, changes to existing business plans, changes in management and the boards of directors of the Promark UK Subsidiaries and other similar actions.

Section 6.35 Transfer of Equity Interests in Certain Subsidiaries. Notwithstanding anything to the contrary set forth in this Agreement, the Parties may mutually agree to postpone the transfer of Sellers' Equity Interests in those Transferred Entities as are mutually agreed upon by the Parties ("Delayed Closing Entities") to a date following the Closing.

ARTICLE VII
CONDITIONS TO CLOSING

Section 7.1 Conditions to Obligations of Purchaser and Sellers. The respective obligations of Purchaser and Sellers to consummate the transactions contemplated by this Agreement are subject to the fulfillment or written waiver (to the extent permitted by applicable Law), prior to or at the Closing, of each of the following conditions:

(a) The Bankruptcy Court shall have entered the Sale Approval Order and the Sale Procedures Order on terms acceptable to the Parties and reasonably acceptable to the UAW, and each shall be a Final Order and shall not have been vacated, stayed or

reversed; provided, however, that the conditions contained in this **Section 7.1(a)** shall be satisfied notwithstanding the pendency of an appeal if the effectiveness of the Sale Approval Order has not been stayed.

(b) No Order or Law of a United States Governmental Authority shall be in effect that declares this Agreement invalid or unenforceable or that restrains, enjoins or otherwise prohibits the consummation of the transactions contemplated by this Agreement.

(c) Sponsor shall have delivered, or caused to be delivered to Sellers and Purchaser an equity registration rights agreement, substantially in the form attached hereto as **Exhibit O** (the "Equity Registration Rights Agreement"), duly executed by Sponsor.

(d) Canada shall have delivered, or caused to be delivered to Sellers and Purchaser the Equity Registration Rights Agreement, duly executed by Canada.

(e) The Canadian Debt Contribution shall have been consummated.

(f) The New VEBA shall have delivered, or caused to be delivered to Sellers and Purchaser, the Equity Registration Rights Agreement, duly executed by the New VEBA.

(g) Purchaser shall have received (i) consents from Governmental Authorities, (ii) Permits and (iii) consents from non-Governmental Authorities, in each case with respect to the transactions contemplated by this Agreement and the ownership and operation of the Purchased Assets and Assumed Liabilities by Purchaser from and after the Closing, sufficient in the aggregate to permit Purchaser to own and operate the Purchased Assets and Assumed Liabilities from and after the Closing in substantially the same manner as owned and operated by Sellers immediately prior to the Closing (after giving effect to (A) the implementation of the Viability Plans; (B) Parent's announced shutdown, which began in May 2009; and (C) the Bankruptcy Cases (or any other bankruptcy, insolvency or similar proceeding filed by or in respect of any Subsidiary of Parent).

(h) Sellers shall have executed and delivered definitive financing agreements restructuring the Wind Down Facility in accordance with the provisions of **Section 6.9(b)**.

Section 7.2 Conditions to Obligations of Purchaser. The obligations of Purchaser to consummate the transactions contemplated by this Agreement are subject to the fulfillment or written waiver, prior to or at the Closing, of each of the following conditions; provided, however, that in no event may Purchaser waive the conditions contained in **Section 7.2(d)** or **Section 7.2(e)**:

(a) Each of the representations and warranties of Sellers contained in **ARTICLE IV** of this Agreement shall be true and correct (disregarding for the purposes of such determination any qualification as to materiality or Material Adverse Effect) as of

the Closing Date as if made on the Closing Date (except for representations and warranties that speak as of a specific date or time, which representations and warranties shall be true and correct only as of such date or time), except to the extent that any breaches of such representations and warranties, individually or in the aggregate, have not had, or would not reasonably be expected to have, a Material Adverse Effect.

(b) Sellers shall have performed or complied in all material respects with all agreements and obligations required by this Agreement to be performed or complied with by Sellers prior to or at the Closing.

(c) Sellers shall have delivered, or caused to be delivered, to Purchaser:

(i) a certificate executed as of the Closing Date by a duly authorized representative of Sellers, on behalf of Sellers and not in such authorized representative's individual capacity, certifying that the conditions set forth in **Section 7.2(a)** and **Section 7.2(b)** have been satisfied;

(ii) the Equity Registration Rights Agreement, duly executed by Parent;

(iii) stock certificates or membership interest certificates, if any, evidencing the Transferred Equity Interests (other than in respect of the Equity Interests held by Sellers in RHI, Promark Global Advisors Limited, Promark Investments Trustees Limited and the Delayed Closing Entities, which the Parties agree may be transferred following the Closing in accordance with **Section 6.30**, **Section 6.34** and **Section 6.35**), duly endorsed in blank or accompanied by stock powers (or similar documentation) duly endorsed in blank, in proper form for transfer to Purchaser, including any required stamps affixed thereto;

(iv) an omnibus bill of sale, substantially in the form attached hereto as **Exhibit P** (the "Bill of Sale"), together with transfer tax declarations and all other instruments of conveyance that are necessary to effect transfer to Purchaser of title to the Purchased Assets, each in a form reasonably satisfactory to the Parties and duly executed by the appropriate Seller;

(v) an omnibus assignment and assumption agreement, substantially in the form attached hereto as **Exhibit Q** (the "Assignment and Assumption Agreement"), together with all other instruments of assignment and assumption that are necessary to transfer the Purchased Contracts and Assumed Liabilities to Purchaser, each in a form reasonably satisfactory to the Parties and duly executed by the appropriate Seller;

(vi) a novation agreement, substantially in the form attached hereto as **Exhibit R** (the "Novation Agreement"), duly executed by Sellers and the appropriate United States Governmental Authorities;

(vii) a government related subcontract agreement, substantially in the form attached hereto as **Exhibit S** (the "Government Related Subcontract Agreement"), duly executed by Sellers;

(viii) an omnibus intellectual property assignment agreement, substantially in the form attached hereto as **Exhibit T** (the "Intellectual Property Assignment Agreement"), duly executed by Sellers;

(ix) a transition services agreement, substantially in the form attached hereto as **Exhibit U** (the "Transition Services Agreement"), duly executed by Sellers;

(x) all quitclaim deeds or deeds without warranty (or equivalents for those parcels of Owned Real Property located in jurisdictions outside of the United States), in customary form, subject only to Permitted Encumbrances, conveying the Owned Real Property to Purchaser (the "Quitclaim Deeds"), duly executed by the appropriate Seller;

(xi) all required Transfer Tax or sales disclosure forms relating to the Transferred Real Property (the "Transfer Tax Forms"), duly executed by the appropriate Seller;

(xii) an assignment and assumption of the leases and subleases underlying the Leased Real Property, in substantially the form attached hereto as **Exhibit V** (the "Assignment and Assumption of Real Property Leases"), together with such other instruments of assignment and assumption that are necessary to transfer the leases and subleases underlying the Leased Real Property located in jurisdictions outside of the United States, each duly executed by Sellers; provided, however, that if it is required for the assumption and assignment of any lease or sublease underlying a Leased Real Property that a separate assignment and assumption for such lease or sublease be executed, then a separate assignment and assumption of such lease or sublease shall be executed in a form substantially similar to **Exhibit V** or as otherwise required to assume or assign such Leased Real Property;

(xiii) an assignment and assumption of the lease in respect of the premises located at 2485 Second Avenue, New York, New York, substantially in the form attached hereto as **Exhibit W** (the "Assignment and Assumption of Harlem Lease"), duly executed by Harlem;

(xiv) an omnibus lease agreement in respect of the lease of certain portions of the Excluded Real Property that is owned real property, substantially in the form attached hereto as **Exhibit X** (the "Master Lease Agreement"), duly executed by Parent;

(xv) *[Reserved]*;

(xvi) the Saginaw Service Contracts, if required, duly executed by the appropriate Seller;

(xvii) any easement agreements required under **Section 6.27(c)**, duly executed by the appropriate Seller;

(xviii) the Subdivision Master Lease, if required, duly executed by the appropriate Sellers;

(xix) a certificate of an officer of each Seller (A) certifying that attached to such certificate are true and complete copies of (1) such Seller's Organizational Documents, each as amended through and in effect on the Closing Date and (2) resolutions of the board of directors of such Seller, authorizing the execution, delivery and performance of this Agreement and the Ancillary Agreements to which such Seller is a party, the consummation of the transactions contemplated by this Agreement and such Ancillary Agreements and the matters set forth in **Section 6.16(e)**, and (B) certifying as to the incumbency of the officer(s) of such Seller executing this Agreement and the Ancillary Agreements to which such Seller is a party;

(xx) a certificate in compliance with Treas. Reg. §1.1445-2(b)(2) that each Seller is not a foreign person as defined under Section 897 of the Tax Code;

(xxi) a certificate of good standing for each Seller from the Secretary of State of the State of Delaware;

(xxii) their written agreement to treat the Relevant Transactions and the other transactions contemplated by this Agreement in accordance with Purchaser's determination in **Section 6.16**;

(xxiii) payoff letters and related Encumbrance-release documentation (including, if applicable, UCC-3 termination statements), each in a form reasonably satisfactory to the Parties and duly executed by the holders of the secured Indebtedness; and

(xxiv) all books and records of Sellers described in **Section 2.2(a)(xiv)**.

(d) The UAW Collective Bargaining Agreement shall have been ratified by the membership, shall have been assumed by the applicable Sellers and assigned to Purchaser, and shall be in full force and effect.

(e) The UAW Retiree Settlement Agreement shall have been executed and delivered by the UAW and shall have been approved by the Bankruptcy Court as part of the Sale Approval Order.

(f) The Canadian Operations Continuation Agreement shall have been executed and delivered by the parties thereto in the form previously distributed among them.

Section 7.3 Conditions to Obligations of Sellers. The obligations of Sellers to consummate the transactions contemplated by this Agreement are subject to the fulfillment or written waiver, prior to or at the Closing, of each of the following conditions; provided, however, that in no event may Sellers waive the conditions contained in **Section 7.3(h)** or **Section 7.3(i)**:

(a) Each of the representations and warranties of Purchaser contained in **ARTICLE V** of this Agreement shall be true and correct (disregarding for the purpose of such determination any qualification as to materiality or Purchaser Material Adverse Effect) as of the Closing Date as if made on such date (except for representations and warranties that speak as of a specific date or time, which representations and warranties shall be true and correct only as of such date or time), except to the extent that any breaches of such representations and warranties, individually or in the aggregate, have not had, or would not reasonably be expected to have, a Purchaser Material Adverse Effect.

(b) Purchaser shall have performed or complied in all material respects with all agreements and obligations required by this Agreement to be performed or complied with by it prior to or at the Closing.

(c) Purchaser shall have delivered, or caused to be delivered, to Sellers:

(i) Parent Warrant A (including the related warrant agreement), duly executed by Purchaser;

(ii) Parent Warrant B (including the related warrant agreement), duly executed by Purchaser;

(iii) a certificate executed as of the Closing Date by a duly authorized representative of Purchaser, on behalf of Purchaser and not in such authorized representative's individual capacity, certifying that the conditions set forth in **Section 7.3(a)** and **Section 7.3(b)** are satisfied;

(iv) stock certificates evidencing the Parent Shares, duly endorsed in blank or accompanied by stock powers duly endorsed in blank, in proper form for transfer, including any required stamps affixed thereto;

(v) the Equity Registration Rights Agreement, duly executed by Purchaser;

(vi) the Bill of Sale, together with all other documents described in **Section 7.2(c)(iv)**, each duly executed by Purchaser or its designated Subsidiaries;

(vii) the Assignment and Assumption Agreement, together with all other documents described in **Section 7.2(c)(v)**, each duly executed by Purchaser or its designated Subsidiaries;

(viii) the Novation Agreement, duly executed by Purchaser or its designated Subsidiaries;

(ix) the Government Related Subcontract Agreement, duly executed by Purchaser or its designated Subsidiary;

(x) the Intellectual Property Assignment Agreement, duly executed by Purchaser or its designated Subsidiaries;

(xi) the Transition Services Agreement, duly executed by Purchaser or its designated Subsidiaries;

(xii) the Transfer Tax Forms, duly executed by Purchaser or its designated Subsidiaries, to the extent required;

(xiii) the Assignment and Assumption of Real Property Leases, together with all other documents described in **Section 7.2(c)(xii)**, each duly executed by Purchaser or its designated Subsidiaries;

(xiv) the Assignment and Assumption of Harlem Lease, duly executed by Purchaser or its designated Subsidiaries;

(xv) the Master Lease Agreement, duly executed by Purchaser or its designated Subsidiaries;

(xvi) *[Reserved]*;

(xvii) the Subdivision Master Lease, if required, duly executed by Purchaser or its designated Subsidiaries;

(xviii) any easement agreements required under **Section 6.27(c)**, duly executed by Purchaser or its designated Subsidiaries;

(xix) a certificate of a duly authorized representative of Purchaser (A) certifying that attached to such certificate are true and complete copies of (1) Purchaser's Organizational Documents, each as amended through and in effect on the Closing Date and (2) resolutions of the board of directors of Purchaser, authorizing the execution, delivery and performance of this Agreement and the Ancillary Agreements to which Purchaser is a party, the consummation of the transactions contemplated by this Agreement and such Ancillary Agreements and the matters set forth in **Section 6.16(g)**, and (B) certifying as to the incumbency of the officer(s) of Purchaser executing this Agreement and the Ancillary Agreements to which Purchaser is a party; and

(xx) a certificate of good standing for Purchaser from the Secretary of State of the State of Delaware.

(d) *[Reserved]*

(e) Purchaser shall have filed a certificate of designation for the Preferred Stock, substantially in the form attached hereto as **Exhibit Y**, with the Secretary of State of the State of Delaware.

(f) Purchaser shall have offset the UST Credit Bid Amount against the amount of Indebtedness of Parent and its Subsidiaries owed to Purchaser as of the Closing under the UST Credit Facilities pursuant to a Bankruptcy Code Section 363(k) credit bid and delivered releases and waivers and related Encumbrance-release documentation (including, if applicable, UCC-3 termination statements) with respect to the UST Credit Bid Amount, in a form reasonably satisfactory to the Parties and duly executed by Purchaser in accordance with the applicable requirements in effect on the date hereof, (iii) transferred to Sellers the UST Warrant and (iv) issued to Parent, in accordance with instructions provided by Parent, the Purchaser Shares and the Parent Warrants (duly executed by Purchaser).

(g) Purchaser shall have delivered, or caused to be delivered, to Canada, Sponsor and/or the New VEBA, as applicable:

(i) certificates representing the Canada Shares, the Sponsor Shares and the VEBA Shares in accordance with the applicable equity subscription agreements in effect on the date hereof;

(ii) the Equity Registration Rights Agreement, duly executed by Purchaser;

(iii) the VEBA Warrant (including the related warrant agreement), duly executed by Purchaser; and

(iv) a note, in form and substance consistent with the terms set forth on **Exhibit Z** attached hereto, to the New VEBA (the "VEBA Note").

(h) The UAW Collective Bargaining Agreement shall have been ratified by the membership, shall have been assumed by Purchaser, and shall be in full force and effect.

(i) The UAW Retiree Settlement Agreement shall have been executed and delivered, shall be in full force and effect, and shall have been approved by the Bankruptcy Court as part of the Sale Approval Order.

ARTICLE VIII
TERMINATION

Section 8.1 Termination. This Agreement may be terminated, and the transactions contemplated hereby may be abandoned, at any time prior to the Closing Date as follows:

(a) by the mutual written consent of Sellers and Purchaser;

(b) by either Sellers or Purchaser, if (i) the Closing shall not have occurred on or before August 15, 2009, or such later date as the Parties may agree in writing, such date not to be later than September 15, 2009 (as extended, the "End Date"), and (ii) the Party seeking to terminate this Agreement pursuant to this **Section 8.1(b)** shall not have breached in any material respect its obligations under this Agreement in any manner that shall have proximately caused the failure of the transactions contemplated hereby to close on or before such date;

(c) by either Sellers or Purchaser, if the Bankruptcy Court shall not have entered the Sale Approval Order by July 10, 2009;

(d) by either Sellers or Purchaser, if any court of competent jurisdiction in the United States or other United States Governmental Authority shall have issued a Final Order permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or the sale of a material portion of the Purchased Assets;

(e) by Sellers, if Purchaser shall have breached or failed to perform in any material respect any of its representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform has not been cured by the End Date, provided that (i) Sellers shall have given Purchaser written notice, delivered at least thirty (30) days prior to such termination, stating Sellers' intention to terminate this Agreement pursuant to this **Section 8.1(e)** and the basis for such termination and (ii) Sellers shall not have the right to terminate this Agreement pursuant to this **Section 8.1(e)** if Sellers are then in material breach of any its representations, warranties, covenants or other agreements set forth herein;

(f) by Purchaser, if Sellers shall have breached or failed to perform in any material respect any of its representations, warranties, covenants or other agreements contained in this Agreement, which breach or failure to perform (i) would (if it occurred or was continuing as of the Closing Date) give rise to the failure of a condition set forth in **Section 7.2(a)** or **Section 7.2(b)** to be fulfilled, (ii) cannot be cured by the End Date, provided that (i) Purchaser shall have given Sellers written notice, delivered at least thirty (30) days prior to such termination, stating Purchaser's intention to terminate this Agreement pursuant to this **Section 8.1(f)** and the basis for such termination and (iii) Purchaser shall not have the right to terminate this Agreement pursuant to this **Section 8.1(f)** if Purchaser is then in material breach of any its representations, warranties, covenants or other agreements set forth herein; or

(g) by either Sellers or Purchaser, if the Bankruptcy Court shall have entered an Order approving an Alternative Transaction.

Section 8.2 Procedure and Effect of Termination.

(a) If this Agreement is terminated pursuant to **Section 8.1**, this Agreement shall become null and void and have no effect, and all obligations of the Parties hereunder shall terminate, except for those obligations of the Parties set forth this **Section 8.2** and **ARTICLE IX**, which shall remain in full force and effect; provided that nothing

herein shall relieve any Party from Liability for any material breach of any of its representations, warranties, covenants or other agreements set forth herein. If this Agreement is terminated as provided herein, all filings, applications and other submissions made pursuant to this Agreement shall, to the extent practicable, be withdrawn from the agency or other Person to which they were made.

(b) If this Agreement is terminated by Sellers or Purchaser pursuant to **Section 8.1(a)** through **Section 8.1(d)** or **Section 8.1(g)** or by Purchaser pursuant to **Section 8.1(f)**, Sellers, severally and not jointly, shall reimburse Purchaser for its reasonable, out-of-pocket costs and expenses (including reasonable attorneys' fees) incurred by Purchaser in connection with this Agreement and the transactions contemplated hereby (the "Purchaser Expense Reimbursement"). The Purchaser Expense Reimbursement shall be paid as an administrative expense Claim of Sellers pursuant to Section 503(b)(1) of the Bankruptcy Code.

(c) Except as expressly provided for in this **Section 8.2**, any termination of this Agreement pursuant to **Section 8.1** shall be without Liability to Purchaser or Sellers, including any Liability by Sellers to Purchaser for any break-up fee, termination fee, expense reimbursement or other compensation as a result of a termination of this Agreement.

(d) If this Agreement is terminated for any reason, Purchaser shall, and shall cause each of its Affiliates and Representatives to, treat and hold as confidential all Confidential Information, whether documentary, electronic or oral, labeled or otherwise identified as confidential, and regardless of the form of communication or the manner in which it was furnished. For purposes of this **Section 8.2(d)**, Confidential Information shall be deemed not to include any information that (i) is now available to or is hereafter disclosed in a manner making it available to the general public, in each case, through no act or omission of Purchaser, any of its Affiliates or any of their Representatives, or (ii) is required by Law to be disclosed.

ARTICLE IX
MISCELLANEOUS

Section 9.1 Survival of Representations, Warranties, Covenants and Agreements and Consequences of Certain Breaches. The representations and warranties of the Parties contained in this Agreement shall be extinguished by and shall not survive the Closing, and no Claims may be asserted in respect of, and no Party shall have any Liability for any breach of, the representations and warranties. All covenants and agreements contained in this Agreement, including those covenants and agreements set forth in **ARTICLE II** and **ARTICLE VI**, shall survive the Closing indefinitely.

Section 9.2 Notices. Any notice, request, instruction, consent, document or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes (a) upon delivery when personally delivered; (b) on the delivery date after having been sent by a nationally or internationally recognized overnight courier service (charges prepaid); (c) at the time received

when sent by registered or certified mail, return receipt requested, postage prepaid; or (d) at the time when confirmation of successful transmission is received (or the first Business Day following such receipt if the date of such receipt is not a Business Day) if sent by facsimile, in each case, to the recipient at the address or facsimile number, as applicable, indicated below:

If to any Seller:

General Motors Corporation
300 Renaissance Center
Tower 300, 25th Floor, Room D55
M/C 482-C25-D81
Detroit, Michigan 48265-3000
Attn: General Counsel
Tel.: 313-667-3450
Facsimile: 248-267-4584

With copies to:

Jenner & Block LLP
330 North Wabash Avenue
Chicago, Illinois 60611-7603
Attn: Joseph P. Gromacki
Michael T. Wolf
Tel.: 312-222-9350
Facsimile: 312-527-0484

and

Weil Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attn: Harvey R. Miller
Stephen Karotkin
Raymond Gietz
Tel.: 212-310-8000
Facsimile: 212-310-8007

If to Purchaser:

NGMCO, Inc.
c/o The United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington D.C. 20220
Attn: Chief Counsel Office of Financial Stability
Facsimile: 202-927-9225

With a copy to: Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, New York 10281
Attn: John J. Rapisardi
R. Ronald Hopkinson
Tel.: 212-504-6000
Facsimile: 212-504-6666

provided, however, if any Party shall have designated a different addressee and/or contact information by notice in accordance with this **Section 9.2**, then to the last addressee as so designated.

Section 9.3 Fees and Expenses; No Right of Setoff. Except as otherwise provided in this Agreement, including **Section 8.2(b)**, Purchaser, on the one hand, and each Seller, on the other hand, shall bear its own fees, costs and expenses, including fees and disbursements of counsel, financial advisors, investment bankers, accountants and other agents and representatives, incurred in connection with the negotiation and execution of this Agreement and each Ancillary Agreement and the consummation of the transactions contemplated hereby and thereby. In furtherance of the foregoing, Purchaser shall be solely responsible for (a) all expenses incurred by it in connection with its due diligence review of Sellers and their respective businesses, including surveys, title work, title inspections, title searches, environmental testing or inspections, building inspections, Uniform Commercial Code lien and other searches and (b) any cost (including any filing fees) incurred by it in connection with notarization, registration or recording of this Agreement or an Ancillary Agreement required by applicable Law. No Party nor any of its Affiliates shall have any right of holdback or setoff or assert any Claim or defense with respect to any amounts that may be owed by such Party or its Affiliates to any other Party (or Parties) hereto or its or their Affiliates as a result of and with respect to any amount that may be owing to such Party or its Affiliates under this Agreement, any Ancillary Agreement or any other commercial arrangement entered into in between or among such Parties and/or their respective Affiliates.

Section 9.4 Bulk Sales Laws. Each Party hereto waives compliance by the other Parties with any applicable bulk sales Law.

Section 9.5 Assignment. Neither this Agreement nor any of the rights, interests or obligations provided by this Agreement may be assigned or delegated by any Party (whether by operation of law or otherwise) without the prior written consent of the other Parties, and any such assignment or delegation without such prior written consent shall be null and void; provided, however, that, without the consent of Sellers, Purchaser may assign or direct the transfer on its behalf on or prior to the Closing of all, or any portion, of its rights to purchase, accept and acquire the Purchased Assets and its obligations to assume and thereafter pay or perform as and when due, or otherwise discharge, the Assumed Liabilities, to Holding Company or one or more newly-formed, direct or indirect, wholly-owned Subsidiaries of Holding Company or Purchaser; provided, further, that no such assignment or delegation shall relieve Purchaser of any of its obligations under this Agreement. Subject to the preceding sentence and except as otherwise expressly provided herein, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

Section 9.6 Amendment. This Agreement may not be amended, modified or supplemented except upon the execution and delivery of a written agreement executed by a duly authorized representative or officer of each of the Parties.

Section 9.7 Waiver. At any time prior to the Closing, each Party may (a) extend the time for the performance of any of the obligations or other acts of the other Parties; (b) waive any inaccuracies in the representations and warranties contained in this Agreement or in any document delivered pursuant hereto; or (c) waive compliance with any of the agreements or conditions contained herein (to the extent permitted by Law). Any such waiver or extension by a Party (i) shall be valid only if, and to the extent, set forth in a written instrument signed by a duly authorized representative or officer of the Party to be bound and (ii) shall not constitute, or be construed as, a continuing waiver of such provision, or a waiver of any other breach of, or failure to comply with, any other provision of this Agreement. The failure in any one or more instances of a Party to insist upon performance of any of the terms, covenants or conditions of this Agreement, to exercise any right or privilege in this Agreement conferred, or the waiver by said Party of any breach of any of the terms, covenants or conditions of this Agreement shall not be construed as a subsequent waiver of, or estoppel with respect to, any other terms, covenants, conditions, rights or privileges, but the same will continue and remain in full force and effect as if no such forbearance or waiver had occurred.

Section 9.8 Severability. Whenever possible, each term and provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law. If any term or provision of this Agreement, or the application thereof to any Person or any circumstance, is held to be illegal, invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefore in order to carry out, so far as may be legal, valid and enforceable, the intent and purpose of such illegal, invalid or unenforceable provision and (b) the remainder of this Agreement or such term or provision and the application of such term or provision to other Persons or circumstances shall remain in full force and effect and shall not be affected by such illegality, invalidity or unenforceability, nor shall such invalidity or unenforceability affect the legality, validity or enforceability of such term or provision, or the application thereof, in any jurisdiction.

Section 9.9 Counterparts; Facsimiles. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same agreement. All signatures of the Parties may be transmitted by facsimile or electronic delivery, and each such facsimile signature or electronic delivery signature (including a pdf signature) will, for all purposes, be deemed to be the original signature of the Party whose signature it reproduces and be binding upon such Party.

Section 9.10 Headings. The descriptive headings of the Articles, Sections and paragraphs of, and Schedules and Exhibits to, this Agreement, and the table of contents, table of Exhibits and table of Schedules contained in this Agreement, are included for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit, modify or affect any of the provisions hereof.

Section 9.11 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each Party hereto and their respective permitted successors and

assigns; provided, that (a) for all purposes each of Sponsor, the New VEBA, and Canada shall be express third-party beneficiaries of this Agreement and (b) for purposes of **Section 2.2(a)(x)** and **(xvi)**, **Section 2.2(b)(vii)**, **Section 2.3(a)(x)**, **(xii)**, **(xiii)** and **(xv)**, **Section 2.3(b)(xv)**, **Section 4.6(b)**, **Section 4.10**, **Section 5.4(c)**, **Section 6.2(b)(x)**, **(xv)** and **(xvii)**, **Section 6.4(a)**, **Section 6.4(b)**, **Section 6.6(a)**, **(d)**, **(f)** and **(g)**, **Section 6.11(c)(i)** and **(vi)**, **Section 6.17**, **Section 7.1(a)** and **(f)**, **Section 7.2(d)** and **(e)** and **Section 7.3(g)**, **(h)** and **(i)**, the UAW shall be an express third-party beneficiary of this Agreement. Subject to the preceding sentence, nothing express or implied in this Agreement is intended or shall be construed to confer upon or give to any Person, other than the Parties, their Affiliates and their respective permitted successors or assigns, any legal or equitable Claims, benefits, rights or remedies of any nature whatsoever under or by reason of this Agreement.

Section 9.12 Governing Law. The construction, interpretation and other matters arising out of or in connection with this Agreement (whether arising in contract, tort, equity or otherwise) shall in all respects be governed by and construed (a) to the extent applicable, in accordance with the Bankruptcy Code, and (b) to the extent the Bankruptcy Code is not applicable, in accordance with the Laws of the State of New York, without giving effect to rules governing the conflict of laws.

Section 9.13 Venue and Retention of Jurisdiction. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the Bankruptcy Court for any litigation arising out of or in connection with this Agreement and the transactions contemplated hereby (and agrees not to commence any litigation relating thereto except in the Bankruptcy Court, other than actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court as described herein); provided, however, that this **Section 9.13** shall not be applicable in the event the Bankruptcy Cases have closed, in which case the Parties irrevocably and unconditionally submit to the exclusive jurisdiction of the federal courts in the Southern District of New York and state courts of the State of New York located in the Borough of Manhattan in the City of New York for any litigation arising out of or in connection with this Agreement and the transactions contemplated hereby (and agree not to commence any litigation relating thereto except in the federal courts in the Southern District of New York and state courts of the State of New York located in the Borough of Manhattan in the City of New York, other than actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court as described herein).

Section 9.14 Waiver of Jury Trial. EACH PARTY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY DISPUTE IN CONNECTION WITH OR RELATING TO THIS AGREEMENT OR ANY MATTERS DESCRIBED OR CONTEMPLATED HEREIN, AND AGREES TO TAKE ANY AND ALL ACTION NECESSARY OR APPROPRIATE TO EFFECT SUCH WAIVER.

Section 9.15 Risk of Loss. Prior to the Closing, all risk of loss, damage or destruction to all or any part of the Purchased Assets shall be borne exclusively by Sellers.

Section 9.16 Enforcement of Agreement. The Parties agree that irreparable damage would occur in the event that any provision of this Agreement were not performed in accordance with its specific terms or were otherwise breached. It is accordingly agreed that the

Parties shall, without the posting of a bond, be entitled, subject to a determination by a court of competent jurisdiction, to an injunction or injunctions to prevent any such failure of performance under, or breaches of, this Agreement, and to enforce specifically the terms and provisions hereof and thereof, this being in addition to all other remedies available at law or in equity, and each Party agrees that it will not oppose the granting of such relief on the basis that the requesting Party has an adequate remedy at law.

Section 9.17 Entire Agreement. This Agreement (together with the Ancillary Agreements, the Sellers' Disclosure Schedule and the Exhibits) contains the final, exclusive and entire agreement and understanding of the Parties with respect to the subject matter hereof and thereof and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, among the Parties with respect to the subject matter hereof and thereof. Neither this Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of any Party with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein, and none shall be deemed to exist or be inferred with respect to the subject matter hereof.

Section 9.18 Publicity. Prior to the first public announcement of this Agreement and the transactions contemplated hereby, Sellers, on the one hand, and Purchaser, on the other hand, shall consult with each other regarding, and share with each other copies of, their respective communications plans, including draft press releases and related materials, with regard to such announcement. Neither Sellers nor Purchaser shall issue any press release or public announcement concerning this Agreement or the transactions contemplated hereby without obtaining the prior written approval of the other Party or Parties, as applicable, which approval shall not be unreasonably withheld, conditioned or delayed, unless, in the sole judgment of the Party intending to make such release, disclosure is otherwise required by applicable Law, or by the Bankruptcy Court with respect to filings to be made with the Bankruptcy Court in connection with this Agreement or by the applicable rules of any stock exchange on which Purchaser or Sellers list securities; provided, that the Party intending to make such release shall use reasonable best efforts consistent with such applicable Law or Bankruptcy Court requirement to consult with the other Party or Parties, as applicable, with respect to the text thereof; provided, further, that, notwithstanding anything to the contrary contained in this section, no Party shall be prohibited from publishing, disseminating or otherwise making public, without the prior written approval of the other Party or Parties, as applicable, any materials that are derived from or consistent with the materials included in the communications plan referred to above. In an effort to coordinate consistent communications, the Parties shall agree upon procedures relating to all press releases and public announcements concerning this Agreement and the transactions contemplated hereby.

Section 9.19 No Successor or Transferee Liability. Except where expressly prohibited under applicable Law or otherwise expressly ordered by the Bankruptcy Court, upon the Closing, neither Purchaser nor any of its Affiliates or stockholders shall be deemed to (a) be the successor of Sellers; (b) have, de facto, or otherwise, merged with or into Sellers; (c) be a mere continuation or substantial continuation of Sellers or the enterprise(s) of Sellers; or (d) other than as set forth in this Agreement, be liable for any acts or omissions of Sellers in the conduct of Sellers' business or arising under or related to the Purchased Assets. Without limiting

the generality of the foregoing, and except as otherwise provided in this Agreement, neither Purchaser nor any of its Affiliates or stockholders shall be liable for any Claims against Sellers or any of their predecessors or Affiliates, and neither Purchaser nor any of its Affiliates or stockholders shall have any successor, transferee or vicarious Liability of any kind or character whether known or unknown as of the Closing, whether now existing or hereafter arising, or whether fixed or contingent, with respect to Sellers' business or any obligations of Sellers arising prior to the Closing, except as provided in this Agreement, including Liabilities on account of any Taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of Sellers' business prior to the Closing.

Section 9.20 Time Periods. Unless otherwise specified in this Agreement, an action required under this Agreement to be taken within a certain number of days or any other time period specified herein shall be taken within the applicable number of calendar days (and not Business Days); provided, however, that if the last day for taking such action falls on a day that is not a Business Day, the period during which such action may be taken shall be automatically extended to the next Business Day.

Section 9.21 Sellers' Disclosure Schedule. The representations and warranties of Sellers set forth in this Agreement are made and given subject to the disclosures contained in the Sellers' Disclosure Schedule. Inclusion of information in the Sellers' Disclosure Schedule shall not be construed as an admission that such information is material to the business, operations or condition of the business of Sellers, the Purchased Assets or the Assumed Liabilities, taken in part or as a whole, or as an admission of Liability of any Seller to any third party. The specific disclosures set forth in the Sellers' Disclosure Schedule have been organized to correspond to Section references in this Agreement to which the disclosure may be most likely to relate; provided, however, that any disclosure in the Sellers' Disclosure Schedule shall apply to, and shall be deemed to be disclosed for, any other Section of this Agreement to the extent the relevance of such disclosure to such other Section is reasonably apparent on its face.

Section 9.22 No Binding Effect. Notwithstanding anything in this Agreement to the contrary, no provision of this Agreement shall (i) be binding on or create any obligation on the part of Sponsor, the United States Government or any branch, agency or political subdivision thereof (a "Sponsor Affiliate") or the Government of Canada, or any crown corporation, agency or department thereof (a "Canada Affiliate") or (ii) require Purchaser to initiate any Claim or other action against Sponsor or any Sponsor Affiliate or otherwise attempt to cause Sponsor, any Sponsor Affiliate, Government of Canada or any Canada Affiliate to comply with or abide by the terms of this Agreement. No facts, materials or other information received or action taken by any Person who is an officer, director or agent of Purchaser by virtue of such Person's affiliation with or employment by Sponsor, any Sponsor Affiliate, Government of Canada or any Canada Affiliate shall be attributed to Purchaser for purposes of this Agreement or shall form the basis of any claim against such Person in their individual capacity.

[Remainder of the page left intentionally blank]

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed by its duly authorized officer, in each case as of the date first written above.

GENERAL MOTORS CORPORATION

By: _____
Name: Frederick A. Henderson
Title: President and Chief Executive Officer

SATURN LLC

By: _____
Name: Jill Lajdziak
Title: President

SATURN DISTRIBUTION CORPORATION

By: _____
Name: Jill Lajdziak
Title: President

CHEVROLET-SATURN OF HARLEM, INC.

By: _____
Name: Michael Garrick
Title: President

NGMCO, INC.

By: _____
Name: Sadiq A. Malik
Title: Vice President and Treasurer

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By: _____
Name: Michael Garrick
Title: President

NGMCO, INC.

By: _____
Name: Sadiq A. Malik
Title: Vice President and Treasurer

FIRST AMENDMENT TO AMENDED AND RESTATED MASTER SALE AND PURCHASE AGREEMENT

THIS FIRST AMENDMENT TO AMENDED AND RESTATED MASTER SALE AND PURCHASE AGREEMENT, dated as of June 30, 2009 (this "Amendment"), is made by and among General Motors Corporation, a Delaware corporation ("Parent"), Saturn LLC, a Delaware limited liability company ("S LLC"), Saturn Distribution Corporation, a Delaware corporation ("S Distribution"), Chevrolet-Saturn of Harlem, Inc., a Delaware corporation ("Harlem," and collectively with Parent, S LLC and S Distribution, "Sellers," and each a "Seller"), and NGMCO, Inc., a Delaware corporation and successor-in-interest to Vehicle Acquisition Holdings LLC, a Delaware limited liability company ("Purchaser").

WHEREAS, Sellers and Purchaser have entered into that certain Amended and Restated Master Sale and Purchase Agreement, dated as of June 26, 2009 (the "Purchase Agreement"); and

WHEREAS, the Parties desire to amend the Purchase Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained in this Agreement, and for other good and valuable consideration, the value, receipt and sufficiency of which are acknowledged, the Parties hereby agree as follows:

Section 1. *Capitalized Terms.* All capitalized terms used but not defined herein shall have the meanings specified in the Purchase Agreement.

Section 2. *Amendments to Purchase Agreement.*

(a) **Section 2.3(a)(v)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

> (v) all Liabilities of Sellers (A) arising in the Ordinary Course of Business during the Bankruptcy Cases through and including the Closing Date, to the extent such Liabilities are administrative expenses of Sellers' estates pursuant to Section 503(b) of the Bankruptcy Code and (B) arising prior to the commencement of the Bankruptcy Cases, to the extent approved by the Bankruptcy Court for payment by Sellers pursuant to a Final Order (and for the avoidance of doubt, Sellers' Liabilities in clauses (A) and (B) above include all of Sellers' Liabilities for personal property Taxes, real estate and/or other ad valorem Taxes, use Taxes, sales Taxes, franchise Taxes, income Taxes, gross receipt Taxes, excise Taxes, Michigan Business Taxes and Michigan Single Business Taxes and other Liabilities mentioned in the Bankruptcy Court's Order - Docket No. 174), in each case, other than (1) Liabilities of the type described in **Section 2.3(b)(iv)**, **Section 2.3(b)(vi)**, **Section 2.3(b)(ix)** and **Section 2.3(b)(xii)**, (2) Liabilities arising under any dealer sales and service Contract and any Contract related thereto, to the extent such Contract has been designated as

a Rejectable Executory Contract, and (3) Liabilities otherwise assumed in this **Section 2.3(a)**;

(b) **Section 2.3(a)(ix)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(ix) all Liabilities to third parties for death, personal injury, or other injury to Persons or damage to property caused by motor vehicles designed for operation on public roadways or by the component parts of such motor vehicles and, in each case, manufactured, sold or delivered by Sellers (collectively, "Product Liabilities"), which arise directly out of death, personal injury or other injury to Persons or damage to property caused by accidents or incidents first occurring on or after the Closing Date and arising from such motor vehicles' operation or performance (for avoidance of doubt, Purchaser shall not assume, or become liable to pay, perform or discharge, any Liability arising or contended to arise by reason of exposure to materials utilized in the assembly or fabrication of motor vehicles manufactured by Sellers and delivered prior to the Closing Date, including asbestos, silicates or fluids, regardless of when such alleged exposure occurs);

(c) **Section 2.3(b)(xii)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(xii) all workers' compensation Claims with respect to Employees residing or employed in, as the case may be and as defined by applicable Law, (A) the states set forth on **Exhibit G** and (B) if the State of Michigan (1) fails to authorize Purchaser and its Affiliates operating within the State of Michigan to be a self-insurer for purposes of administering workers' compensation Claims or (2) requires Purchaser and its Affiliates operating within the State of Michigan to post collateral, bonds or other forms of security to secure workers' compensation Claims, the State of Michigan (collectively, "Retained Workers' Compensation Claims");

(d) **Section 6.6(d)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(d) All Assumable Executory Contracts shall be assumed and assigned to Purchaser on the date (the "Assumption Effective Date") that is the later of (i) the date designated by the Purchaser and (ii) the date following expiration of the objection deadline if no objection, other than to the Cure Amount, has been timely filed or the date of resolution of any objection unrelated to Cure Amount, as provided in the Sale Procedures Order; provided, however, that in the case of each (A) Assumable Executory Contract identified on Section 6.6(a)(i) of the Sellers' Disclosure Schedule, (2) Deferred Termination Agreement (and the related Discontinued Brand Dealer Agreement or Continuing Brand Dealer Agreement)

designated as an Assumable Executory Contract and (3) Participation Agreement (and the related Continuing Brand Dealer Agreement) designated as an Assumable Executory Contract, the Assumption Effective Date shall be the Closing Date and (B) Assumable Executory Contract identified on Section 6.6(a)(ii) of the Sellers' Disclosure Schedule, the Assumption Effective Date shall be a date that is no later than the date set forth with respect to such Executory Contract on Section 6.6(a)(ii) of the Sellers' Disclosure Schedule. As soon as reasonably practicable following a determination that an Executory Contract shall be designated as an Assumable Executory Contract hereunder, Sellers shall use reasonable best efforts to notify each third party to such Executory Contract of their intention to assume and assign such Executory Contract in accordance with the terms of this Agreement and the Sale Procedures Order. On the Assumption Effective Date for any Assumable Executory Contract, such Assumable Executory Contract shall be deemed to be a Purchased Contract hereunder. If it is determined under the procedures set forth in the Sale Procedures Order that Sellers may not assume and assign to Purchaser any Assumable Executory Contract, such Executory Contract shall cease to be an Assumable Executory Contract and shall be an Excluded Contract and a Rejectable Executory Contract. Except as provided in **Section 6.31**, notwithstanding anything else to the contrary herein, any Executory Contract that has not been specifically designated as an Assumable Executory Contract as of the Executory Contract Designation Deadline applicable to such Executory Contract, including any Deferred Executory Contract, shall automatically be deemed to be a Rejectable Executory Contract and an Excluded Contract hereunder. Sellers shall have the right, but not the obligation, to reject, at any time, any Rejectable Executory Contract; provided, however, that Sellers shall not reject any Contract that affects both Owned Real Property and Excluded Real Property (whether designated on **Exhibit F** or now or hereafter designated on Section 2.2(b)(v) of the Sellers' Disclosure Schedule), including any such Executory Contract that involves the provision of water, water treatment, electric, fuel, gas, telephone and other utilities to any facilities located at the Excluded Real Property, whether designated on **Exhibit F** or now or hereafter designated on Section 2.2(b)(v) of the Sellers' Disclosure Schedule (the "Shared Executory Contracts"), without the prior written consent of Purchaser.

Section 3. Effectiveness of Amendment. Upon the execution and delivery hereof, the Purchase Agreement shall thereupon be deemed to be amended and restated as set forth in Section 2, as fully and with the same effect as if such amendments and restatements were originally set forth in the Purchase Agreement.

Section 4. Ratification of Purchase Agreement; Incorporation by Reference. Except as specifically provided for in this Amendment, the Purchase Agreement is hereby confirmed and ratified in all respects and shall be and remain in full force and effect in accordance with its terms. This Amendment is subject to all of the terms, conditions and limitations set forth in the Purchase Agreement, including **Article IX** thereof, which sections are hereby incorporated into this Amendment, mutatis mutandis, as if they were set forth in their entirety herein.

Section 5. *Counterparts.* This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same agreement. All signatures of the Parties may be transmitted by facsimile or electronic delivery, and each such facsimile signature or electronic delivery signature (including a pdf signature) will, for all purposes, be deemed to be the original signature of the Party whose signature it reproduces and be binding upon such Party.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, each of the Parties hereto has caused this Amendment to be executed by its duly authorized officer, in each case as of the date first written above.

GENERAL MOTORS CORPORATION

By: _____
Name: Frederick A. Henderson
Title: President and Chief Executive Officer

SATURN LLC

By: _____
Name: Jill Lajdziak
Title: President

SATURN DISTRIBUTION CORPORATION

By: _____
Name: Jill Lajdziak
Title: President

CHEVROLET-SATURN OF HARLEM, INC.

By: _____
Name: Michael Garrick
Title: President

NGMCO, INC.

By: _____
Name: Sadiq Malik
Title: Vice President and Treasurer

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Name: Sadiq Malik
Title: Vice President and Treasurer

SECOND AMENDMENT TO AMENDED AND RESTATED MASTER SALE AND PURCHASE AGREEMENT

THIS SECOND AMENDMENT TO AMENDED AND RESTATED MASTER SALE AND PURCHASE AGREEMENT, dated as of July 5, 2009 (this "Amendment"), is made by and among General Motors Corporation, a Delaware corporation ("Parent"), Saturn LLC, a Delaware limited liability company ("S LLC"), Saturn Distribution Corporation, a Delaware corporation ("S Distribution"), Chevrolet-Saturn of Harlem, Inc., a Delaware corporation ("Harlem," and collectively with Parent, S LLC and S Distribution, "Sellers," and each a "Seller"), and NGMCO, Inc., a Delaware corporation and successor-in-interest to Vehicle Acquisition Holdings LLC, a Delaware limited liability company ("Purchaser").

WHEREAS, Sellers and Purchaser have entered into that certain Amended and Restated Master Sale and Purchase Agreement, dated as of June 26, 2009 (as amended, the "Purchase Agreement");

WHEREAS, Sellers and Purchaser have entered into that certain First Amendment to Amended and Restated Master and Purchase Agreement; and

WHEREAS, the Parties desire to amend the Purchase Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained in this Agreement, and for other good and valuable consideration, the value, receipt and sufficiency of which are acknowledged, the Parties hereby agree as follows:

Section 1. *Capitalized Terms.* All capitalized terms used but not defined herein shall have the meanings specified in the Purchase Agreement.

Section 2. *Amendments to Purchase Agreement.*

(a) The following new definition of "Advanced Technology Credits" is hereby included in **Section 1.1** of the Purchase Agreement:

> "Advanced Technology Credits" has the meaning set forth in **Section 6.36**.

(b) The following new definition of "Advanced Technology Projects" is hereby included in **Section 1.1** of the Purchase Agreement:

> "Advanced Technology Projects" means development, design, engineering and production of advanced technology vehicles and components, including the vehicles known as "the Volt", "the Cruze" and components, transmissions and systems for vehicles employing hybrid technologies.

(c) The definition of "Ancillary Agreements" is hereby amended and restated in its entirety to read as follows:

"Ancillary Agreements" means the Parent Warrants, the UAW Active Labor Modifications, the UAW Retiree Settlement Agreement, the VEBA Warrant, the Equity Registration Rights Agreement, the Bill of Sale, the Assignment and Assumption Agreement, the Intellectual Property Assignment Agreement, the Transition Services Agreement, the Quitclaim Deeds, the Assignment and Assumption of Real Property Leases, the Assignment and Assumption of Harlem Lease, the Master Lease Agreement, the Subdivision Master Lease (if required), the Saginaw Service Contracts (if required), the Assignment and Assumption of Willow Run Lease, the Ren Cen Lease, the VEBA Note and each other agreement or document executed by the Parties pursuant to this Agreement or any of the foregoing and each certificate and other document to be delivered by the Parties pursuant to **ARTICLE VII**.

(d) The following new definition of "Excess Estimated Unsecured Claim Amount" is hereby included in **Section 1.1** of the Purchase Agreement:

"Excess Estimated Unsecured Claim Amount" has the meaning set forth in **Section 3.2(c)(i)**.

(e) The definition of "Permitted Encumbrances" is hereby amended and restated in its entirety to read as follows:

"Permitted Encumbrances" means all (i) purchase money security interests arising in the Ordinary Course of Business; (ii) security interests relating to progress payments created or arising pursuant to government Contracts in the Ordinary Course of Business; (iii) security interests relating to vendor tooling arising in the Ordinary Course of Business; (iv) Encumbrances that have been or may be created by or with the written consent of Purchaser; (v) mechanic's, materialmen's, laborer's, workmen's, repairmen's, carrier's liens and other similar Encumbrances arising by operation of law or statute in the Ordinary Course of Business for amounts that are not delinquent or that are being contested in good faith by appropriate proceedings; (vi) liens for Taxes, the validity or amount of which is being contested in good faith by appropriate proceedings, and statutory liens for current Taxes not yet due, payable or delinquent (or which may be paid without interest or penalties); (vii) with respect to the Transferred Real Property that is Owned Real Property, other than Secured Real Property Encumbrances at and following the Closing: (a) matters that a current ALTA/ACSM survey, or a similar cadastral survey in any country other than the United States, would disclose, the existence of which, individually or in the aggregate, would not materially and adversely interfere with the present use of the affected property; (b) rights of the public, any Governmental Authority and adjoining property owners in streets and highways abutting or adjacent to the applicable Owned Real Property; (c) easements, licenses, rights-of-way, covenants, servitudes, restrictions, encroachments, site plans, subdivision plans and other Encumbrances of public record or that would be disclosed by a current title commitment of the applicable Owned Real Property, which, individually or in the aggregate, would not materially and adversely interfere with the present use

of the applicable Owned Real Property; and (d) such other Encumbrances, the existence of which, individually or in the aggregate, would not materially and adversely interfere with or affect the present use or occupancy of the applicable Owned Real Property; (viii) with respect to the Transferred Real Property that is Leased Real Property: (1) matters that a current ALTA/ACSM survey, or a similar cadastral survey in any country other than the United States, would disclose; (2) rights of the public, any Governmental Authority and adjoining property owners in streets and highways abutting or adjacent to the applicable Leased Real Property; (3) easements, licenses, rights-of-way, covenants, servitudes, restrictions, encroachments, site plans, subdivision plans and other Encumbrances of public record or that would be disclosed by a current title commitment of the applicable Leased Real Property or which have otherwise been imposed on such property by landlords; (ix) in the case of the Transferred Equity Interests, all restrictions and obligations contained in any Organizational Document, joint venture agreement, shareholders agreement, voting agreement and related documents and agreements, in each case, affecting the Transferred Equity Interests; (x) except to the extent otherwise agreed to in the Ratification Agreement entered into by Sellers and GMAC on June 1, 2009 and approved by the Bankruptcy Court on the date thereof or any other written agreement between GMAC or any of its Subsidiaries and any Seller, all Claims (in each case solely to the extent such Claims constitute Encumbrances) and Encumbrances in favor of GMAC or any of its Subsidiaries in, upon or with respect to any property of Sellers or in which Sellers have an interest, including any of the following: (1) cash, deposits, certificates of deposit, deposit accounts, escrow funds, surety bonds, letters of credit and similar agreements and instruments; (2) owned or leased equipment; (3) owned or leased real property; (4) motor vehicles, inventory, equipment, statements of origin, certificates of title, accounts, chattel paper, general intangibles, documents and instruments of dealers, including property of dealers in-transit to, surrendered or returned by or repossessed from dealers or otherwise in any Seller's possession or under its control; (5) property securing obligations of Sellers under derivatives Contracts; (6) rights or property with respect to which a Claim or Encumbrance in favor of GMAC or any of its Subsidiaries is disclosed in any filing made by Parent with the SEC (including any filed exhibit); and (7) supporting obligations, insurance rights and Claims against third parties relating to the foregoing; and (xi) all rights of setoff and/or recoupment that are Encumbrances in favor of GMAC and/or its Subsidiaries against amounts owed to Sellers and/or any of their Subsidiaries with respect to any property of Sellers or in which Sellers have an interest as more fully described in clause (x) above; it being understood that nothing in this clause (xi) or preceding clause (x) shall be deemed to modify, amend or otherwise change any agreement as between GMAC or any of its Subsidiaries and any Seller.

(f) The following new definition of "Purchaser Escrow Funds" is hereby included in **Section 1.1** of the Purchase Agreement:

"Purchaser Escrow Funds" has the meaning set forth in **Section 2.2(a)(xx)**.

(g) **Section 2.2(a)(xii)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

> (xii) all credits, Advanced Technology Credits, deferred charges, prepaid expenses, deposits, advances, warranties, rights, guarantees, surety bonds, letters of credit, trust arrangements and other similar financial arrangements, in each case, relating to the Purchased Assets or Assumed Liabilities, including all warranties, rights and guarantees (whether express or implied) made by suppliers, manufacturers, contractors and other third parties under or in connection with the Purchased Contracts;

(h) **Section 2.2(a)(xviii)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

> (xviii) any rights of any Seller, Subsidiary of any Seller or Seller Group member to any Tax refunds, credits or abatements that relate to any Pre-Closing Tax Period or Straddle Period;

(i) **Section 2.2(a)(xix)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

> (xix) any interest in Excluded Insurance Policies, only to the extent such interest relates to any Purchased Asset or Assumed Liability; and

(j) A new **Section 2.2(a)(xx)** is hereby added to the Purchase Agreement to read as follows:

> (xx) all cash and cash equivalents, including all marketable securities, held in (1) escrow pursuant to, or as contemplated by that certain letter agreement dated as of June 30, 2009, by and between Parent, Citicorp USA, Inc., as Bank Representative, and Citibank, N.A., as Escrow Agent or (2) any escrow established in contemplation or for the purpose of the Closing, that would otherwise constitute a Purchased Asset pursuant to **Section 2.2(a)(i)** (collectively, "Purchaser Escrow Funds");

(k) **Section 2.2(b)(i)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

> (i) cash or cash equivalents in an amount equal to $1,175,000,000 (the "Excluded Cash");

(l) **Section 2.2(b)(ii)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

> (ii) all Restricted Cash exclusively relating to the Excluded Assets or Retained Liabilities, which for the avoidance of doubt, shall not be deemed to include Purchaser Escrow Funds;

(m) **Section 2.3(a)(viii)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

> (viii) all Liabilities arising under any Environmental Law (A) relating to the Transferred Real Property, other than those Liabilities described in **Section 2.3(b)(iv)**, (B) resulting from Purchaser's ownership or operation of the Transferred Real Property after the Closing or (C) relating to Purchaser's failure to comply with Environmental Laws after the Closing;

(n) **Section 2.3(a)(xii)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

> (xii) all Liabilities (A) specifically assumed by Purchaser pursuant to **Section 6.17** or (B) arising out of, relating to or in connection with the salaries and/or wages and vacation of all Transferred Employees that are accrued and unpaid (or with respect to vacation, unused) as of the Closing Date;

(o) **Section 2.3(b)(iv)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

> (iv) all Liabilities (A) associated with noncompliance with Environmental Laws (including for fines, penalties, damages and remedies); (B) arising out of, relating to, in respect of or in connection with the transportation, off-site storage or off-site disposal of any Hazardous Materials generated or located at any Transferred Real Property; (C) arising out of, relating to, in respect of or in connection with third party Claims related to Hazardous Materials that were or are located at or that were Released into the Environment from Transferred Real Property prior to the Closing, except as otherwise required under applicable Environmental Laws; (D) arising under Environmental Laws related to the Excluded Real Property, except as provided under Section 18.2(e) of the Master Lease Agreement or as provided under the "Facility Idling Process" section of Schedule A of the Transition Services Agreement; or (E) for environmental Liabilities with respect to real property formerly owned, operated or leased by Sellers (as of the Closing), which, in the case of clauses (A), (B) and (C), arose prior to or at the Closing, and which, in the case of clause (D) and (E), arise prior to, at or after the Closing;

(p) **Section 2.3(b)(xii)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

> (xii) all workers' compensation Claims with respect to Employees residing or employed in, as the case may be and as defined by applicable Law, the states set forth on **Exhibit G** (collectively, "Retained Workers' Compensation Claims");

(q) **Section 3.2(a)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(a) The purchase price (the "Purchase Price") shall be equal to the sum of:

(i) a Bankruptcy Code Section 363(k) credit bid in an amount equal to: (A) the amount of Indebtedness of Parent and its Subsidiaries as of the Closing pursuant to the UST Credit Facilities, and (B) the amount of Indebtedness of Parent and its Subsidiaries as of the Closing under the DIP Facility, less $8,247,488,605 of Indebtedness under the DIP Facility (such amount, the "UST Credit Bid Amount");

(ii) the UST Warrant (which the Parties agree has a value of no less than $1,000);

(iii) the valid issuance by Purchaser to Parent of (A) 50,000,000 shares of Common Stock (collectively, the "Parent Shares") and (B) the Parent Warrants; and

(iv) the assumption by Purchaser or its designated Subsidiaries of the Assumed Liabilities.

For the avoidance of doubt, immediately following the Closing, the only indebtedness for borrowed money (or any guarantees thereof) of Sellers and their Subsidiaries to Sponsor, Canada and Export Development Canada is amounts under the Wind Down Facility.

(r) **Section 3.2(c)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(c)

(i) Sellers may, at any time, seek an Order of the Bankruptcy Court (the "Claims Estimate Order"), which Order may be the Order confirming Sellers' Chapter 11 plan, estimating the aggregate allowed general unsecured claims against Sellers' estates. If in the Claims Estimate Order, the Bankruptcy Court makes a finding that the estimated aggregate allowed general unsecured claims against Sellers' estates exceed $35,000,000,000, then Purchaser will, within five (5) Business Days of entry of the Claims Estimate Order, issue additional shares of Common Stock (the "Adjustment Shares") to Parent, as an adjustment to the Purchase Price, based on the extent by which such estimated aggregate general unsecured claims exceed $35,000,000,000 (such amount, the "Excess Estimated Unsecured Claim Amount;" in the event this amount exceeds $7,000,000,000 the Excess Estimated Unsecured Claim Amount will be reduced to a cap of $7,000,000,000). The number of Adjustment Shares to be issued will be equal to the number of shares, rounded up to the next whole share, calculated by multiplying (i) 10,000,000 shares of Common Stock (adjusted to take into account any stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, reorganization or similar transaction with respect to the

Common Stock, effected from and after the Closing and before issuance of the Adjustment Shares) and (ii) a fraction, (A) the numerator of which is Excess Estimated Unsecured Claim Amount (capped at $7,000,000,000) and (B) the denominator of which is $7,000,000,000.

(ii) At the Closing, Purchaser will have authorized and, thereafter, will reserve for issuance the maximum number of shares of Common Stock issuable as Adjustment Shares.

(s) **Section 6.9(b)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(b) Sellers shall use reasonable best efforts to agree with Sponsor on the terms of a restructuring of $1,175,000,000 of Indebtedness accrued under the DIP Facility (as restructured, the "Wind Down Facility") to provide for such Wind Down Facility to be non-recourse, to accrue payment-in-kind interest at the Eurodollar Rate (as defined in the Wind-Down Facility) plus 300 basis points, to be secured by all assets of Sellers (other than the Parent Shares, Adjustment Shares, Parent Warrants and any securities or proceeds received in respect thereof). Sellers shall use reasonable best efforts to enter into definitive financing agreements with respect to the Wind Down Facility so that such agreements are in effect as promptly as practicable but in any event no later than the Closing.

(t) **Section 6.17(e)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(e) *Assumption of Certain Parent Employee Benefit Plans and Policies*. As of the Closing Date, Purchaser or one of its Affiliates shall assume (i) the Parent Employee Benefit Plans and Policies set forth on Section 6.17(e) of the Sellers' Disclosure Schedule as modified thereon, and all assets, trusts, insurance policies and other Contracts relating thereto, except for any that do not comply in all respects with TARP or as otherwise provided in **Section 6.17(h)** and (ii) all employee benefit plans, programs, policies, agreements or arrangements (whether written or oral) in which Employees who are covered by the UAW Collective Bargaining Agreement participate and all assets, trusts, insurance and other Contracts relating thereto (collectively, the "Assumed Plans"), and Sellers and Purchaser shall cooperate with each other to take all actions and execute and deliver all documents and furnish all notices necessary to establish Purchaser or one of its Affiliates as the sponsor of such Assumed Plans including all assets, trusts, insurance policies and other Contracts relating thereto. Other than with respect to any Employee who was or is covered by the UAW Collective Bargaining Agreement, Purchaser shall have no Liability with respect to any modifications or changes to Benefit Plans contemplated by Section 6.17(e) of the Sellers' Disclosure Schedule, or changes made by Parent prior to the Closing Date, and Purchaser shall not assume any Liability with respect to any such decisions or actions related thereto, and Purchaser shall only assume the Liabilities for benefits provided pursuant to the written terms and conditions of

the Assumed Plan as of the Closing Date. Notwithstanding the foregoing, the assumption of the Assumed Plans is subject to Purchaser taking all necessary action, including reduction of benefits, to ensure that the Assumed Plans comply in all respects with TARP. Notwithstanding the foregoing, but subject to the terms of any Collective Bargaining Agreement to which Purchaser or one of its Affiliates is a party, Purchaser and its Affiliates may, in its sole discretion, amend, suspend or terminate any such Assumed Plan at any time in accordance with its terms.

(u) A new **Section 6.17(n)** is hereby added to the Purchase Agreement to read as follows:

(n) *Harlem Employees*. With respect to non-UAW employees of Harlem, Purchaser or one of its Affiliates may make offers of employment to such individuals at its discretion. With respect to UAW-represented employees of Harlem and such other non-UAW employees who accept offers of employment with Purchaser or one of its Affiliates, in addition to obligations under the UAW Collective Bargaining Agreement with respect to UAW-represented employees, Purchaser shall assume all Liabilities arising out of, relating to or in connection with the salaries and/or wages and vacation of all such individuals that are accrued and unpaid (or with respect to vacation, unused) as of the Closing Date. With respect to non-UAW employees of Harlem who accept such offers of employment, Purchaser or one of its Affiliates shall take all actions necessary such that such individuals shall be credited for their actual and credited service with Sellers and each of their respective Affiliates, for purposes of eligibility, vesting and benefit accrual in any employee benefit plans (excluding equity compensation plans or programs) covering such individuals after the Closing; provided, however, that such crediting of service shall not operate to duplicate any benefit to any such individual or the funding for any such benefit. Purchaser or one of its Affiliates, in its sole discretion, may assume certain employee benefit plans maintained by Harlem by delivering written notice (which such notice shall indentify such employee benefit plans of Harlem to be assumed) to Sellers of such assumption on or before the Closing, and upon delivery of such notice, such employee benefit plans shall automatically be deemed to be set forth on Section 6.17(e) of the Sellers' Disclosure Schedules. All such employee benefit plans that are assumed by Purchaser or one of its Affiliates pursuant to the preceding sentence shall be deemed to be Assumed Plans for purposes of this Agreement.

(v) A new **Section 6.36** is hereby added to the Purchase Agreement to read as follows:

Section 6.36 Advanced Technology Credits. The Parties agree that Purchaser shall, to the extent permissible by applicable Law (including all rules, regulations and policies pertaining to Advanced Technology Projects), be entitled to receive full credit for expenditures incurred by Sellers prior to the Closing towards Advanced Technology Projects for the purpose of any current or future program sponsored by a Governmental Authority providing financial assistance in

connection with any such project, including any program pursuant to Section 136 of the Energy Independence and Security Act of 2007 ("Advanced Technology Credits"), and acknowledge that the Purchase Price includes and represents consideration for the full value of such expenditures incurred by Sellers.

(w) **Section 7.2(c)(vi)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(vi) *[Reserved]*;

(x) **Section 7.2(c)(vii)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(vii) *[Reserved]*;

(y) **Section 7.3(c)(viii)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(viii) *[Reserved]*;

(z) **Section 7.3(c)(ix)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(ix) *[Reserved]*;

(aa) **Section 7.3(f)** of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

(f) Purchaser shall have (i) offset the UST Credit Bid Amount against the amount of Indebtedness of Parent and its Subsidiaries owed to Purchaser as of the Closing under the UST Credit Facilities and the DIP Facility pursuant to a Bankruptcy Code Section 363(k) credit bid and delivered releases and waivers and related Encumbrance-release documentation (including, if applicable, UCC-3 termination statements) with respect to the UST Credit Bid Amount, in a form reasonably satisfactory to the Parties and duly executed by Purchaser in accordance with the applicable requirements in effect on the date hereof, (ii) transferred to Sellers the UST Warrant and (iii) issued to Parent, in accordance with instructions provided by Parent, the Purchaser Shares and the Parent Warrants (duly executed by Purchaser).

(bb) **Exhibit R** to the Purchase Agreement is hereby deleted in its entirety.

(cc) **Exhibit S** to the Purchase Agreement is hereby deleted in its entirety.

(dd) **Exhibit U** to the Purchase Agreement is hereby replaced in its entirety with **Exhibit U** attached hereto.

(ee) **Exhibit X** to the Purchase Agreement is hereby replaced in its entirety with **Exhibit X** attached hereto.

(ff) Section 2.2(b)(iv) of the Sellers' Disclosure Schedule is hereby replaced in its entirety with Section 2.2(b)(iv) of the Sellers' Disclosure Schedule attached hereto.

(gg) Section 4.4 of the Sellers' Disclosure Schedule is hereby replaced in its entirety with Section 4.4 of the Sellers' Disclosure Schedule attached hereto.

(hh) Section 6.6(a)(i) of the Sellers' Disclosure Schedule is hereby replaced in its entirety with Section 6.6(a)(i) of the Sellers' Disclosure Schedule attached hereto.

Section 3. *Effectiveness of Amendment.* Upon the execution and delivery hereof, the Purchase Agreement shall thereupon be deemed to be amended and restated as set forth in Section 2, as fully and with the same effect as if such amendments and restatements were originally set forth in the Purchase Agreement.

Section 4. *Ratification of Purchase Agreement; Incorporation by Reference.* Except as specifically provided for in this Amendment, the Purchase Agreement is hereby confirmed and ratified in all respects and shall be and remain in full force and effect in accordance with its terms. This Amendment is subject to all of the terms, conditions and limitations set forth in the Purchase Agreement, including **Article IX** thereof, which sections are hereby incorporated into this Amendment, mutatis mutandis, as if they were set forth in their entirety herein.

Section 5. *Counterparts.* This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same agreement. All signatures of the Parties may be transmitted by facsimile or electronic delivery, and each such facsimile signature or electronic delivery signature (including a pdf signature) will, for all purposes, be deemed to be the original signature of the Party whose signature it reproduces and be binding upon such Party.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, each of the Parties hereto has caused this Amendment to be executed by its duly authorized officer, in each case as of the date first written above.

GENERAL MOTORS CORPORATION

By: _____
Name: Frederick A. Henderson
Title: President and Chief Executive Officer

SATURN LLC

By: _____
Name: Jill Lajdziak
Title: President

SATURN DISTRIBUTION CORPORATION

By: _____
Name: Jill Lajdziak
Title: President

CHEVROLET-SATURN OF HARLEM, INC.

By: _____
Name: Michael Garrick
Title: President

NGMCO, INC.

By: _____
Name: Sadiq Malik
Title: Vice President and Treasurer

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By: _____
Name: Michael Garrick
Title: President

NGMCO, INC.

By: _____
Name: Sadiq Malik
Title: Vice President and Treasurer

EXHIBIT D

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re: OnStar Contract Litigation

Case No. 2:07-MDL-01867

Honorable Sean F. Cox

_____/

OPINION & ORDER
GRANTING IN PART AND DENYING IN PART
PLAINTIFFS' MOTION FOR LEAVE TO FILE A THIRD AMENDED COMPLAINT

This matter is currently before the Court on Plaintiffs' Motion for Leave to File a Third Master Amended Complaint. Plaintiffs seek to file an amended complaint in order to: 1) add two additional plaintiffs as proposed class representatives; and 2) add NewGM as a Defendant and assert express warranty claims against NewGM, based on warranties that it allegedly assumed in bankruptcy proceedings. The parties have briefed the issues and the Court heard oral argument on January 6, 2011.

As explained below, the Court shall DENY THE MOTION IN PART AND GRANT THE MOTION IN PART. The Court shall DENY Plaintiffs' request for leave to assert warranty claims against NewGM. The Court shall GRANT the motion to the extent that the Court shall allow Plaintiffs to add two additional Plaintiffs as proposed class representatives.

BACKGROUND

Buyers and lessees of automobiles equipped with OnStar telematics equipment filed prospective class action complaints against four automobile manufacturers and OnStar Corporation ("OnStar"), asserting consumer protection act and warranty claims. Starting with a

Transfer Order issued on August 22, 2007, the Judicial Panel on Multidistrict Litigation consolidated the various actions before this Court for pretrial proceedings.

Plaintiffs filed their "Master Amended Class Action Complaint" ("MAC") on February 25, 2008, asserting claims against the following Defendants: 1) General Motors Corporation ("GM"); 2) Volkswagen of America ("VW"); 3) American Honda Motor Company ("Honda"); 4) Subaru of America ("Subaru"); and 5) OnStar.

In response to the MAC, Defendants filed motions to dismiss. On February 19, 2009, this Court issued an "Opinion & Order Granting In Part And Denying In Part Defendants' Motions To Dismiss." (D.E. No. 100). Following that Opinion & Order, Plaintiffs obtained leave to file a Second Master Amended Class Action Complaint ("SMAC"), which was filed on April 30, 2009.

After the SMAC was filed, OnStar filed a Motion to Compel Arbitration, asking the Court to compel Plaintiffs to arbitrate Counts I-A, VI and VII of the SMAC. Those counts involve "lost pre-paid minutes" purchased by Plaintiffs. OnStar asserted, and this Court agreed, that the OnStar T&C's arbitration provision requires arbitration of the pre-paid minutes claims. (*See* D.E. No. 156). Accordingly, the lost pre-paid minutes claims were dismissed.

On or about June 1, 2009, GM filed for bankruptcy. All claims against GM ("Old GM") in this action have been stayed since that time.

The bankruptcy proceedings have been taking place in the United States Bankruptcy Court for the Southern District of New York. In the bankruptcy proceedings, NewGM acquired substantially all of the assets of Old GM. The Bankruptcy Court approved the sale and defined the scope and limitations of New GM's responsibilities for Old GM's liabilities in an "Order (I)

Authorizing Sale of Assets Pursuant to Amended and Restated Master Sale and Purchase Agreement with NGMCO, Inc., a U.S. Treasury-Sponsored Purchaser; (II) Authorizing Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with the Sale; and (III) Granting Related Relief" ("the Sale Approval Order") which was entered in July 2009.

More than a year later, on August 2, 2010, Plaintiffs filed the instant motion seeking to file a Third Master Amended Complaint in order to add New GM as a Defendant and assert express warranty claims against it. Plaintiffs' proposed Third Master Amended Complaint alleges:

> 270. **GM breached its express warranties** to Plaintiff and all other Class members to repair and/or replace OnStar equipment so that it is in good operational condition and repair and suitable for its use in providing OnStar telematics services.
> 271. GM's breach of these express warranties proximately caused damages to Plaintiffs and members of the class.
> 272. **Pursuant to Section 10(b) of the Purchase Agreement and the Bankruptcy Court's Order, plaintiff's claims against GM are "Assumed Liabilities."**
> 273. By reason of the aforesaid, **NewGM is liable to plaintiffs and the Class for GM's breach of its express warranties** to Plaintiffs and the Class.

(Pls.' Proposed TMAC at ¶¶ 261-273) (emphasis added).

ANALYSIS

Plaintiffs filed their motion seeking leave to file a Third Master Amended Complaint ("TMAC") on August 2, 2010. Plaintiffs seek leave to file a TMAC in order to do two things: 1) include two additional proposed class representatives; and 2) assert claims against NewGM.

A. The Court Shall Grant Plaintiffs' Request To Include Two Additional Named Plaintiffs As Proposed Class Representatives.

Plaintiffs seek to file an amended complaint in order to include two additional proposed class representatives: 1) Jason Smith (a New York resident who purchased a Subaru with OnStar); and 2) Armand Pepper (a Florida resident who purchased a vehicle made by Honda with OnStar).

Smith was the sole named Plaintiff in the action transferred here from New York. Through oversight, Plaintiffs neglected to include him as a named plaintiff in the SMAC. Nevertheless, the parties understood him to be a plaintiff, and proposed class representative, and discovery was conducted as to Smith during the class certification discovery. Thus, adding Smith is essentially a "house-keeping matter." Subaru did not file a brief opposing Plaintiffs' motion. Plaintiffs state that Subaru does not oppose the TMAC. (*See* Pls.' Reply Br. at 3 n.3).

Although Honda does not believe that adding Pepper as a named Plaintiff warrants the filing of new complaint, Honda does not oppose adding him as a named Plaintiff, providing that it is able to take discovery from Pepper, which Plaintiffs agree it may do.

OnStar also does not oppose the addition of Pepper and Smith as named Plaintiffs, but asserts that could be done with a supplement that would simply add the allegations as to these two individuals to the SMAC. (*See* OnStar's Br. at 2 n.2).

The Court finds that Plaintiffs should be permitted to add Smith and Pepper as named Plaintiffs and proposed class representatives. Given that an automatic stay is currently in place as to one of the named Defendants in the SMAC, and the fact that Plaintiffs do not seek to add or materially change the allegations as to Defendants, the Court agrees that the filing of a Third Master Amended Complaint is not the best course of action. The Court directs the parties to meet and confer in order to submit to the Court a stipulated order to accomplish Plaintiffs' goal of adding Smith and Pepper as named Plaintiffs and proposed class representatives.

B. The Court Shall Deny Plaintiffs' Request To Assert Warranty Claims Against NewGM In This Action.

Plaintiffs also seek to assert class action claims against NewGM. Specifically, they seek to assert one claim against NewGM – a breach of express warranty claim. (*See* Count VIII of proposed TMAC) They state the following as to the proposed claim against NewGM: "The addition of a new Defendant – New GM – is proper because NewGM has assumed, through a purchase agreement and by order of a 2nd Circuit Bankruptcy Court, GM's express warranty obligations. Plaintiffs' allegations against GM for breach of express warranty are now properly attributable to NewGM." (Pls.' Br. at 2).

OnStar, Honda and VW oppose Plaintiffs' motion seeking to assert claims against NewGM at this late stage of the litigation.

OnStar notes that NewGM is an entirely new and distinct entity from GM and NewGM did not manufacture, market or sell any of the vehicles at issue in this litigation. Defendants assert that, in essence Plaintiffs are seeking "to assert successor liability against NewGM with respect to claims they purport to possess against Old GM, which remains in an ongoing Chapter

11 proceeding in the Bankruptcy Court in the South District of New York." (OnStar's Br. at 2). OnStar further states that "NewGM (which is separately represented with respect to the issues in this case), maintains that it did not assume and is not the successor to any asserted liabilities of Old GM, and has so informed Plaintiffs' counsel. To the extent Plaintiffs dispute New GM's position, that issue is within the exclusive jurisdiction of the Bankruptcy Court to interpret its Sale Approval Order." (*Id.*). OnStar and the other Defendants also oppose the motion because "the late addition of New GM and the ensuing litigation in the Bankruptcy Court would unjustifiably delay this case to the prejudice of all parties." (*Id.* at 2).

This Court shall deny Plaintiffs leave to file a TMAC to assert express warranty claims against NewGM for numerous reasons, which include: 1) the express warranty claims Plaintiffs seek to add against NewGM appear to be barred under the plain language of the Bankruptcy Court's Order; 2) the Bankruptcy Court has jurisdiction to resolve any disputes as to the liabilities that were assumed by NewGM; and 3) Plaintiffs' undue delay in attempting to assert such claims would prejudice Defendants.

First, the express warranty claims that Plaintiffs seek to assert against NewGM appear to be barred by the plain language of the Bankruptcy Court's Sale Approval Order. Notably, Plaintiffs's proposed TMAC seeks to hold NewGM liable for Old GM's alleged breaches of its express warranties:

> 273. By reason of the aforesaid, **NewGM is liable to plaintiffs and the Class for GM's breach of its express warranties** to Plaintiffs and the Class.

(Pls.' Proposed TMAC at ¶¶ 261-273). Paragraph 7 of the Sale Approval Order, however, provides that the assets acquired by NewGm were transferred "free and clear of all liens, claims,

encumbrances, and other interests of any kind or nature whatsoever . . . including rights or claims based on any successor or transferee liability, and all such liens, claims, encumbrances, and other interests, including rights or claims based on any successor or transferee liability" (Docket Entry No. 255-2 at ¶ 7). Moreover, the Sale Approval Order also provides:

> Except for the Assumed Liabilities expressly set forth in the MPA, **none** of the Purchaser, its present or contemplated members or shareholders, it successors or assigns . . . **shall have any liability for any claim that arose prior to the Closing Date**, **relates to the production of vehicles prior to the Closing Date, or otherwise is assertable against the Debtors or is related to the Purchased Assets prior to the Closing Date.**

(Sale Approval Order at ¶ 46) (emphasis added).

Second, any dispute over whether the express warranty claims Plaintiffs seek to assert against NewGM are "assumed liabilities" under the Bankruptcy Court's Orders is a dispute that should be resolved in the Bankruptcy Court. The Sale Approval Order expressly provides that the Bankruptcy Court has "exclusive jurisdiction" to enforce and implement there terms and provisions of the Sale Approval Order and the Master Purchase Agreement. That jurisdiction includes resolving any disputes arising under or related to the Master Purchase Agreement and interpreting and enforcing the provisions of the Sale Approval Order. Thus, to the extent that Plaintiffs wish to pursue warranty claims against NewGM, the forum in which to seek to do so is the bankruptcy court.

Third, Plaintiffs waited more than a year after the Sale Approval Order was entered before they sought leave to assert claims against NewGM in this action. During that year, Plaintiffs could have sought authorization from the Bankruptcy Court to pursue the claims at issue, or pursued the claims in bankruptcy court, but chose not to do so. In addition, during that

year significant class certification discovery and motion practice was conducted in this case. If the Court were to allow Plaintiffs to bring in a new Defendant at this late date, the Court would need to reopen class certification discovery, delay rulings on class certification, allow the new Defendant the opportunity to file its own motion to dismiss, and make a conflicts of law determination as to the new defendant. All of those actions would considerably delay this case – which has already been pending more than 3 years. The other Defendants would also be prejudiced as they would incur attorney fees and costs associated with the above actions.

CONCLUSION & ORDER

For the reasons above, IT IS ORDERED that Plaintiffs' Motion for Leave to File a Third Master Amended Complaint is GRANTED IN PART AND DENIED IN PART.

The motion is GRANTED to the extent that Plaintiffs shall be permitted to add Smith and Pepper as named Plaintiffs and proposed class representatives. As stated in this Opinion & Order, the Court directs the parties to meet and confer in order to submit to the Court a stipulated order to accomplish Plaintiffs' goal of adding Smith and Pepper as named Plaintiffs and proposed class representatives.

The motion is DENIED to the extent that the Court DENIES Plaintiffs' request for leave to assert claims against NewGM.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: January 25, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 25, 2011, by electronic and/or ordinary mail.

S/Jennifer Hernandez
Case Manager

EXHIBIT E

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	
MOTORS LIQUIDATION COMPANY, f/k/a General Motors Corp., *et al.*,	Chapter 11
	Case No. 09-50026 (REG)
Debtors.	Jointly Administered
KELLY CASTILLO, NICHOLE BROWN, BRENDA ALEXIS, DIGIAN DOMENICO, VALERIE EVANS, BARBARA ALLEN, STANLEY OZAROWSKI, AND DONNA SANTI,	
Plaintiffs,	
v.	Adversary Proceeding
GENERAL MOTORS COMPANY, f/k/a New General Motors Company, Inc.,	Case No. 09-00509 (REG)
Defendant.	
GENERAL MOTORS LLC,	
Counterclaimant,	
v.	
KELLY CASTILLO, NICHOLE BROWN, BRENDA ALEXIS, DIGIAN DOMENICO, VALERIE EVANS, BARBARA ALLEN, STANLEY OZAROWSKI, DONNA SANTI, LAKINCHAPMAN LLC, ROBERT W. SCHMIEDER, II, AND MARK L. BROWN,	
Counterdefendants.	

DECISION AFTER TRIAL

APPEARANCES:

SL CHAPMAN LLC
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By: Arthur Steinberg, Esq. (argued)
Scott Davidson, Esq.

ISAACS CLOUSE CROSE & OXFORD LLP
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21515 Hawthorne Boulevard, Suite 950
Torrance, California 90503
By: Gregory R. Oxford, Esq.

ROBERT E. GERBER
UNITED STATES BANKRUPTCY JUDGE:

In this adversary proceeding under the umbrella of the chapter 11 case of reorganized debtor Motors Liquidation Company (formerly known as General Motors, and referred to here as "**Old GM**"), plaintiffs Kelly Castillo and others (the "**Castillo Plaintiffs**") seek a declaratory judgment that in July 2009, General Motors LLC ("**New GM**"), the purchaser of Old GM's assets in Old GM's 363 sale (the "**363 Sale**"), assumed a settlement agreement between Old GM and the Castillo Plaintiffs as part of New GM's purchase. The settlement agreement required Old GM (and, the Castillo Plaintiffs argue, New GM) to pay for transmission repair or replacement for class members, and the Castillo Plaintiffs' attorneys' fees.

After trial, the Court determines that New GM did not assume that settlement agreement as part of the 363 Sale.

The Court's Findings of Fact and Conclusions of Law in connection with this determination follow.

Findings of Fact[1]

1. The Castillo Class Action

The Castillo Plaintiffs are members of a class certified in an earlier district court plenary action ("***Castillo***"), before Judge William Shubb, U.S.D.J., in the Eastern District of California. In October 2007, the Castillo Plaintiffs brought suit on behalf of themselves and others who owned model year 2002-2005 Saturn Vues and model year 2003-2004 Saturn Ions (the "**Saturns**"). The Saturns were sold with an express written warranty that provided for correction of "any vehicle defect related to materials or workmanship within the warranty period" at no cost to the owner.

[1] To shorten this Decision, the Court limits its citations to the most significant matters.

The express warranty for the Saturns originally provided coverage for three years or 36,000 miles, whichever occurred first. Through bulletins sent to dealerships and customers, (with each referred to as a "**Special Policy**"), Old GM extended the coverage period to five years or 75,000 miles for Saturns for model years 2002 to 2004, and thereafter for model year 2005, in March 2004 and January 2005, respectively.[2]

The Castillo Plaintiffs alleged that each had experienced a VTi transmission failure after his or her vehicle was no longer eligible for coverage under the express warranty, and that Old GM "breached [the] express warranties by selling to [the Castillo Plaintiffs] vehicles equipped with defective VTi transmissions."[3] They also alleged that "[a]ny limitation on the duration of GM's express warranties [was] unconscionable" because Old GM "was actually or constructively aware" of the defect at the time of the sale of the Saturns.[4]

Finally, with respect to the express warranty, the Castillo Plaintiffs asserted that "[a]ny attempt by [Old] GM to repair a defective Vti transmission or to replace one defectively designed Vti transmission with another defectively designed Vti transmission within the warranty period could not satisfy GM's obligation to correct defects under the warranty."[5]

Along with their express warranty claim, the Castillo Plaintiffs brought three additional claims: statutory consumer fraud, breach of the implied warranty of merchantability, and unjust enrichment.[6]

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2 Joint Exhs. V and PP. Special Policy 04020 extended the warranty for model years 2002 to 2004, while Special Policy 04020A applied to model year 2005.

3 Joint Exh. F ¶ 87. For simplicity, when citing to the class action complaint, the Court cites only to the last version, the Second Amended Complaint.

4 *Id.* ¶ 89.

5 *Id.* ¶ 90.

6 *Id.* at 17, 20, and 24, respectively.

Old GM moved to dismiss the class action, but before the dismissal motion was decided, the parties entered mediation and settled the dispute. The settlement took the form of a stipulation (the "**Settlement Agreement**"), in which the parties described their respective positions:

> [The Castillo Plaintiffs] claim that [Old] GM is liable to alleged class members for damages under state consumer protection statutes and on breach of warranty and unjust enrichment theories. GM denies that there is any defect or that it is liable to plaintiffs or members of the proposed Class on any theory.[7]

Relief for the Castillo Plaintiffs included reimbursement for expenses associated with replacing their transmissions, up to 125,000 miles, and towing and rental costs. Old GM also agreed to pay the Castillo Plaintiffs' attorneys' fees and expenses, of no greater than $4.425 million.

The Settlement Agreement was executed in July 2008. Judge Shubb preliminarily approved the settlement in September 2008, and notice was given to potential class members in January 2009.

On February 3, 2009, even though the Settlement Agreement was not yet approved by the district court, Old GM issued an administrative message to its authorized dealers with instructions to repair VTi transmissions and reimburse their owners in accordance with the terms of the Settlement Agreement. The administrative message noted that the "settlement ha[d] not been finally approved by the court," but that Old GM "believe[d] this [would] enhance customer satisfaction without the delay in waiting for ultimate final settlement approval."[8]

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[7] Joint Exh. B at 2, ¶ 2.

[8] Joint Exh. MM.

Judge Shubb granted final approval of the Settlement Agreement and entered a judgment on the settlement (the "**Class Judgment**") on April 14, 2009. The appeal period expired on May 18, 2009, and the Class Judgment would become effective ten business days thereafter.

But before the Class Judgment became effective, Old GM filed its chapter 11 case.[9] At the time of its chapter 11 filing, Old GM was paying VTi transmission claims according to the terms of the Settlement Agreement and the "goodwill policy" put in place on February 3, 2009.

2. Pre-Filing Discussions and Negotiations

As described in more detail in other rulings in Old GM's chapter 11 case,[10] Old GM moved, at the very outset of its chapter 11 case, to sell the bulk of its assets, under section 363 of the Code (the "**363 Sale**"), to a newly created entity that thereafter became New GM. Old GM and the U.S. Treasury ("**Treasury**"), acting through its Auto Task Force (the "**Auto Task Force**"),[11] began discussing plans for the 363 Sale well before Old GM's chapter 11 case was filed.

After the 363 Sale, New GM would have to assume at least some of Old GM's liabilities, since taking them on would be important to New GM's ability, going forward, to manufacture and sell vehicles. But if the restructuring were to succeed, and New GM were to be viable, New GM would need to take on only those liabilities that were important to its ability to continue the

---

[9] Though the Court would be inclined to view the not-yet-consummated Settlement Agreement as an executory contract at the time of Old GM's chapter 11 filing, with material unperformed obligations on each side (and the Court heard evidence suggesting that Old GM thought likewise, identifying it as an obligation to "reject later," see page 27, *infra*), the Court doesn't need to determine the Settlement Agreement's executory character now. The issue here isn't determination of any claims the Castillo Plaintiffs might have against Old GM; it is, rather, the extent to which New GM agreed to undertake Old GM's obligations.

[10] *See, e.g.*, *In re General Motors Corp.*, 407 B.R. 463 (Bankr. S.D.N.Y. 2009) (the "*363 Sale Decision* "), *stay pending appeal denied*, 2009 WL 2033079 (S.D.N.Y. 2009) (Kaplan, J.), *appeal dismissed and aff'd*, 428 B.R. 43 (S.D.N.Y. 2010) (Buchwald, J.) and 430 B.R. 65 (S.D.N.Y. 2010) (Sweet, J.), *appeal dismissed*, No. 10–4882–bk (2d Cir. Jul. 28, 2011).

[11] At least much of Treasury's participation was through its Auto Task Force. In this Decision, the Court generally refers to the more descriptive "Auto Task Force," but sometimes refers to "Treasury" when it refers to the expression that a witness or a party used at the time.

business. This species of a balancing act was expressly addressed in discussions between the Treasury/Auto Task Force personnel and Old GM personnel before the sale.

Lawrence Buonomo ("**Buonomo**"), an attorney for Old GM who was involved in the restructuring process,[12] explained that there was "conceptual agreement"[13] about which liabilities were to be assumed by New GM and which liabilities were to be retained by Old GM. In deposition testimony the Court accepts as true, Buonomo testified:

> Q. Just so I understand your answer, prior to June 1st, there was very little of what you would call negotiating regarding retain[ed] versus assumed liabilities. There was instead conceptual agreement at that point. And then after the bankruptcy filing on June 1st, there was additional discussion regarding which liabilities would be assumed and which would be retained?
>
> A. I think that's fair.
>
> Q. So let's talk first about the time period prior to June 1st, 2009. When you say there had been conceptual agreement about assumed versus retained liabilities, please explain what you mean by that.
>
> A. Well, the intent and structure of the transaction that was outlined to us by the [T]reasury team was that all liabilities would be left behind except a few individual items which included the express[] warranties and included contracts necessary to the operation of the business. . . . I may be missing something, *but the fundamental rule was in essence it all got left behind.* And of course we all do this, but left behind in this context *means not assumed by the new company pursuant to the transaction*.[14]

Based on that and the other evidence discussed below, the Court finds that it was the intent and structure of the 363 Sale, as agreed on by the Auto Task Force and Old GM, that New GM

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[12] Of the two Old GM attorneys involved in this matter (Buonomo and H. Joseph Lines, III ("**Lines**")), Buonomo had a greater amount of responsibility for the restructuring. *See* Buonomo Dep. at 11. Lines was principally responsible for managing the Castillo Plaintiffs' litigation, *see* Lines Dep. at 9, though Buonomo had some knowledge about the litigation.

[13] Buonomo Dep. at 27.

[14] *Id.* at 27-28 (transcription error corrected; emphasis added).

would start business with as few legacy liabilities as possible, and that presumptively, liabilities would be left behind and not assumed.

As specifically applicable to this controversy, in one of the discussions between the Auto Task Force and Old GM, on May 14, 2009 (about two weeks before Old GM's chapter 11 filing), *Castillo* obligations were expressly mentioned as one of three examples of litigation liabilities that would remain with Old GM. That was discussed in a multi-participant conference call between lawyers for Old GM and lawyers for Treasury, at least many of whom were from Cadwalader, Wickersham & Taft ("**Cadwalader**"), which was assisting Treasury's Auto Task Force.

In deposition testimony the Court finds to be significant and once again accepts as true, Buonomo discussed that conference call, which covered, at the least, litigation then pending against Old GM. In that call, Buonomo expressly mentioned the *Castillo* litigation. As he testified:

> I did in that conversation reference that there were several class actions in the midst of settlement *that would in effect be left behind*, to use the colloquial term. And by happenstance, Castillo to the best of my recollection was one of the three examples I came up with as I was speaking . . . .[15]

> [A]s of May 14th, the shared intent was that all litigation liabilities would be left behind. All litigation liabilities of the sellers—that is to say General Motors Corporation, Saturn, and the dealership that was the third debtor—would be left behind.[16]

Thus obligations arising from the *Castillo* litigation were expressly understood, by each of Old GM and the Auto Task Force, to be remaining with Old GM.

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15 *Id.* at 44-45 (emphasis added).

16 *Id.* at 53-54.

Buonomo also recalled an additional conference call with Cadwalader and Auto Task Force personnel, on a day between May 1 and June 1, 2009 (but other than May 14, 2009), that was focused on executory contracts. Its purpose was to identify executory contracts that should be rejected.[17] "Reference was made to settlements as a class of executory contracts that would be rejected," though *Castillo* was not mentioned by name.[18]

This testimony, particularly in the aggregate, strongly evidences contemporaneous thinking at the time, *expressly discussed*, that liabilities under the Settlement Agreement here would *not* be assumed.

3. Post-Filing, Pre-363 Sale

Once the bankruptcy petition and sale motion had been filed, Old GM and Treasury continued to negotiate detailed aspects of the proposed sale. But there is no evidence that the purpose changed, and, in fact, the evidence weighs heavily to the contrary.

(a) Opening Remarks in Court

The goal of the 363 Sale noted above—with New GM assuming as few liabilities as necessary—was expressly stated in open court on the first day of GM's chapter 11 case, on June 1, 2009. In his opening remarks, GM attorney Harvey Miller noted the goal of Old GM's chapter 11 case: to create "a new General Motors, not overburdened by debt and other costs that made [Old GM] essentially noncompetitive."[19]

(b) Auto Task Force Testimony

Then, about four weeks later, during the evidentiary hearing on the 363 Sale, the same point was made repeatedly, and more explicitly. Auto Task Force member Harry Wilson

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17 *Id.* at 52.

18 *Id.* at 52-53.

19 Tr. of Hrg. on Jun. 1, 2009 at 36 (Case #09-50026 ("**Main Case**") ECF #374).

("**Wilson**"), under cross-examination by objectors to the 363 Sale, testified that "[o]ur thinking [as] a commercial buyer of the assets that will constitute [New GM] was to assess what *[l]iabilities were commercially necessary* for the success of [New GM]."[20] He later said "we're focused on *which assets and which liabilities we needed for the success of New GM*."[21] And again: "We focused on which assets we wanted to buy and *which liabilities were necessary for the commercial success of New GM*."[22]

In short, by the end of the 363 Sale hearing it was clear not only to Old GM and Treasury, but also to the Court and to the public, that the goal of the 363 Sale was to pass on to Old GM's purchaser—what thereafter became New GM—only those liabilities that were commercially necessary to the success of New GM.

(c) Failure to List as Contract to be Assumed and Assigned

In the period after Old GM's filing but before the 363 Sale, Old GM also requested, and the Court approved, an order establishing sale and bidding procedures (the "**Sale Procedures Order**") incident to the proposed upcoming sale.[23] The Sale Procedures Order, among other things, set up a system by which Old GM could designate contracts to be assigned to New GM.

Old GM proposed "Assumption and Assignment Procedures" under which Old GM could designate an Old GM contract to be an "Assumable Executory Contract" to be assigned to New GM.[24] All Assumable Executory Contracts were placed on a schedule to the 363 sale agreement

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20 Tr. of Hrg. on Jul. 1, 2009 at 104 (transcription errors corrected; emphasis added).

21 *Id.* at 106 (emphasis added).

22 *Id.* at 111 (emphasis added).

23 Main Case ECF #274.

24 Main Case ECF #274 at 9-11.

(the "**Sale Agreement**"),[25] which was made available on a website that provided information to the contracts' counterparties.

The Settlement Agreement was never listed as an Assumable Executory Contract.[26] To the contrary, on May 30, 2009, the Settlement Agreement was identified by Old GM as a contract to "reject later."[27]

(d) Dialogue with Objectors

Also relevant are discussions between Old GM and Treasury arising from objections by various state attorneys general ("**AGs**") who participated actively in the proceedings before the 363 Sale, as relevant here to protect consumers' rights. The AGs urged in argument before the Court that New GM take on liabilities broader than those that would be undertaken under the Sale Agreement as initially proposed—including implied warranties, additional express warranties, statutory warranties, and obligations under Lemon Laws.[28]

The AGs' concerns were significant enough to warrant discussion by Buonomo, Wilson, and others on a conference call in the days leading up to the 363 Sale hearing. As Buonomo recounted, "there was some discussion" that New GM "should take on implied warranties."[29] But Buonomo noted that taking on implied warranties would (or at least could) mean taking

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25 The Sale Agreement was more formally entitled "Amended and Restated Master Purchase and Sale Agreement," and referred to more than occasionally as the "ARMSPA." By reason of the Court's dislike of acronyms, which rarely are helpful to anyone lacking intimate familiarity with the subject, the Court simply says "Sale Agreement."

26 It is not clear from the Sale Procedures Order whether a contract necessarily had to be included in that particular schedule to be assumed and assigned to New GM. Though the schedule seems to have been created for exactly that purpose, it is perhaps conceivable that a contract could be assigned to New GM in some other way. But there is no evidence that the Settlement Agreement was assigned to New GM by *any* mechanism, by the schedule or any other.

27 New GM Exh. 4.

28 *See, e.g.*, Main Case ECF #2043, at 37-38 (objection by AGs from 37 states).

29 Buonomo Dep. at 76.

along the entire class action docket, including the *Castillo* Settlement Agreement, and Wilson agreed that such a course would not be a good idea for New GM:

> Q: What broadening of the scope of warranty liability were the [AGs] requesting?
>
> A.: I think they would have liked us to assume all consumer-related liabilities of General Motors Corporation.
>
> Q: Meaning including [*sic*] implied warranties?
>
> A: Everything, everything, everything. And implied warranties were very high on their list actually. And there was some discussion, someone said, well, maybe we should do that. Maybe we should take on implied warranties. The person was assuming that was essentially in the nature of I'll call retail consumer relations-type stuff. . . . I commented . . . [w]ell, you could do that, but understand that if you do that, you will essentially take the entire class action docket with you, because essentially all a class action is, generally speaking, is a whole bunch . . . of implied warranty and other claims of that sort bundled together in a class.
>
> And Mr. Wilson, who was the primary spokesman for the [T]reasury on this call, said . . . I agree with Larry [Buonomo], correctly discerning that I thought it was a bad idea. And that was pretty much the end of that idea.[30]

Once again, then, the idea of New GM's assuming obligations arising from earlier class actions was expressly considered and rejected, by those on each side of the then-pending deal.

4. Language of the Sale Agreement and Sale Order

Of course, the language of both the Sale Agreement and the accompanying order (the "**Sale Order**") is of central importance to this dispute.

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[30] *Id.* at 76-77 (transcription errors corrected).

(a) The Sale Agreement

Three provisions of the Sale Agreement relate to this controversy: (1) section 2.3(a)(vii)(A) (defining "Assumed Liabilities"); (2) section 2.3(b)(xvi) (defining "Retained Liabilities"); and (3) section 6.15(b) (addressing warranty claims).

(1) Assumed Liabilities

Under the Sale Agreement, New GM would take on "Assumed Liabilities" as part of the sale. Section 2.3(a)(vii)(A) defined Assumed Liabilities:

> all Liabilities arising under express written warranties of Sellers that are specifically identified as warranties and delivered in connection with the sale of new, certified used, or pre-owned vehicles or new or remanufactured motor vehicle parts and equipment (including service parts, accessories, engines and transmission) manufactured or sold by Sellers or Purchaser prior to or after the Closing . . . .

(2) Retained Liabilities

By contrast, "Retained Liabilities" would remain with Old GM. Section 2.3(b)(xvi) of the Sale Agreement defined Retained Liabilities, and its final subsection discussed warranties:

> all Liabilities arising out of, related to or in connection with any (A) implied warranty or other implied obligation arising under statutory or common law without the necessity of an express warranty or (B) allegation, statement or writing by or attributable to Sellers.

Both the Castillo Plaintiffs and Buonomo referred to this Retained Liabilities provision as the "mirror provision" to the Assumed Liabilities provision, section 2.3(a)(vii)(A).[31] The two sections were conceived of together, and according to Mr. Buonomo (in testimony the Court accepts as true), New GM "was concerned that people would be making arguments that taking

[31] Buonomo Dep. at 61; Pl. Br. at 7.

[express warranty claims] meant you had responsibility for implied warranty" claims.[32] Section 2.3(b)(xvi), therefore, was intended to clarify the outer limits of section 2.3(a)(vii)(A) by noting that only *express* warranty claims were taken on by New GM.[33]

(3) Warranty Claims

Then section 6.15 of the Sale Agreement addressed warranty claims. In relevant part, section 6.15(b) provided:

> From and after the Closing, Purchaser [New GM] shall be responsible for the administration, management and payment of all Liabilities arising under (i) express written warranties of Sellers that are specifically identified as warranties and delivered in connection with the sale of new, certified used or pre-owned vehicles or new or remanufactured motor vehicle parts and equipment . . . manufactured or sold by Sellers or Purchaser prior to or after the Closing and (ii) Lemon Laws.
>
> . . .
>
> [F]or avoidance of doubt, Purchaser shall not assume Liabilities arising under the law of implied warranty or other analogous provisions of state Law, other than Lemon Laws, that provide customer remedies in addition to or different from those specified in Sellers' express warranties.[34]

(b) The Sale Order

Finally, in addition to the Sale Agreement, the parties here understandably focus on the Sale Order that the Court issued allowing the sale to go forward.

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[32] Buonomo Dep. at 65.

[33] This is entirely logical. New GM recognized that providing express warranties would make good business sense (and might be important to protecting its brand), but would want clarity as to exactly what it was taking on.

[34] This third Sale Agreement provision, section 6.15, twice includes the "arising under" language—in addition to the "arising under" language in the Assumed Liabilities provision, section 2.3(a)(vii)(A), and the "arising out of, related to or in connection with" language in the Retained Liabilities provision, section 2.3(b)(xvi). It is apparent, from the different language that follows the "arising under" in each case (and the language that follows the similar, though broader, language with respect to Retained Liabilities), that it is the language *that follows those words in each case* that is important (rather than the lead-in words by themselves), and that the lead-in words, in the absence of more, tell the reader very little.

As is common on 363 motions, Old GM and Treasury presented a proposed order to the Court. It provided:

> The Purchaser is assuming the obligations of the Sellers pursuant to and subject to conditions and limitations contained in their *express written warranties*, which were *delivered in connection with the sale of vehicles* and vehicle components prior to the Closing of the 363 Transaction *and specifically identified as a "warranty."* The Purchaser is not assuming responsibility for Liabilities contended to arise by virtue of other alleged warranties, including implied warranties and statements in materials such as, without limitation, individual customer communications, owner's manuals, advertisements, and other promotional materials, catalogs, and point of purchase materials.[35]

The Court reads that as having emphasized, once again, that New GM would be assuming only express warranties that were delivered upon the sale of vehicles—and as having been intended to exclude other kinds of warranty-related claims.

5. Post-Closing Events

The Court issued its Decision and order approving the 363 Sale on July 5, 2009.[36] The 363 Sale closed on July 10, 2009.[37] New GM was legally formed on that date.

The Court finds that after the closing (and notwithstanding the discussions between personnel then at Old GM and Auto Task Force personnel, discussed above), there was substantial uncertainty and confusion on the part of at least some New GM personnel (at least most of whom had come over from Old GM) as to whether obligations under the Settlement Agreement had been assumed by New GM.

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[35] Sale Order, Main Case ECF #2968 at ¶ 56 (emphasis added). Though the Court does not see a conflict, the Court notes that the Sale Order also provided that in case of any conflict "between the [Sale Agreement], the Sale Procedures Order, and this Order, this Order shall govern." *Id.* at ¶ 3.

[36] Main Case ECF #2967 (the *363 Decision* in the form originally docketed) and #2968 (Sale Order). The *363 Decision* had a fairly substantial subsequent history, detailed at n.10 above.

[37] *See* Main Case ECF #3106.

Between the time of the filing of its chapter 11 case and the closing on the 363 sale, Old GM repaired and paid for approximately 1,000 VTi claims.[38] For about a month after the closing, New GM also made repairs or paid for VTi transmission problems.[39]

But on August 4, 2009, less than a month after the closing, a PowerPoint presentation at New GM made reference to the "CVT Issue"[40] (a reference to the company's policy concerning the VTi transmissions)—and importantly, indicated that the "*Settlement has been assigned to Old GM*"—rather than New GM. And it listed "Customer Satisfaction/Retention Options,"[41] supporting New GM's position here that its actions in this area show no more than (a) uncertainty as to what its duties then were, or (b) what it should do to promote customer satisfaction—but in either case, as distinct from an admission that its obligations continued.

Internal New GM emails sent during August 2009 reflect uncertainty at the time, and different views, on the part of New GM personnel about whether the payments under the Settlement Agreement were to continue, and should—though their general tenor was that New GM should decide what it wanted to do, as contrasted to recognizing a preexisting duty to act under which New GM was bound.[42] Additionally, an internal email sent in September 2009

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38 *See* New GM Exh. 6 ("Through May 2009, 45,225 Repairs Completed") and New GM Exh. 8 ("Through June 2009, 46,376 repairs completed"). The Court does not understand New GM (or, for that matter, the Castillo Plaintiffs) to have taken a position on whether Old GM had a legal duty to do so at that time.

39 *See, e.g.*, Joint Exh. Z, claim #220.

40 New GM Exh. 6.

41 *Id.* These options included: "Do Nothing," "Honor the Provisions of the 'Proposed' Class Action Settlement," "Re-write Existing Special Policy to Further Extend the Warranty Time/Mileage," and "Provide Owners With a Voucher (Or Owner Loyalty Certificate) Towards the Purchase of a New GM Vehicle." *Id.* The presentation ultimately recommended a combination of the last two approaches.

42 *See, e.g.*, Joint Exh. AA ("Jamie grabbed me and wants recall spend and warranty spend on CVT. I think you know it will be ugly."); Joint Exh. CC ("Please advise me what our current GM position is on VTI transmission repairs/replacements under the class action settlement. These repairs total thousands of dollars every month just at two of the Atlanta area Saturn stores I contact. Based on the age of the vehicles involved, I would concur with putting these under the 'Old GM' and not covering them, but I am not aware of any changes yet."); Joint Exh. EE ("Now that the settlement will never be put into force, GM legally should not be liable for anything beyond the 5yr/75k. However, Saturn needs to inform their dealers of

indicated that there was a litigation reserve set aside for the CVT settlement, but that the sender understood that all legal settlement reserves were left behind with Old GM.[43]

By September 2, 2009, New GM's Customer Assistance Center "knowledge database" had been updated to indicate that New GM had made the business decision to return to the policy it had followed before the decision to abide by the terms of the Settlement Agreement: customers could be reimbursed up to five years or 75,000 miles, whichever came first.[44] On September 28, a service message titled "Saturn VTi Transmission Settlement Clarification" was sent to all Saturn retailers. Whether wrongly (as the Castillo Plaintiffs contend) or quite properly (as New GM contends), it ended, or should have ended, any and all uncertainty on the part of its recipients. The service message stated that New GM "did not assume liability under the settlement or otherwise for any reimbursement obligations with respect to the VTi transmission,"[45] and that "the responsibility, if any, to provide reimbursement to customers under the settlement remains with [Old GM] subject to the normal procedures of the Bankruptcy Court."[46] The message also confirmed the return to the five year, 75,000 mile policy.[47]

Thereafter, New GM made one final business decision relating to reimbursement for VTi transmission replacement. In early October 2009, internal New GM documents indicate that

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that."); Joint Exh. EE (citing various scenarios for New GM to choose between as alternatives to the Settlement Agreement reimbursement scheme).

43 *See* New GM Exh. 7.

44 Joint Exh. HH ("Just wanted to let you know that our CAC knowledge database has been updated this week to instruct that we stop following the guidelines of the 'proposed' class action settlement and to start again following the parameters contained in prior Saturn bulletin 0402A which is the Special Policy covering VTi's for 5 years and 75,000 miles.").

45 Joint Exh. QQ.

46 *Id.*

47 The return to the five year, 75,000 mile policy resulted in dissatisfaction on the part of some New GM employees. *See* Joint Exh. GG (email from Jonathan Huish to GM CARS Site Managers). The Court takes this email as an obvious expression of frustration by a New GM employee. But the Court does not see it as any indication that this employee believed—or, more importantly, had any basis for a conclusion—that New GM had a legal obligation to honor the Settlement Agreement.

"Fritz Henderson [the New GM CEO at the time] [was] not happy with reverting to [the 5/75,000 policy] for Saturn CVT owners, and want[ed] to do more."[48] After considering its options, New GM issued Special Policy #09280 on November 5, 2009.[49] The new Special Policy gave customers two options: within eight years, or 100,000 miles (whichever occurred first), Saturn customers could receive either a 50% reimbursement for covered transmission repairs or a $5,000 credit toward the purchase of a new GM vehicle.[50] The Court finds, in this connection, that this was a desire on the part of Mr. Henderson to voluntarily do more for Saturn owners (to protect the brand and aid in achieving customer satisfaction), as compared and contrasted to implementing a view that New GM was legally bound to do it.

6. Potential Sale to Penske

The Court also makes findings of fact with respect to the once-contemplated sale of the Saturn brand from New GM to Penske Automotive Group ("**Penske**").[51] (On September 30,

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[48] Joint Exh. SS.

[49] Joint Exh. RR.

[50] The Castillo Plaintiffs also ask the Court to consider a letter sent by one Paula Maggard to consumers Michael and Pam Rose with respect to the VTi class action, in which she stated, at its conclusion:

> My summation in conversation with Mrs. Rose was that General Motors' Special Policy 09280A dated December, 2009, would have allowed her a 50% reimbursement for repairs, whereas, the proposed class action settlement, once the case proceeds, the Roses would be qualified for a 75% reimbursement for repairs. [*sic*] It would be to the Roses' advantage to participate in the proposed class action lawsuit.

Joint Exh. BBB. Although Ms. Maggard wrote "General Motors Legal Department" under her name, she was in fact, as New GM's Steven Cernak testified, not a member of New GM's Legal Department, and "violated established policies and procedures" by appending that phrase beneath her signature. Cernak Decl. ¶ 4. In fact she was merely a lay customer assistance agent (not a lawyer or paralegal) and an employee of a third party supplier of "lay people who attempt to address issues concerning GM vehicles on a customer satisfaction basis . . . ." *Id.* at ¶ 2. But even if she had been a member of New GM's Legal Department, the Court could not place any reliance on what she said. Apart from her lack of authority to speak as to New GM's legal obligations or what would be to a customer's advantage, she lacked both legal training and knowledge of the relevant facts. This Court is in a much better position to determine what New GM's obligations were than she was.

[51] *See* Joint Exh. R. Although the letter from Jill Lajdziak is not dated, the text makes a reference to GM's restructuring process, which indicates to the Court that it was likely written and sent early in the GM bankruptcy.

2009, however, New GM announced that the proposed sale had fallen through, and New GM concurrently announced a decision to wind down the Saturn brand.)

An internal New GM email in September 2009 indicated that "there might be some concern" from Penske with the decision to adopt the five year, 75,000 mile policy.[52] And at argument, counsel for New GM suggested that based on New GM's thinking that "all these people w[ould] be Penske's customers," there was "no reason to continue to try to promote customer satisfaction on a voluntary basis" by continuing to pay claims according to the Settlement Agreement.[53] New GM's counsel also stated in argument that once the Penske sale fell through, New GM had a business reason to change the policy once again, to an option of 50% reimbursement or a voucher to use toward a new GM vehicle—both for Saturns within eight years or 125,000 miles.

The Court finds all of Counsel's arguments premised on the Penske communications—some of which communications cut one way, and some the other—to be unduly speculative and, frankly, very weak—especially since they all relate to events *after* the execution of the Sale Agreement and entry of the Sale Order, and the 363 Sale closing, and reflect no consideration of the discussions before the sale, or New GM's legal obligations at the time. The Court considers communications with respect to the once-contemplated Penske sale to have no meaningful relevance to the issues here.

7. The Current Controversy

In August 2009, the Castillo Plaintiffs filed this action—but not in this Court, where this Court had heard the earlier evidence of Old GM's and the Auto Task Force's intent and where the Sale Order (one of the documents to be construed) was entered. They filed instead in the

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52 Joint Exh. JJ.

53 Tr. of Hrg. on Dec. 14, 2011 at 64.

Delaware Chancery Court, from which New GM removed the action to the Delaware federal district court, and from which, in turn, the action was then transferred to New York and referred to this Court.

On November 18, 2009, the Court ruled on a motion for a preliminary injunction filed by the Castillo Plaintiffs, holding that New GM could not tell customers that the adversary proceeding had been dismissed.[54]

Later, after the Castillo Plaintiffs filed an amended complaint, both parties moved for summary judgment. Though the Court then thought that New GM had the better argument under the documentation and would likely prevail, it found sufficient ambiguity in the documentation to warrant consideration of extrinsic evidence. The extrinsic evidence weighs even more heavily in favor of New GM.

Discussion

The issue is one of contractual interpretation—*i.e.*, of the Sale Agreement—and, to a lesser extent, of the Court's Sale Order. Though the Court determined, when hearing the cross-motions for summary judgment, that it should not rule based on the language in the documents alone, and would benefit from extrinsic evidence, the Court nevertheless starts, as usual, with textual analysis.[55] It then considers other matters from which it can construe the Sale

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[54] *See* Tr. of Hrg. on Nov. 18, 2009 at 37-43.

[55] Preliminarily, however, the Court starts with an observation that is important to keep in mind. In the great bulk of contractual interpretation disputes, the dispute is between the two contracting sides. Here, by contrast, there is no dispute between seller Old GM and buyer New GM, nor between their negotiating predecessors, the former GM and the Auto Task Force. The Castillo Plaintiffs were and are non-parties to the Sale Agreement and the negotiations that led to it, but seek to hold New GM to an alleged contractual intent when the Castillo Plaintiffs were not there.

There is nothing necessarily wrong with that, but the Castillo Plaintiffs must live with the intent of the parties who actually were privy to the negotiations—as that intent was manifested, under fundamental contract law principles, by what the actual parties to the Sale Agreement said to each other, in their contract and negotiations, at and before the time they entered into their agreement. Also under fundamental contract law principles, secret intentions don't count, but intentions stated to one's negotiating counterparty do. *See, e.g.*, 1 RICHARD A. LORD, WILLISTON ON CONTRACTS § 4:1 (4th ed. 2007) ("In the formation of contracts, .

Agreement, including, most importantly, the extrinsic evidence of former GM's and the Auto Task Force's intent. The Court finally considers a somewhat surprising argument advanced by the Castillo Plaintiffs as an asserted aid in the Court's analysis.

1. Textual Analysis

The most critical language appears in the Sale Agreement's definition of "Assumed Liabilities." Section 2.3(a)(vii)(A) of the Sale Agreement provided that New GM would assume:

> all Liabilities arising under express written warranties of Sellers that are specifically identified as warranties and delivered in connection with the sale of new, certified used, or pre-owned vehicles or new or remanufactured motor vehicle parts and equipment (including service parts, accessories, engines and transmission) manufactured or sold by Sellers or Purchaser prior to or after the Closing . . . .

The dispute turns on whether liabilities resulting from a contractually undertaken duty to make transmission repairs on vehicles after their original warranties expired—and to pay the Castillo Plaintiffs' lawyers' fees—are liabilities "arising under":

> express written warranties of Sellers that are specifically identified as warranties and delivered in connection with the sale of new, certified used, or pre-owned vehicles . . . .[56]

From a textual analysis perspective, the Court continues to believe, as it believed at the summary judgment hearing, that the words "arising under," as used in this context, are not susceptible to "plain meaning" analysis alone. The clause "arising under" may be construed

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. . it was long ago settled that secret, subjective intent is immaterial, so that mutual assent is to be judged only by overt acts and words rather than by the hidden, subjective or secret intention of the parties."); *Porter v. Comm. Casualty Ins. Co.*, 292 N.Y. 176, 183-184, 54 N.E.2d 353, 356 (N.Y. 1944) (quoting Williston).

[56] Section 2.3(a)(vii)(A) (inapplicable language pruned, including references to parts and equipment, and to the time of manufacture or sale, since the latter covered such both prior to, and after, the Closing).

broadly or narrowly. And either way, it has no meaning of its own. Its coverage can be discerned only by examining the words that follow it.[57]

Thus, unlike some other controversies, the issue here cannot be determined by simply looking to a dictionary definition of a term—here, "arising under"—and deciding how broadly that term should be applied. The Court has no particular problem with the dictionary definition the Castillo Plaintiffs proffer.[58] Nor, so far as the Court can tell, does New GM. But the issue, since the words "arising under" must be followed by something, is "arising under" *what*?[59]

The Castillo Plaintiffs argue that the definition of "arising under," as applied to the relevant facts, means that New GM assumed the Settlement Agreement because the claims underlying the suit the Castillo Plaintiffs brought originated from the express warranty. But New GM disputes that. It counters that the Castillo Plaintiffs' underlying claim did not, in fact, have its origin in the express warranty because the essence of their claim was that the repairs and reimbursements sought by the Castillo Plaintiffs were *outside* the warranty period, and they must have been based on something else. The Court agrees with New GM.

Here the textual analysis strongly favors New GM. The Court cannot conclude that the Castillo Plaintiffs' claims originated from the express warranty. If they had, the Castillo Plaintiffs would have brought a different lawsuit, or none at all. They had to sue *because they no*

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57 The words "arising under" appear in the Assumed Liabilities provisions and the words "arising out of" appear in the Retained Liabilities section. Similar considerations apply to both.

58 They call the Court's attention to the most recent edition of Merriam-Webster's Collegiate Dictionary, in which the relevant definition of arise is "to originate from a source." *Merriam-Webster's Collegiate Dictionary*, "Arise" (11th Ed. 2008).

59 A recurring theme in the Castillo Plaintiffs' papers is to focus on "arising under," and to argue a broad interpretation of that term, to bring their earlier lawsuit, and settlement, within the "arising under" scope, with little or no attention to the words that came after that clause. Such an inquiry is misguided. The task is not to see how the written words can be stretched to cover something nobody thought about, or thought about differently; it is instead to determine what the parties intended. That is achieved by reference to the words GM and the Auto Task Force used, and, to the extent that is inconclusive, by reference to what they said to each other at the time, a matter discussed above and below.

longer had an express warranty; it had earlier expired. They had to find means to recover by an alternative. That doesn't mean that they didn't have a potentially good claim, of course, but it means that by whatever means they might win, it wouldn't be on the basis of an express warranty—which, if they had it, would have already given them what they needed.

Here the matters for which New GM took on liability under the Sale Agreement are stated with great specificity—in several lines of text following the words "arising under." Additionally, while strictly speaking, "Retained Liabilities," the subject of the next relevant section, are Old GM's problem, and not New GM's concern, they shed light on liabilities that former GM and the Auto Task Force determined that New GM would not assume. The Assumed Liabilities are described as the express warranties that customers receive which are "delivered in connection with the sale of new, certified used, or pre-owned vehicles . . . ." They do not, in any commonly understood way, cover litigation obligations (especially for attorneys' fees) that were undertaken because the express warranties had expired.

2. Caselaw

Because the issues necessarily turn on the exact contractual language used, caselaw is of limited utility here. But the first of the two somewhat relevant cases supports New GM. The second, while having procedural similarities to the case here, ultimately is not relevant enough.

In the first, *Abraham v. Volkswagen of America*,[60] the Second Circuit reiterated the "general rule . . . that an express warranty does not cover repairs made after the applicable time or mileage periods."[61] It rejected a contention that a "defect discovered outside the time or mileage limits of the applicable written warranty, but latent before that time, may be the basis of

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60 795 F.2d 238 (2d Cir. 1986) ("***Abraham***").

61 *Id.* at 250.

a valid express warranty claim if the warrantor knew of the defect at the time of the sale,"[62] and expressly disagreed with a district court case, *Alberti v. General Motors*,[63] that had held that the plaintiffs had stated "valid express warranty claims, without regard to when breakdowns had occurred, because General Motors allegedly knew at time of sale that the brake system on the cars in question was flawed and might cause control problems for drivers."[64]

The Second Circuit in *Abraham* rejected the *Alberti* conclusion because "virtually all product failures discovered in automobiles after expiration of the warranty can be attributed to a 'latent defect' that existed at the time of sale or during the term of the warranty," and because "[a] rule that would make failure of a part actionable based on such 'knowledge' would render meaningless time/mileage limitations in warranty coverage."[65] For this reason too, the Court rejects the Castillo Plaintiffs' contention that they had brought express warranty claims in any sense other than the name they attached to them.

In the second, a decision in the *Safety-Kleen* chapter 11 case in the District of Delaware,[66] Judge Walsh considered a situation similar in several respects to the one before this Court. There a company that had purchased one of the debtor's divisions in the chapter 11 case brought an adversary proceeding seeking a declaration that it hadn't assumed Superfund cleanup liabilities with respect to one of the sites it had purchased. There, as here, Judge Walsh was asked to construe the sale agreement. It provided, with respect to liabilities to be assumed by the purchaser:

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62 *Id.* at 249.

63 600 F.Supp. 1026, 1028 (D.D.C. 1985) ("***Alberti***").

64 *Abraham*, 795 F.2d at 250.

65 *Id.*

66 *Clean Harbors, Inc. v. Arkema, Inc. (In re Safety-Kleen Corp.)*, 380 B.R. 716 (Bankr. D. Del. 2008) (Walsh, J.) ("***Safety-Kleen***").

> liabilities and obligations, whether arising before or after the Closing Date, in connection with . . . the operation of the Business (including *liabilities and obligations arising under Environmental Laws* . . .).

Paragraph O of the sale order provided additional relevant language:

> The liabilities assumed in . . . the Acquisition Agreement specifically include the liability of [Safety-Kleen] with respect to the Business and the Acquired Assets for liability to a government entity under CERCLA or similar state statutes.

Based upon this language, and extrinsic evidence from the sale hearing, Judge Walsh found that the consent decrees and settlement agreements before him evidenced obligations arising under CERCLA and the Spill Act, and as such, were "'liabilities and obligations . . . arising under Environmental Laws . . . .'"[67] And he ruled that the fact that the liabilities were based *solely* on CERCLA claims meant that they arose under an environmental law, and thus were assumed by Clean Harbors.

Relying on *Safety-Kleen,* the Castillo Plaintiffs argue that "to arise under" should mean "to have its origin or basis in"[68] (a contention with which the Court agrees), but also, and more importantly, that because their underlying class action raised claims alleging that repairs were unjustifiably excluded from the express warranty, the Settlement Agreement had its "origin or basis" in the express warranty. But in that second respect the Court does not agree, and the Court cannot find *Safety-Kleen* to be relevant as to that.

In *Safety-Kleen*, the defendant tried to argue that the relevant liabilities were those relating to the settlement agreement with a third party (not directly with the government), and thus were *contractual*, not statutory environmental, liabilities. There was no debate over the fact

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67 *Id.* at 736.

68 *See id.* at 724.

that the settlement agreements at issue had their "origin or basis" in environmental laws. Here, of course, there is sharp debate about whether claims could be asserted under express warranties that had expired, and thus that they could be said to have an "origin or basis" in express warranties that, by their terms, did not apply. At most, here, the Court would be faced with an ambiguity to be resolved by extrinsic evidence.

Though the Court has little doubt that it would decide *Safety-Kleen* just as Judge Walsh did, that case dealt with different language following the "arising under" and different contentions. It is not relevant to the contractual interpretation issues here.[69]

3. Extrinsic Evidence

The Court could not, and did not, consider extrinsic evidence at the summary judgment phase of the case. Though it believed that the evidence then available weighed in favor of New GM, it thought it should allow the Castillo Plaintiffs to complete discovery in case there might be discoverable evidence that proved that New GM believed it had taken on the Settlement Agreement as part of the sale from Old GM to New GM. In particular, the Court noted six specific types of extrinsic evidence the Castillo Plaintiffs should have the opportunity to

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[69] The Castillo Plaintiffs also rely on *Vine Street, LLC v. Keeling*, 460 F.Supp.2d 728 (E.D. Tex. 2006) ("***Vine Street***"). In *Vine Street*, the concept of warranties was only cursorily discussed; one line in the sale agreement between the two companies stated that the "Buyer will also assume . . . all liabilities of Seller . . . under any warranty". *Id.* at 741. Importantly, the *Vine Street* court went on to say that the challenging party did not even invoke a theory based on breach of warranty, and that even if it had, the scope of the liability assumed by the sentence involving warranties was too narrow to transfer CERCLA liability. *Vine Street* does not help the Castillo Plaintiffs' case.

The Castillo Plaintiffs also rely on caselaw applying "arising under" in other contexts, such as arbitration and federal court jurisdiction. When the Court considered argument of that character at the summary judgment phase, it invited the Castillo Plaintiffs to find a "document or admission from or on behalf of New GM stating in substance that 'arising under' was intended in 2.3(a)(vii) to incorporate the definition or meaning as those words are used in Article 3 jurisprudence or in arbitration law . . . ." Tr. of Hrg. on May 6, 2010 at 82. The Castillo Plaintiffs found and presented no such evidence, and thus the Court continues to find definitions of "arising under" in those contexts to be too tangential.

discover, should it exist.[70] But the Castillo Plaintiffs uncovered practically nothing of the type of evidence the Court allowed them to investigate, and the extrinsic evidence weighs heavily against them.

The Court here must consider the many conversations between Old GM and the Auto Task force (both before and after the filing of Old GM's chapter 11 petition) that directly or indirectly addressed the *Castillo* case, and the well-publicized intent of the Auto Task Force with respect to New GM's non-assumption of legacy liabilities. The Court also considers the Castillo Plaintiffs' contentions based on actions taken by New GM personnel (or on its behalf) with respect to payment for VTi transmission claims after its formation.[71]

(a) Pre-petition Extrinsic Evidence

Lawyers for the former GM and Auto Task Force representatives understood and agreed that the goal was to leave as many liabilities behind with Old GM and to take those only that

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[70] *See* Tr. of Hrg. on May 6, 2010 at 81-84. Of course, the Court would consider any form of extrinsic evidence that the Castillo Plaintiffs might have uncovered, but noted these categories as a convenient starting place.

[71] With respect to each of those matters, the Court is mindful of holdings that "'parties to an agreement know best what they meant, and their action under it is often the strongest evidence of their meaning.'" *Gulf Insurance Co. v. Transatlantic Reinsurance Co.*, 69 A.D.3d 71, 86, 886 N.Y.S.2d 133, 144 (1st Dept. 2009); *accord In re Barney Mac, LLC*, 2006 WL 2864974, at *14 (Bankr. S.D.N.Y. Oct. 3, 2006) (Gonzalez, C.J.) (same). Though each of those cases involved disputes between the two sides to the contracts in question (as contrasted to the situation here, where the two sides to the contract don't differ as to their intent, and an *outsider* to the contract seeks to find an intent that neither of the contractual parties may have had), the Court assumes, *arguendo*, that the principles articulated in *Gulf Insurance* and *Barney Mac* may be true in situations like this one as well.

But though the Castillo Plaintiffs rely upon these cases, they are unhelpful to them. Here the Castillo Plaintiffs were not parties to the agreement they ask this Court to construe; rather the original parties were the original GM and the Auto Task Force, and the successors to each were Old GM and New GM. And as it is the intent of *those entities* (and particularly the former) that is controlling, the Court looks first to their statements at the time, to each other and to the Court, to see "what they meant."

And reliance on action under a contract can be warranted only to the extent that those assertedly acting under the contract had knowledge of the contractual intent. Here, as discussed above and below, the evidence establishes, at best, uncertainty amongst New GM personnel as to whether or not New GM took on responsibilities under the Settlement Agreement, or (as is the case with customer support representative Maggard, see n.50, *supra*) comments by a non-lawyer (or employee) customer support representative who had no basis for knowing what had been intended.

were commercially necessary along to New GM.[72] The *Castillo* Settlement Agreement was a classic example—and specifically identified as such—of an obligation that would be "left behind."

Two highly relevant events particularly evidence the shared intent, as between the former GM and the Auto Task Force, with respect to liabilities like the *Castillo* Settlement Agreement. First, as discussed above,[73] in the phone call on May 14, 2009 between former GM and Cadwalader lawyers (the latter acting for the Auto Task Force), *Castillo* was expressly mentioned as an example of a litigation liability that would be "left behind" with Old GM.

Second, as also discussed above,[74] an additional call, discussing the rejection of settlement liabilities similar to *Castillo* (even though it did not similarly identify *Castillo* by name), likewise confirmed that such settlement agreements would be left behind and not taken over by New GM.

It thus is clear, from as early as prior to former GM's filing for Chapter 11 protection, that the former GM and the Auto Task force shared a common understanding that settlement liabilities—including, as they expressly discussed, the *Castillo* Settlement Agreement—would be left behind and not assumed by New GM.[75]

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72 *See* Buonomo Dep. at 27 ("Well, the intent and structure of the transaction that was outlined by the [T]reasury team was that all liabilities would be left behind except a few individual items which included the expressed warranties and included contracts necessary to the operation of the business.").

73 *See* page 6, *supra*.

74 *See* page 7, *supra*.

75 Likewise, the underlying understanding between former GM and the Auto Task Force—that the mechanism of the 363 Sale was designed to leave behind as many liabilities as possible—reinforces that conclusion. The Court also notes what will be a recurring theme through the remainder of the evidence: the lack of any statement, document, or other form of evidence indicating that the Settlement Agreement was to be assumed by New GM.

(b) Extrinsic Evidence From Time Between June 1, 2009 Chapter 11 Case Filing and Closing of the 363 Sale

Extrinsic evidence from the time between the June 1, 2009 chapter 11 case filing and the July 10, 2009 closing likewise confirms the previously established understanding between the Auto Task Force and former GM. Again, evidence from this period is noteworthy by reason of how little the Castillo Plaintiffs found to support their argument.

On the first day of its chapter 11 case, GM's need to shed legacy liabilities was expressly noted in its counsel's opening remarks to the Court.[76] When the Sale Procedures Order was entered, the Settlement Agreement was never listed as an Assumable Executory Contract under the Sale Agreement, and it was marked for Old GM to "reject later."[77] And when Auto Task Force member Harry Wilson testified, about four weeks later, he once again confirmed the intention that the new purchaser—what would become New GM—take on only those liabilities that would be necessary for the commercial success of New GM.[78]

Additionally, the reaction by former GM and the Auto Task Force to objections by the state AGs (wherein the AGs encouraged New GM to take on more liabilities, including implied warranties) also supports New GM's position. As discussed above,[79] Larry Buonomo, Harry Wilson and others discussed these concerns in a conference call prior to the 363 Sale hearing, at which Buonomo argued that taking on these additional liabilities would mean assuming the entire class action docket, which included the *Castillo* Settlement Agreement. And Wilson

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76 *See* page 7, *supra*.

77 Main Case ECF #4680 (order granting motion to reject the Settlement Agreement). While a rejection at that time may have been self-serving (since the Court cannot rule out the possibility that Old GM would cooperate with New GM if it did not cost Old GM too much), it was nevertheless a decision by Old GM (which would have to satisfy an additional claim as a result), not New GM—and was a decision consistent with the parties' earlier joint intent. The Court finds the evidence of rejection to be probative but not dispositive.

78 *See* page 8, *supra*.

79 *See* pages 9-10, *supra*.

observed that "I agree with Larry," "correctly discerning," as Buonomo put it, "that I thought it was a bad idea."[80] Significantly also, the AG concerns resulted in one change in the game plan—assumption of liabilities under Lemon Laws—but no others, and the Lemon Laws change was made *expressly*.

The inclusion of the additional Lemon Laws liability confirms that when New GM wanted to broaden its assumption of liabilities, it knew how to do so. Former GM and the Auto Task Force could have inserted language that would have likewise broadened New GM's liability to include the Proposed Settlement—and there is evidence that they considered doing just that—but instead made a conscious decision to leave behind, with Old GM, the *Castillo* Settlement Agreement and other class action liabilities like it.

Finally, the Court considers the language of the Sale Order itself, which it found at the summary judgment hearing to be a species of extrinsic evidence.[81] The relevant language provides:

> The Purchaser is assuming the obligations of the Sellers pursuant to and subject to conditions and limitations contained in their express written warranties, which were delivered in connection with the sale of vehicles and vehicle components prior to the Closing of the 363 Transaction and specifically identified as a "warranty." The Purchaser is not assuming responsibility for Liabilities contended to raise by virtue of other alleged warranties, including implied warranties and statements in materials such as, without limitation, individual customer communications, owner's manuals, advertisements, and other promotional materials, catalogs, and point of purchase materials.

The Court continues to believe, as it said at the hearing on summary judgment, that this language "is fairly strong evidence" in favor of New GM, though not necessarily dispositive.[82]

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80 *See* n.30.

81 Tr. of Hrg. on May 6, 2010 at 12, 79.

(c) Extrinsic Evidence From Time Following the Closing

The Court now turns to the consideration of extrinsic evidence from the time after the 363 Sale closing. It is with respect to this period that the Castillo Plaintiffs make their only real points—noting that after the 363 Sale was completed, New GM continued, for a time, to pay claims even though it would not have been required to do so if the Settlement Agreement had stayed behind with Old GM. But the evidence does not support the finding of contractual intent that the Castillo Plaintiffs would like to assign to it.

Rather, as the Court's factual findings above address, the evidence reflects no more than uncertainty as to whether or not obligations under the Settlement Agreement were assumed; a back and forth as to whether an assumption of these liabilities would be in New GM's interest; and, in one case, a statement by an outside contractor who was not in a position to know.

The evidence establishes inertia after the closing, and a period of a few weeks of uncertainty and delay before New GM personnel focused on their legal rights. But importantly, with all the evidence provided to the Court, including internal New GM emails and presentations, there is *no* indication that New GM believed it had to pay VTi transmission claims because it believed it had assumed the Settlement Agreement under the Sale Agreement, and had a legal obligation to do so.

4. Policy Argument

Finally, the Castillo Plaintiffs make an argument that the Court finds to be rather surprising, if not also insulting. They contend that interests in "maximizing the estate" should influence this Court's decision in this adversary proceeding, because if New GM is not obligated to satisfy the Castillo Plaintiffs' obligations, Old GM likely will. Thus, they argue, the Court

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[82] Tr. of Hrg. on May 6, 2010 at 79.

should construe the Sale Agreement to relieve Old GM of the asserted liability it would otherwise have.

But that argument misunderstands the role of bankruptcy courts in considering the plenary litigation over which they have jurisdiction in adversary proceedings. Of course it is true that when deciding matters in connection with an estate's day-to-day affairs, bankruptcy courts care very much about maximizing the value of the estate (and minimizing drains on estate assets)—but those matters are considered in the context of making discretionary calls. They are not, nor can they be, a factor when bankruptcy courts decide disputed issues of law or fact in the adversary proceedings on their watch.[83] The Court is unwilling to agree that there is or should be a rule of bankruptcy law that the "estate should win," thereby maximizing its assets, or that "tie goes to augmenting the estate, or reducing its liabilities."[84] If the law were otherwise, every fraudulent conveyance, preference, or contract action brought by an estate or its trustee would start with a finger on the scales.

The Court rejects this argument out of hand.

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[83] Similar considerations may also apply even in contested matters, *e.g.*, where a landlord has a claim that, if honored, will come at the expense of all of the debtor's other creditors.

[84] The Castillo Plaintiffs cite to one case seemingly articulating such a juridical approach, *In re Easton Tire Co.*, 35 B.R. 494, 495 (Bankr. E.D. Mo. 1983) ("***Easton Tire***"), which did indeed state, in a brief decision, that "although the intention of the parties is to be given considerable weight in interpreting an agreement in a bankruptcy case, the interests of the debtor's creditors must also be considered," and "that an ambiguity in an agreement which affects the bankruptcy estate must be resolved in favor of the best interests of all creditors." The Court respectfully declines to follow *Easton Tire* here. The language quoted from *Eastern Tire* was in the context of deciding a motion for relief from stay (which was and is a discretionary determination) and not an adversary proceeding, and though the *Easton Tire* court didn't flesh out its reasons for its view, *Easton Tire* would at least seemingly be distinguishable in any event. But whether or not *Easton Tire* could be found to be distinguishable, the Court must expressly reject the quoted rationale in proceedings (most obviously adversary proceedings) where the bankruptcy court is sitting as any other court would, determining disputed issues of fact and law.

Conclusion

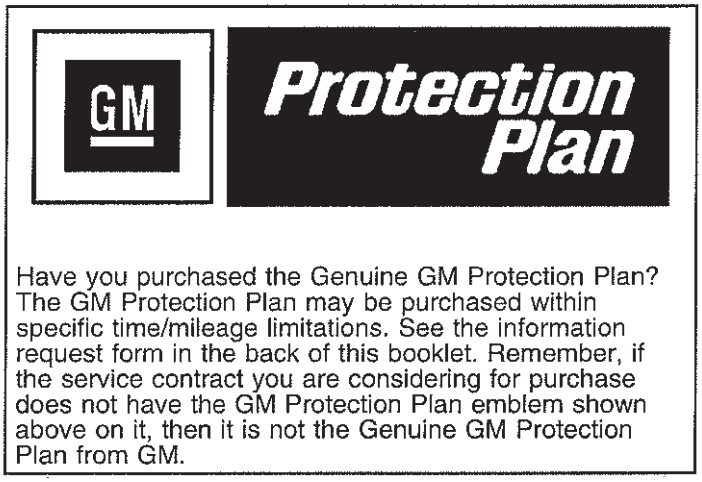
For the foregoing reasons, judgment will be entered in favor of New GM. Pursuant to Fed.R.Bankr.P. 7058 and Fed.R.Civ.P. 58, New GM is to settle a stand-alone judgment denying the relief sought in the Castillo Plaintiffs' complaint.

Dated: New York, New York
April 17, 2012

s/ Robert E. Gerber
United States Bankruptcy Judge

EXHIBIT F

IMPORTANT: This booklet contains important information about the vehicle's warranty coverage. It also explains **owner assistance information and GM's participation in an Alternative Dispute Resolution Program.** Keep this booklet with your vehicle and make it available to a Chevrolet dealer if warranty work is needed. Be sure to keep it with your vehicle if you sell it so future owners will have the information.
Owner's Name:
Street Address:
City & State:
Vehicle Identification Number (VIN):
Date Vehicle First Delivered or Put In Use:
Odometer Reading on Date Vehicle First Delivered or Put In Use:



Have you purchased the Genuine GM Protection Plan? The GM Protection Plan may be purchased within specific time/mileage limitations. See the information request form in the back of this booklet. Remember, if the service contract you are considering for purchase does not have the GM Protection Plan emblem shown above on it, then it is not the Genuine GM Protection Plan from GM.

Part No. 15854844 B Second Printing

2008 Chevrolet Limited Warranty and Owner Assistance Information

2008 Chevrolet Limited Warranty and Owner Assistance Information

An Important Message to Chevrolet Owners...

Chevrolet's Commitment to You

We are committed to assuring your satisfaction with your new Chevrolet.

Your Chevrolet dealer also wants you to be completely satisfied and invites you to return for all your service needs, both during and after the warranty period.

Owner Assistance

Your Chevrolet dealer is best equipped to provide all of your service needs. Should you ever encounter a problem that is not resolved during or after the limited warranty period, talk to a member of dealer management. Under certain circumstances, GM and/or GM dealers may provide assistance after the limited warranty period has expired when the problem results from a defect in material or workmanship. These instances will be reviewed on a case-by-case basis. If your problem has not been resolved to your satisfaction, follow the "Customer Satisfaction Procedure" as outlined under *Owner Assistance on page 30*.

We thank you for choosing a Chevrolet.

GM Participation in an Alternative Dispute Resolution Program

See the "Customer Satisfaction Procedure" under *Owner Assistance on page 30* for information on the voluntary, non-binding Alternative Dispute Resolution Program in which GM participates.

Warranty Service — United States and Canada

Your selling dealership has made a large investment to ensure that they have the proper tools, training, and parts inventory to make any necessary warranty repairs should they be required during the warranty period. We ask that you return to your selling dealer for warranty repairs. In the event of an emergency repair, you may take your vehicle to any authorized GM dealer for warranty repairs. However, certain warranty repairs require special tools or training that only a dealer selling your brand may have. Therefore, not all dealers are able to perform every repair. If a particular dealership cannot assist you, then contact the Customer Assistance Center. If you have changed your residence, visit any Chevrolet dealer in the United States or Canada for warranty service.

Warranty Coverage at a Glance

The warranty coverages are summarized below.

New Vehicle Limited Warranty

Bumper-to-Bumper (Includes Tires)

- Coverage is for the first 3 years or 36,000 miles, whichever comes first.

Powertrain

- Coverage is for 5 years or 100,000 miles, whichever comes first.

Sheet Metal

- Corrosion coverage is for the first 3 years or 36,000 miles, whichever comes first.
- Rust-through coverage is for the first 6 years or 100,000 miles, whichever comes first.

6.6L DURAMAX® Diesel Engine (If Equipped)

- Coverage is for 5 years or 100,000 miles, whichever comes first.

Emission Control System Warranty

For light duty trucks, see "How to Determine the Applicable Emissions Control System Warranty" under *Emission Control Systems Warranty on page 18* for more information.

Federal

- Gasoline Engines
  - Defects and performance for cars and light duty truck emission control systems are covered for the first 2 years or 24,000 miles, whichever comes first. From the first 2 years or 24,000 miles to 3 years or 36,000 miles defects in material or workmanship continue to be covered under the New Vehicle Limited Warranty Bumper-to-Bumper coverage explained previously. Specified major components are covered for the first 8 years or 80,000 miles, whichever comes first.

- Defects and performance for heavy duty truck emission control systems are covered for the first 5 years or 50,000 miles, whichever comes first.

- 6.6L DURAMAX® Diesel Engines are covered for the first 5 years or 50,000 miles, whichever comes first.

California

- Gasoline Engines
  - Defects and performance for cars and trucks with light duty or medium duty emission control systems are covered for the first 3 years or 50,000 miles, whichever comes first.
  - Specified components for cars or light duty trucks equipped with light duty or medium duty truck emission control systems are covered for the first 7 years or 70,000 miles, whichever comes first.

- 6.6L DURAMAX® Diesel Engines
  - Defects and performance for the emission control systems are covered for the first 5 years or 50,000 miles, whichever comes first.
  - Specified components for the emission control system are covered for the first 7 years or 70,000 miles, whichever comes first.

Important: Some California emission vehicles may have special coverages longer than those listed here. See "California Emission Control System Warranty" under *Emission Control Systems Warranty on page 18.*

Noise Emissions

- Coverage is for applicable vehicles weighing over 10,000 lbs based on the Gross Vehicle Weight Rating (GVWR) only, for the entire life of the vehicle.

General Motors Corporation New Vehicle Limited Warranty

GM will provide for repairs to the vehicle during the warranty period in accordance with the following terms, conditions, and limitations.

What Is Covered

Warranty Applies

This warranty is for GM vehicles registered in the United States and normally operated in the United States or Canada, and is provided to the original and any subsequent owners of the vehicle during the warranty period.

Repairs Covered

The warranty covers repairs to correct any vehicle defect related to materials or workmanship occurring during the warranty period. Needed repairs will be performed using new or remanufactured parts.

No Charge

Warranty repairs, including towing, parts, and labor, will be made at no charge.

Obtaining Repairs

To obtain warranty repairs, take the vehicle to a Chevrolet dealer facility within the warranty period and request the needed repairs. A reasonable time must be allowed for the dealer to perform necessary repairs.

Warranty Period

The warranty period for all coverages begins on the date the vehicle is first delivered or put in use and ends at the expiration of the coverage period.

Bumper-to-Bumper Coverage

The complete vehicle is covered for 3 years or 36,000 miles, whichever comes first, except for other coverages listed here under "What is Covered" and those items listed under "What Is Not Covered" later in this section.

Powertrain Coverage

The powertrain is covered for 5 years or 100,000 miles, whichever comes first, except for other coverages listed here under "What is Covered" and those items listed under "What is Not Covered" later in this section.

Engine: Cylinder head, block, timing gears, timing chain, timing cover, oil pump/oil pump housing, OHC carriers, valve covers, oil pan, seals, gaskets, turbocharger, supercharger and all internal lubricated parts as well as manifolds, flywheel, water pump, harmonic balancer and engine mount. Timing belts are covered until the first scheduled maintenance interval.

Transmission/Transaxle/Transfer Case: Case, all internal lubricated parts, torque converter, transfer case, transmission/transaxle mounts, seals, and gaskets.

Drive Systems: Final drive housing, all internal lubricated parts, axle shafts and bearings, constant velocity joints, axle housing, propeller shafts, universal joints, wheel bearings, locking hubs, front differential actuator, supports, front and rear hub bearings, seals and gaskets.

Tire Coverage

The tires supplied with your vehicle are covered against defects in material or workmanship under the Bumper-to-Bumper coverage. Any tire replaced will continue to be warranted for the remaining portion of the Bumper-to-Bumper coverage period.

Following expiration of the Bumper-to-Bumper coverage, tires may continue to be covered under the tire manufacturer's warranty. Review the tire manufacturer's warranty booklet or consult the tire manufacturer distributor for specific details.

Accessory Coverages

All GM accessories and parts sold by GM and permanently installed on a GM vehicle prior to delivery will be covered under the provisions of the New Vehicle Limited Warranty. In the event GM accessories are installed after vehicle delivery, or are replaced under the new vehicle warranty, they will be covered, parts and labor, for the balance of the vehicle warranty, but in no event less than 12 months/12,000 miles. This coverage is only effective for GM accessories permanently installed by a GM dealer or an associated GM-approved Accessory Distributor/Installer (ADI).

GM accessories sold over-the-counter, or those not requiring installation, will continue to receive the standard GM Dealer Parts Warranty of 12 months from the date of purchase, parts only.

GM Licensed Accessories are covered under the accessory-specific manufacturer's warranty and are not warranted by GM or its dealers.

Notice: **This warranty excludes:**

Any communications device that becomes unusable or unable to function as intended due to unavailability of compatible wireless service from the wireless communication carrier that provides service for the OnStar® system.

Sheet Metal Coverage

Sheet metal panels are covered against corrosion and rust-through as follows:

Corrosion: Body sheet metal panels are covered against rust for 3 years or 36,000 miles, whichever comes first.

Rust-Through: Any body sheet metal panel that rusts through, an actual hole in the sheet metal, is covered for up to 6 years or 100,000 miles, whichever comes first.

Important: Cosmetic or surface corrosion, resulting from stone chips or scratches in the paint, for example, is not included in sheet metal coverage.

Towing

Towing is covered to the nearest Chevrolet dealer if your vehicle cannot be driven because of a warranted defect.

6.6L DURAMAX® Diesel Engine Coverage

For trucks equipped with a 6.6L DURAMAX® Diesel Engine, the diesel engine, except those items listed under "What Is Not Covered" later in this section is covered for 5 years or 100,000 miles, whichever comes first. For additional information, refer to *Things You Should Know About the New Vehicle Limited Warranty on page 12*. Also refer to the appropriate emission control system warranty for possible additional coverages.

What Is Not Covered

Tire Damage or Wear

Normal tire wear or wear-out is not covered. Road hazard damage such as punctures, cuts, snags, and breaks resulting from pothole impact, curb impact, or from other objects is not covered. Also, damage from improper inflation, spinning, as when stuck in mud or snow, tire chains, racing, improper mounting or dismounting, misuse, negligence, alteration, vandalism, or misapplication is not covered.

Damage Due to Bedliners

Owners of trucks with a bedliner, whether after-market or factory installed, should expect that with normal operation the bedliner will move. This movement may cause finish damage and/or squeaks and rattles. Therefore, any damage caused by the bedliner is not covered under the terms of the warranty.

Damage Due to Accident, Misuse, or Alteration

Damage caused as the result of any of the following is not covered:

- Collision, fire, theft, freezing, vandalism, riot, explosion, or objects striking the vehicle
- Misuse of the vehicle such as driving over curbs, overloading, racing, or other competition. Proper vehicle use is discussed in the owner manual.
- Alteration or modification to the vehicle including the body, chassis, or components after final assembly by GM.
- Coverages do not apply if the odometer has been disconnected, its reading has been altered, or mileage cannot be determined.

Important: This warranty is void on vehicles currently or previously titled as salvaged, scrapped, junked, or totaled.

Damage or Corrosion Due to Environment, Chemical Treatments, and/or Aftermarket Products

Damage caused by airborne fallout, salt from sea air, salt or other materials used to control road conditions, chemicals, tree sap, stones, hail, earthquake, water or flood, windstorm, lightning, the application of chemicals or sealants subsequent to manufacture, etc., is not covered. See "Chemical Paint Spotting" under *Things You Should Know About the New Vehicle Limited Warranty on page 12* for more details.

Damage Due to Insufficient or Improper Maintenance

Damage caused by failure to follow the recommended maintenance schedule intervals and/or failure to use or maintain fluids, fuel, lubricants, or refrigerants recommended in the owner manual is not covered.

Damage Due to Contaminated or Poor Quality Fuel

Poor fuel quality or incorrect fuel may cause driveability problems such as hesitation, lack of power, stall, or no start. It may also render gauges inoperable or degrade functionality for components such as spark plugs, oxygen sensors, and the catalytic converter.

Damage from poor fuel quality, water contamination, incorrect diesel fuel or gasoline may not be covered.

It is recommended that gasoline meet specifications which were developed by automobile manufacturers around the world and contained in the World-Wide Fuel Charter which is available from the Alliance of Automobile Manufacturers at www.autoalliance.org/fuel_charter.htm. Gasoline meeting these specifications could provide improved driveability and emission control system performance compared to other gasoline.

Maintenance

All vehicles require periodic maintenance. Maintenance services, such as those detailed in the owner manual are the owner's expense. Vehicle lubrication, cleaning, or polishing are not covered. Failure of or damage to components requiring replacement or repair due to vehicle use, wear, exposure, or lack of maintenance is not covered.

Items such as:

- Audio System Cleaning
- Brake Pads/Linings
- Clutch Linings
- Coolants and Fluids

- Filters
- Keyless Entry Batteries *
- Limited Slip Rear Axle Service
- Tire Rotation
- Wheel Alignment/Balance **
- Wiper Inserts

are covered only when replacement or repair is the result of a defect in material or workmanship.

* Consumable battery covered up to 12 months only.

** Maintenance items after 7,500 miles.

Extra Expenses

Economic loss or extra expense is not covered.

Examples include:

- Inconvenience
- Lodging, meals, or other travel costs
- Loss of vehicle use
- Payment for loss of time or pay
- State or local taxes required on warranty repairs
- Storage

Other Terms: This warranty gives you specific legal rights and you may also have other rights which vary from state to state.

GM does not authorize any person to create for it any other obligation or liability in connection with these vehicles. **Any implied warranty of merchantability or fitness for a particular purpose applicable to this vehicle is limited in duration to the duration of this written warranty. Performance of repairs and needed adjustments is the exclusive remedy under this written warranty or any implied warranty. GM shall not be liable for incidental or consequential damages, such as, but not limited to, lost wages or vehicle rental expenses, resulting from breach of this written warranty or any implied warranty. ***

* Some states do not allow limitations on how long an implied warranty will last or the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you.

Hybrid Specific Warranty

For vehicles sold in the United States, in addition to the Bumper-to-Bumper Coverage described previously, General Motors will warrant certain Hybrid components for each 2008 Chevrolet Tahoe Two-mode Hybrid and Chevrolet Malibu Hybrid (hereafter referred to as Hybrid) for 8 years or 100,000 miles (160 000 kilometres), whichever comes first, from the original in-service date of the vehicle, against warrantable repairs to the specific Hybrid components of the vehicle.

For vehicles sold in Canada, in addition to the Base Warranty Coverage described in the GM Canadian Limited Warranty, Maintenance and Owner Assistance Booklet, General Motors of Canada Limited will warrant certain Hybrid components for each 2008 Chevrolet Tahoe Two-mode Hybrid and Chevrolet Malibu Hybrid (hereafter referred to as Hybrid) for 8 years, or 160,000 kilometres, whichever comes first, from the original in-service date of the vehicle, against warrantable repairs to the specific Hybrid components of the vehicle.

This warranty is for Hybrid vehicles registered in the United States or Canada, and normally operated in the United States or Canada. In addition to the initial owner of the vehicle, the coverage described in this Hybrid warranty is transferable at no cost to any subsequent person(s) who assumes ownership of the vehicle within the above described 8 years or 100,000 mile (160 000 kilometres) term. No deductibles are associated with this Hybrid warranty.

This Hybrid warranty is in addition to the express conditions and warranties described previously. The coverage and benefits described under "New Vehicle Limited Warranty" are not extended or altered because of this special Hybrid Component Warranty.

For 2008 Hybrid owners requiring more comprehensive coverage than that provided under this Hybrid warranty, a GM Protection Plan may be available. See your Chevrolet dealer for more details.

What is Covered

This Hybrid warranty covers repairs to correct any vehicle defect related to materials or workmanship occurring during the 8 year or 100,000 mile (160 000 kilometres) term for the following:

Towing

During the 8 year or 100,000 mile (160 000 km) Hybrid warranty period, towing is covered to the nearest Chevrolet servicing dealer if your vehicle cannot be driven because of a warranted Hybrid specific defect. Contact the Chevrolet Roadside Assistance Center for towing. Refer to the owner manual for details.

Malibu Hybrid Coverage

Hybrid Components

The energy storage control module and components including the Hybrid NiMh batteries, Hybrid battery disconnect, and Hybrid battery cooling fan.

Starter Generator Unit

The starter generator unit, starter generator control module, starter generator control module coolant pump, 3-phase cable assembly, starter generator drive belt, belt tensioner and brackets, belt pulley and brackets.

Other Hybrid Components

The 42-volt cable assembly, auxiliary transmission pump, hill start valve, and cabin heater coolant pump.

Tahoe Two-mode Hybrid Coverage

Transmission

Automatic transmission components including the transmission auxiliary fluid pump, transmission auxiliary pump controller, and 3 phase transmission cables.

Brakes

Brake modulator.

Other Hybrid Components

Battery pack, 300v cables, Drive Motor/Generator Control Module (DMCM), and Accessory Power Module.

What is Not Covered

In addition to the "What is Not Covered" section previously, this Hybrid warranty does not cover the following items:

Wear Items

Wear items, such as brake linings, are not covered in this Hybrid warranty.

Maintenance

As the vehicle owner, you are responsible for the performance of the scheduled maintenance listed in your owner manual. Maintenance intervals, checks, inspections, and recommended fluids and lubricants as prescribed in the owner manual are necessary to keep your vehicle in good working condition. Any damage caused by owner/lessee failure to follow scheduled maintenance may not be covered by warranty. Scheduled maintenance includes such items as:

- Brake Pads/Linings
- Coolants and Fluids
- Filters

Things You Should Know About the New Vehicle Limited Warranty

Warranty Repairs — Component Exchanges

In the interest of customer satisfaction, GM may offer exchange service on some vehicle components. This service is intended to reduce the amount of time your vehicle is not available for use due to repairs. Components used in exchange are service replacement parts which may be new, remanufactured, reconditioned, or repaired, depending on the component involved.

All exchange components used meet GM standards and are warranted the same as new components. Examples of the types of components that might be serviced in this fashion include: engine and transmission assemblies, instrument cluster assemblies, radios, compact disc players, tape players, batteries, and powertrain control modules.

Warranty Repairs — Recycled Materials

Environmental Protection Agency (EPA) guidelines and GM support the capture, purification, and reuse of automotive air conditioning refrigerant gases and engine coolant. As a result, any repairs GM may make to your vehicle may involve the installation of purified reclaimed refrigerant and coolant.

Tire Service

Any authorized Chevrolet or tire dealer for your brand of tires can assist you with tire service. If, after contacting one of these dealers, you need further assistance or you have questions, contact Chevrolet Customer Assistance Center. The toll-free telephone numbers are listed under *Owner Assistance on page 30.*

6.6L DURAMAX® Diesel Engine Components

For trucks equipped with a 6.6L Duramax® Diesel Engine, the complete engine assembly, including turbocharger components, is covered for defects in material or workmanship for 5 years or 100,000 miles, whichever comes first.

- Cylinder block and heads and all internal parts, intake and exhaust manifolds, timing gears, timing gear chain or belt and cover, flywheel, harmonic balancer, valve covers, oil pan, oil pump, water pump, fuel pump, engine mounts, seals, and gaskets
- Diesel Fuel Metering System: injection pump, nozzles, high pressure lines, and high pressure sealing devices
- Glow Plug Control System: control/glow plug assembly, glow plugs, cold advance relay, and Engine Control Module (ECM)
- Fuel injection control module, integral oil cooler, transmission adapter plate, left and right common fuel rails, fuel filter assembly, fuel temperature sensor, and function block

Important: Some of these components may also be covered by the Emission Warranty. See the "Emission Warranty Parts List" under *Emission Control Systems Warranty on page 18* for details.

Aftermarket Engine Performance Enhancement Products and Modifications

Some aftermarket engine performance products and modifications promise a way to increase the horsepower and torque levels of your vehicle's powertrain. You should be aware that these products may have detrimental effects on the performance and life of the engine, exhaust emission system, transmission, and drivetrain. The Duramax® Diesel Engine, Allison Automatic Transmission®, and drivetrain have been designed and built to offer industry leading durability and performance in the most demanding applications. Engine power enhancement products may enable the engine to operate at horsepower and torque levels that could damage, create failure, or reduce the life of the engine, engine emission system, transmission, and drivetrain. Damage, failure, or reduced life of the engine, transmission, emission system, drivetrain or other vehicle components caused by aftermarket engine performance enhancement products or modifications may not be covered under your vehicle warranty.

After-Manufacture "Rustproofing"

Your vehicle was designed and built to resist corrosion. Application of additional rust-inhibiting materials is neither necessary nor required under the Sheet Metal Coverage. GM makes no recommendations concerning the usefulness or value of such products.

Application of after-manufacture rustproofing products may create an environment which reduces the corrosion resistance built into your vehicle. Repairs to correct damage caused by such applications are not covered under your New Vehicle Limited Warranty.

Paint, Trim, and Appearance Items

Defects in paint, trim, upholstery, or other appearance items are normally corrected during new vehicle preparation. If you find any paint or appearance concerns, advise your dealer as soon as possible. Your owner manual has instructions regarding the care of these items.

Vehicle Operation and Care

Considering the investment you have made in your Chevrolet, we know you will want to operate and maintain it properly. We urge you to follow the maintenance instructions in your owner manual.

If you have questions on how to keep your vehicle in good working condition, see your Chevrolet dealer, the place many customers choose to have their maintenance work done. You can rely on your Chevrolet dealer to use the proper parts and repair practices.

Maintenance and Warranty Service Records

Retain receipts covering performance of regular maintenance. Receipts can be very important if a question arises as to whether a malfunction is caused by lack of maintenance or a defect in material or workmanship.

A "Maintenance Record" is provided in the maintenance schedule section of the owner manual for recording services performed.

The servicing dealer can provide a copy of any warranty repairs for your records.

Chemical Paint Spotting

Some weather and atmospheric conditions can create a chemical fallout. Airborne pollutants can fall upon and adhere to painted surfaces on your vehicle. This damage can take two forms: blotchy, ring-shaped discolorations, and/or small irregular dark spots etched into the paint surface.

Although no defect in the factory applied paint causes this, Chevrolet will repair, at no charge to the owner, the painted surfaces of new vehicles damaged by this fallout condition within 12 months or 12,000 miles of purchase, whichever comes first.

Warranty Coverage — Extensions

Time Extensions: The New Vehicle Limited Warranty will be extended one day for each day beyond the first 24 hour period in which your vehicle is at an authorized dealer facility for warranty service. You may be asked to show the repair orders to verify the period of time the warranty is to be extended. Your extension rights may vary depending on state law.

Mileage Extension: Prior to delivery, some mileage is put on your vehicle during testing at the assembly plant, during shipping, and while at the dealer facility. The dealer records this mileage on the first page of this warranty booklet at delivery. For eligible vehicles, this mileage will be added to the mileage limits of the warranty ensuring that you will receive full benefit of the coverage. Mileage extension eligibility:

- Applies only to new vehicles held exclusively in new vehicle inventory.
- Does not apply to used vehicles, GM-owned vehicles, dealer owned used vehicles, or dealer demonstrator vehicles.
- Does not apply to vehicles with more than 1,000 miles on the odometer even though the vehicle may not have been registered for license plates.

Touring Owner Service — Foreign Countries

If you are touring in a foreign country and repairs are needed, take your vehicle to a GM dealer facility, preferably one which sells and services Chevrolet vehicles. Once you return to the United States provide your dealer with a statement of circumstances, the original repair order, proof of ownership, and any paid receipt indicating the work performed and parts replaced for reimbursement consideration.

Important: Repairs made necessary by the use of improper or dirty fuels and lubricants are not covered under the warranty. See your owner manual for additional information on fuel requirements when operating in foreign countries.

Warranty Service — Foreign Countries

This warranty applies to GM vehicles registered in the United States and normally operated in the United States or Canada. If you have permanently relocated and established household residency in another country, GM may authorize the performance of repairs under the warranty authorized for vehicles generally sold by GM in that country. Contact an authorized GM dealer in your country for assistance.

Important: GM warranty coverages may be void on GM vehicles that have been imported/exported for resale.

Original Equipment Alterations

This warranty does not cover any damage or failure resulting from modification or alteration to the vehicle's original equipment as manufactured or assembled by General Motors. Examples of the types of alterations that would not be covered include cutting, welding, or disconnecting of the vehicle's original equipment parts and components.

Additionally, General Motors does not warranty non-GM parts and/or calibrations. The use of parts and/or control module calibrations not issued through General Motors will void the warranty coverage for those components that are damaged or otherwise affected by the installation of the non-GM part and/or control module calibration.

The only exception is that non-GM parts labeled "Certified to EPA Standards" are covered by the Federal Emissions Performance Warranty.

Recreation Vehicle and Special Body or Equipment Alterations

Installations or alterations to the original equipment vehicle, or chassis, as manufactured and assembled by GM, are not covered by this warranty. The special body company, assembler, or equipment installer is solely responsible for warranties on the body or equipment and any alterations to any of the parts, components, systems, or assemblies installed by GM. Examples include, but are not limited to, special body installations, such as recreational vehicles, the installation of any non-GM part, cutting, welding, or the disconnecting of original equipment vehicle or chassis parts and components, extension of wheelbase, suspension and driveline modifications, and axle additions.

Pre-Delivery Service

Defects in the mechanical, electrical, sheet metal, paint, trim, and other components of your vehicle may occur at the factory or while it is being transported to the dealer facility. Normally, any defects occurring during assembly are identified and corrected at the factory during the inspection process. In addition, dealers inspect each vehicle before delivery. They repair any uncorrected factory defects and any transit damage detected before the vehicle is delivered to you.

Any defects still present at the time the vehicle is delivered to you are covered by the warranty. If you find any defects, advise your dealer without delay. For further details concerning any repairs which the dealer may have made prior to you taking delivery of your vehicle, ask your dealer.

Production Changes

GM and GM dealers reserve the right to make changes in vehicles built and/or sold by them at any time without incurring any obligation to make the same or similar changes on vehicles previously built and/or sold by them.

Noise Emissions Warranty for Light Duty Trucks Over 10,000 LBS Gross Vehicle Weight Rating (GVWR) Only

GM warrants to the first person who purchases this vehicle for purposes other than resale and to each subsequent purchaser of this vehicle, as manufactured by GM, that this vehicle was designed, built, and equipped to conform at the time it left GM's control with all applicable United States EPA Noise Control Regulations.

This warranty covers this vehicle as designed, built, and equipped by GM, and is not limited to any particular part, component, or system of the vehicle manufactured by GM. Defects in design, assembly, or in any part, component, or vehicle system as manufactured by GM, which, at the time it left GM's control, caused noise emissions to exceed Federal Standards, are covered by this warranty for the life of the vehicle.

Emission Control Systems Warranty

The emission warranty on your vehicle is issued in accordance with the U.S. Federal Clean Air Act. Defects in material or workmanship in GM emission parts may also be covered under the New Vehicle Limited Warranty Bumper-to-Bumper coverage. There may be additional coverage on GM diesel engine vehicles. In any case, the warranty with the broadest coverage applies.

What Is Covered

The parts covered under the emission warranty are listed under "Emission Warranty Parts List" later in this section.

How to Determine the Applicable Emissions Control System Warranty

State and Federal agencies may require different emission control system warranty depending on:

- Whether the vehicle conforms to regulations applicable to light duty or heavy duty emission control systems.
- Whether the vehicle conforms to or is certified for California regulations in addition to U.S. EPA Federal regulations.

All vehicles are eligible for Federal Emissions Control System Warranty Coverage. If the emissions control label contains language stating the vehicle conforms to California regulations, the vehicle is also eligible for California Emissions Control System Warranty Coverage.

Federal Emission Control System Warranty

Federal Warranty Coverage

- Car or Light Duty Truck with a Gross Vehicle Weight Rating (GVWR) of 8,500 lbs. or less
  - 2 years or 24,000 miles and 8 years or 80,000 miles for the catalytic converter and the vehicle/powertrain control module (including emission-related software), whichever comes first.
- Light Duty Truck equipped with Heavy Duty Gasoline Engine and with a Gross Vehicle Weight Rating (GVWR) greater than 8,500 lbs.
  - 5 years or 50,000 miles, whichever comes first.

- Light Duty Truck equipped with Heavy Duty Diesel Engine and with a Gross Vehicle Weight Rating (GVWR) greater than 8,500 lbs.
  - 5 years or 50,000 miles, whichever comes first.

Federal Emission Defect Warranty

GM warrants to the owner the following:

- The vehicle was designed, equipped, and built so as to conform at the time of sale with the applicable regulations of the Federal Environmental Protection Agency (EPA).
- The vehicle is free from defects in material and workmanship which cause the vehicle to fail to conform with those regulations during the emission warranty period.

Emission related defects in the genuine GM parts listed under the Emission Warranty Parts List, including related diagnostic costs, parts, and labor are covered by this warranty.

Federal Emission Performance Warranty

Some states and/or local jurisdictions have established periodic vehicle Inspection and Maintenance (I/M) programs to encourage proper maintenance of your vehicle. If an EPA-approved I/M program is enforced in your area, you may also be eligible for Emission Performance Warranty coverage when all of the following three conditions are met:

- The vehicle has been maintained and operated in accordance with the instructions for proper maintenance and use set forth in the owner manual supplied with your vehicle.
- The vehicle fails an EPA-approved I/M test during the emission warranty period.
- The failure results, or will result, in the owner of the vehicle having to bear a penalty or other sanctions, including the denial of the right to use the vehicle, under local, state, or federal law.

GM warrants that your dealer will replace, repair, or adjust to GM specifications, at no charge to you, any of the parts listed under the "Emission Warranty Parts List" later in this section which may be necessary to conform to the applicable emission standards. Non-GM parts labeled "Certified to EPA Standards" are covered by the Federal Emission Performance Warranty.

California Emission Control System Warranty

This section outlines the emission warranty that GM provides for your vehicle in accordance with the California Air Resources Board. Defects in material or workmanship in GM emission parts may also be covered under the New Vehicle Limited Warranty Bumper-to-Bumper coverage. There may be additional coverage on GM diesel engine vehicles. In any case, the warranty with the broadest coverage applies.

This warranty applies if your vehicle meets both of the following requirements:

- Your vehicle is registered in California **or other states adopting California emission and warranty regulations.***
- Your vehicle is certified for sale in California as indicated on the vehicle's emission control information label.

***Important:** Connecticut, Maine, Massachusetts, Pennsylvania, Rhode Island, and Vermont have California Emissions Warranty coverage. (New York adopted California emission standards, but not the California Emissions Warranty. The Federal Emissions Control Warranty applies to all non-PZEV vehicles in New York.)

California Partial Zero Emission Vehicles (PZEV) have extended coverage on all emission related parts.

***Important:** California, New York, Massachusetts, Vermont, Maine, Connecticut, Rhode Island, and New Jersey have PZEV Emission Warranty Coverage.

Your Rights and Obligations (For Vehicles Subject to California Exhaust Emission Standards)

In California, new motor vehicles must be designed, equipped, and built to meet the state's stringent anti-smog standards. GM must warrant your vehicle's emission control system for the periods of time and mileage listed provided there has been no abuse, neglect, or improper maintenance of your vehicle. Your vehicle's emission control system may include parts such as the fuel injection system, ignition system, catalytic converter, and engine computer. Also included are hoses, belts, connectors, and other emission related assemblies.

Where a warrantable condition exists, GM will repair your vehicle at no cost to you including diagnosis, parts, and labor.

California Emission Defect and Emission Performance Warranty Coverage

For cars and trucks with light duty or medium duty emissions:

- For 3 years or 50,000 miles, whichever comes first:
  - If your vehicle fails a smog check inspection, GM will make all necessary repairs and adjustments to ensure that your vehicle passes the inspection. This is your Emission Control System Performance Warranty.
  - If any emission related part on your vehicle is defective, GM will repair or replace it. This is your Short-term Emission Defects Warranty.
- For 7 years or 70,000 miles whichever comes first:
  - If an emission related part listed in this booklet specially noted with coverage for 7 years or 70,000 miles is defective, GM will repair or replace it. This is your Long-term Emission Control System Defects Warranty.
- For 8 years or 80,000 miles, whichever comes first:
  - If the catalytic converter, vehicle powertrain control module including emission related software is found to be defective, GM will repair or replace it under the Federal Emission Control System Warranty.
- For 8 years or 100,000 miles, whichever comes first for California Low Emission Vehicle 2 (LEV2) vehicles equipped with option code NUA:
  - If an emission related part listed in this booklet specially noted with 7 years/70,000 miles or 8 years/80,000 miles is defective, GM will repair or replace it. This is your Long-term Emission Control System Defect Warranty.
- For 15 years or 150,000 miles, whichever comes first for a Partial Zero Emission Vehicle (PZEV):
  - If any emission related part listed in this booklet is defective GM will repair or replace it. This is your (PZEV) Emission Control System Defects Warranty.

Any authorized Chevrolet dealer will, as necessary under these warranties, replace, repair, or adjust to GM specifications any genuine GM parts that affect emissions.

The applicable warranty period shall begin on the date the vehicle is delivered to the first retail purchaser or, if the vehicle is first placed in service as a demonstrator or company vehicle prior to sale at retail, on the date the vehicle is placed in such service.

Owner's Warranty Responsibilities

As the vehicle owner, you are responsible for the performance of the scheduled maintenance listed in your owner manual. GM recommends that you retain all maintenance receipts for your vehicle, but GM cannot deny warranty coverage solely for the lack of receipts or for your failure to ensure the performance of all scheduled maintenance.

You are responsible for presenting your vehicle to a GM dealer selling your vehicle line as soon as a problem exists. The warranted repairs should be completed in a reasonable amount of time, not to exceed 30 days.

As the vehicle owner, you should also be aware that GM may deny warranty coverage if your vehicle or a part has failed due to abuse, neglect, improper or insufficient maintenance, or modifications not approved by GM.

If you have any questions regarding your rights and responsibilities under these warranties, you should contact the Customer Assistance Center at 1-800-222-1020 or, in California, write to:

State of California Air Resources Board
Mobile Source Operations Division
P.O. Box 8001
El Monte, CA 91731-2990

Emission Warranty Parts List

The emission parts listed here are covered under the Emission Control System Warranty. The terms are explained previously in this section under the "Federal Emission Control System Warranty" and the "California Emission Control System Warranty".

Important: Certain parts may be covered beyond these warranties if shown with asterisk(s) as follows:

- (*) 7 years/70,000 miles, whichever comes first, California Emission Control System Warranty coverage.
- (**) 8 years/80,000 miles, whichever comes first, Federal Emission Control System Warranty coverage. (Also applies to California certified light duty and medium duty vehicles.)
- (*) and (**) are 8 years/100,000 miles, whichever comes first, for California LEV2 vehicles equipped with option code NUA.

The Emission Control System Warranty obligations do not apply to conditions resulting from tampering, abuse, neglect, or improper maintenance; or any other item listed under "What Is Not Covered" under *General Motors Corporation New Vehicle Limited Warranty on page 4.* The "Other Terms" presented under *General Motors Corporation New Vehicle Limited Warranty on page 4* also apply to the emission related warranties.

Powertrain Control System

ABS Control Module **
Camshaft Position Actuator *
Camshaft Position Actuator Valve
Coolant Level Sensor
Data Link Connector
Electronic Throttle Control (ETC) Motor
Engine Control Module (ECM) **
Engine Coolant Temperature Sensor
Fast Idle Solenoid
Flexible Fuel Sensor *
Fuel Control Module **
Intake Air Temperature Sensor
Malfunction Indicator Lamp
Manifold Absolute Pressure Sensor
Mass Air Flow Sensor
Oil Pressure Sensor (DoD™ only)
Oxygen Sensors
Powertrain Control Module (PCM) **
Programmable Read Only Memory (PROM)
Throttle Position Sensor
Throttle Position Switch
Vehicle Control Module (VCM) **
Vehicle Speed Sensor
Wheel Speed Sensor

Transmission Controls and Torque Management

GMLAN (CAN) Communications Circuit
Manual Transmission Clutch Switch
Park/Neutral Switch
Torque Converter Clutch Solenoids
Torque Converter Clutch Switch
Transmission Control Module **
Transmission Fluid Temperature Sensor
Transmission Gear Selection Switch (Diesel)
Transmission Internal Mode Switch
Transmission Pressure Control Solenoids
Transmission Pressure Switches
Transmission Shift Solenoids
Transmission Speed Sensors

Fuel Management System

Common Rail Assembly (6.6L DURAMAX® Diesel) *

Diesel Fuel Injection Pump *

Diesel Fuel Injection Pump Timing Adjust

Diesel Fuel Injector Control Module – EDU (6.6L DURAMAX® Diesel) *

Diesel Fuel Temperature Sensor

Direct Fuel Injector Assembly (6.6L DURAMAX® Diesel) *

Fuel Injector

Fuel Pressure Regulator

Fuel Rail Assembly *

Fuel Rail Pressure Sensor

Function Block (6.6L DURAMAX® Diesel)

High Pressure Fuel Pump (SIDI) *

Air Management System

Air Cleaner

Air Cleaner Diaphragm Motor

Air Cleaner Resonator

Air Cleaner Temperature Compensator Valve

Air Intake Ducts

Charge Air Control Actuator

Charge Air Control Solenoid Valve

Charge Air Control Valve

Charge Air Cooler *

Charge Air Cooler Fan

Idle Air Control Valve

Idle Speed Control Motor

Intake Manifold *

Intake Manifold Gasket (7/70 Only Uplander, Montana SV6, and DURAMAX® Diesel) *

Intake Manifold Heater

Intake Manifold Tuning Valve

Intake Manifold Tuning Valve Relay

Supercharger Assembly *

Throttle Body * (Replacement Only)

Throttle Body Heater

Throttle Closing Dashpot

Turbocharger Assembly *

Turbocharger Boost Sensor

Turbocharger Oil Separator

Turbocharger Thermo Purge Switch

Vacuum Pump (6.6L DURAMAX® Diesel)

Ignition System

Camshaft Position Sensor(s)

Crankshaft Position Sensor(s)

Distributor

Distributor Cap

Distributor Pick Up Coil

Distributor Rotor

Glow Plug(s) (Diesel)

Glow Plug Controller (Diesel)

Glow Plug Relay (Diesel)

Ignition Coil(s)

Ignition Control Module

Ignition Timing Adjustment

Knock Sensor

Spark Plug Wires

Spark Plugs

Catalytic Converter System

Catalytic Converter(s) and Muffler if attached as assembly **

Diesel Exhaust Temperature and Pressure Sensors

Diesel Particulate Filter (DPF) *

Exhaust Manifold (7/70 Only Corvette 7.0L, Equinox, Torrent, Uplander, Montana SV6, Cadillac DTS 4.6L and XLR, (Impala and Grand Prix 5.3L right side) and C/K Trucks < 14,000 GVWR 8.1L) *

Exhaust Manifold with Catalytic Converter attached as assembly **

Exhaust Manifold Gasket

Exhaust Pipes and/or Mufflers (when located between catalytic converters and exhaust manifold)

Positive Crankcase Ventilation System

Oil Filler Cap

PCV Filter

PCV Oil Separator

PCV Valve

Exhaust Gas Recirculation System

EGR Feed and Delivery Pipes or Cast-in Passages

EGR Valve

EGR Valve Cooler (6.6L DURAMAX® Diesel) *

EGR Vacuum Pump Assembly (6.6L DURAMAX® Diesel)

Secondary Air Injection System

Air Pump

Check Valves

Evaporative Emission Control System (Gasoline Engines)

Canister

Canister Purge Solenoid Valve

Canister Vent Solenoid

Fuel Feed and Return Pipes and Hoses

Fuel Filler Cap

Fuel Level Sensor

Fuel Limiter Vent Valve *

Fuel Tank(s) *

Fuel Tank Filler Pipe (with restrictor)

Fuel Tank Vacuum or Pressure Sensor

Hybrid

Auxiliary Transmission Fluid Pump

Battery Cooling Fan

Battery Pack Control Module (BPCM) *

Battery Pack Current Sensor

Brake Pedal Travel Sensor

Drive Motors A and B

Drive Motor A and B Resolvers

Drive Motor/Generator Control Module (DMCM - HCP, MCPA, MCPB) **

Electro-Hydraulic Brake Control Module (EBCM) **

Energy Storage Control Module **

Fuel Filler Pipe Adapter Seal

Hybrid Batteries

Hybrid Battery Temperature Sensors

Hybrid Battery Voltage Sensors

SGCM Coolant Circuit (fan and fan relay and pump)

Starter Generator Control Module **

Transmission Friction Elements

Transmission Substrate Temperature Sensor

Miscellaneous Items Used with Above Components are Covered

Belts
Boots
Clamps
Connectors
Ducts
Fittings
Gaskets
Grommets
Hoses
Housings
Mounting Hardware
Pipes
Pulleys
Sealing Devices
Springs
Tubes
Wiring

Parts specified in your maintenance schedule that require scheduled replacement are covered up to their first replacement interval or the applicable emission warranty coverage period, whichever comes first. If failure of one of these parts results in failure of another part, both will be covered under the Emission Control System Warranty.

Parts specified in your maintenance schedule that require scheduled replacement are covered up to their first replacement interval or the applicable emission warranty coverage period, whichever comes first. If failure of one of these parts results in failure of another part, both will be covered under the Emission Control System Warranty.

For detailed information concerning specific parts covered by these emission control systems warranties, ask your dealer.

Replacement Parts

The emission control systems of your vehicle were designed, built, and tested using genuine GM parts* and the vehicle is certified as being in conformity with applicable federal and California emission requirements. **Accordingly, it is recommended that any replacement parts used for maintenance or for the repair of emission control systems be new, genuine GM parts.**

The warranty obligations are not dependent upon the use of any particular brand of replacement parts. The owner may elect to use non-genuine GM parts for replacement purposes. Use of replacement parts which are not of equivalent quality may impair the effectiveness of emission control systems.

If other than new, genuine GM parts are used for maintenance replacements or for the repair of parts affecting emission control, the owner should assure himself/herself that such parts are warranted by their manufacturer to be equivalent to genuine GM parts in performance and durability.

* "Genuine GM parts," when used in connection with GM vehicles means parts manufactured by or for GM, designed for use on GM vehicles, and distributed by any division or subsidiary of GM.

Maintenance and Repairs

Maintenance and repairs can be performed by any qualified service outlet; however, warranty repairs must be performed by an authorized dealer except in an emergency situation when a warranted part or a warranty station is not reasonably available to the vehicle owner.

In an emergency, where an authorized dealer is not reasonably available, repairs may be performed at any available service establishment or by the owner, using any replacement part. Chevrolet will consider reimbursement for the expense incurred, including diagnosis, not to exceed the manufacturer's suggested retail price for all warranted parts replaced and labor charges based on Chevrolet's recommended time allowance for the warranty repair and the geographically appropriate labor rate. A part not being available within 10 days or a repair not being completed within 30 days constitutes an emergency. Retain receipts and failed parts in order to receive compensation for warranty repairs reimbursable due to an emergency.

If, in an emergency situation, it is necessary to have repairs performed by other than a Chevrolet dealer and you believe the repairs are covered by emission warranties, take the replaced parts and your receipt to a Chevrolet dealer for reimbursement consideration. This applies to both the Federal Emission Defect Warranty and Federal Emission Performance Warranty.

Receipts and records covering the performance of regular maintenance or emergency repairs should be retained in the event questions arise concerning maintenance. These receipts and records should be transferred to each subsequent owner. GM will not deny warranty coverage solely on the absence of maintenance records. However, GM may deny a warranty claim if a failure to perform scheduled maintenance resulted in the failure of a warranty part.

Claims Procedure

As with the other warranties covered in this booklet, take your vehicle to any authorized Chevrolet dealer facility to obtain service under the emission warranty. This should be done as soon as possible after failing an EPA-approved I/M test or a California smog check test, or at any time you suspect a defect in a part.

Those repairs qualifying under the warranty will be performed by any Chevrolet dealer at no charge. Repairs which do not qualify will be charged to you. You will be notified as to whether or not the repair qualifies under the warranty within a reasonable time, not to exceed 30 days after receipt of the vehicle by the dealer, or within the time period required by local or state law.

The only exceptions would be if you request or agree to an extension, or if a delay results from events beyond the control of your dealer or GM. If you are not so notified, GM will provide any required repairs at no charge.

In the event a warranty matter is not handled to your satisfaction, refer to the "Customer Satisfaction Procedure" under *Owner Assistance on page 30*.

For further information or to report violations of the Emission Control System Warranty, you may contact the EPA at:

Manager, Certification and Compliance
Division (6405J)
Warranty Claims
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

For a vehicle subject to the California Exhaust Emission Standards, you may contact the:

State of California Air Resources Board
Mobile Source Operations Division
P.O. Box 8001
El Monte, CA 97131-2990

Owner Assistance

Customer Satisfaction Procedure

Your satisfaction and goodwill are important to your dealer and to Chevrolet. Normally, any concerns with the sales transaction or the operation of your vehicle will be resolved by your dealer's sales or service departments. Sometimes, however, despite the best intentions of all concerned, misunderstandings can occur. If your concern has not been resolved to your satisfaction, the following steps should be taken:

STEP ONE: Discuss your concern with a member of dealer management. Normally, concerns can be quickly resolved at that level. If the matter has already been reviewed with the sales, service, or parts manager, **contact the owner of the dealer facility** or the general manager.

STEP TWO: If after contacting a member of dealer management, it appears your concern cannot be resolved by the dealer without further help **contact the Chevrolet Customer Assistance Center** by calling 1-800-222-1020. In Canada, contact GM of Canada Central Office in Oshawa by calling 1-800-263-3777: English, or 1-800-263-7854: French.

We encourage you to call the toll-free number in order to give your inquiry prompt attention. Have the following information available to give the Customer Assistance Representative:

- The Vehicle Identification Number (VIN). This is available from the vehicle registration, title, or the plate above the top of the instrument panel on the driver side, and visible through the windshield.
- The dealer name and location
- The vehicle's delivery date and present mileage

When contacting Chevrolet, remember that your concern will likely be resolved at a dealer's facility. That is why we suggest you follow Step One first if you have a concern.

STEP THREE: Both GM and your GM dealer are committed to making sure you are completely satisfied with your new vehicle. However, if you continue to remain unsatisfied after following the procedure outlined in Steps One and Two, you should file with the BBB Auto Line Program to enforce any additional rights you may have.

The BBB Auto Line Program is an out of court program administered by the Council of Better Business Bureaus to settle automotive disputes regarding vehicle repairs or the interpretation of the New Vehicle Limited Warranty.

Although you may be required to resort to this informal dispute resolution program prior to filing a court action, use of the program is free of charge and your case will generally be heard within 40 days. If you do not agree with the decision given in your case, you may reject it and proceed with any other venue for relief available to you.

You may contact the BBB Auto Line Program using the toll-free telephone number or write them at the following address:

BBB Auto Line Program
Council of Better Business Bureaus, Inc.
4200 Wilson Boulevard
Suite 800
Arlington, VA 22203-1804

www.lemonlaw.bbb.org
Telephone: 1-800-955-5100

This program is available in all 50 states and the District of Columbia. Eligibility is limited by vehicle age, mileage, and other factors. GM reserves the right to change eligibility limitations and/or to discontinue its participation in this program.

State Warranty Enforcement Laws

Laws in many states permit owners to obtain a replacement vehicle or a refund of the purchase price under certain circumstances. The provisions of these laws vary from state to state. To the extent allowed by state law, GM requires that you first provide us with written notification of any service difficulty you have experienced so that we have an opportunity to make any needed repairs before you are eligible for the remedies provided by these laws. Your written notification should be sent to the Chevrolet Customer Assistance Center.

Assistance For Text Telephone (TTY) Users

To assist customers who are deaf or hard of hearing and who use Text Telephones (TTYs), Chevrolet has TTY equipment available at its Customer Assistance Center and Roadside Assistance Center.

The TTY for the Chevrolet Customer Assistance Center is:

1-800-833-2438 in the United States
1-800-263-3830 in Canada

The TTY for the Chevrolet Roadside Assistance Center is:

1-888-889-2438 in the U.S.

Chevrolet Roadside Assistance

Chevrolet is proud to offer the response, security, and convenience of Chevrolet's 24-hour Roadside Assistance Program for a period of 5 years or 100,000 miles, whichever comes first. Consult your dealer or refer to the owner manual for details. The Chevrolet Roadside Assistance Center can be reached by calling 1-800-CHEV-USA (243-8872).

Roadside Assistance is not part of or included in the coverage provided by the New Vehicle Limited Warranty. General Motors and General Motors of Canada Limited reserve the right to make any changes or discontinue the Roadside Assistance program at any time without notification.

Chevrolet Courtesy Transportation

If your vehicle requires warranty repairs during the 5 year/100,000 mile (8 year/100,000 miles for Hybrid vehicles) warranty coverage period, alternate transportation and/or reimbursement of certain transportation expenses are available under the Courtesy Transportation Program. Several transportation options are available. Consult your dealer or refer to the owner manual for details.

Courtesy Transportation is not part of or included in the coverage provided by the New Vehicle Limited Warranty. General Motors and General Motors of Canada Limited reserve the right to make any changes or discontinue the Courtesy Transportation program at any time without notification.

Warranty Information for California Only

California Civil Code Section 1793.2(d) requires that, if GM or its representatives are unable to repair a new motor vehicle to conform to the vehicle's applicable express warranties after a reasonable number of attempts, GM shall either replace the new motor vehicle or reimburse the buyer the amount paid or payable by the buyer. California Civil Code Section 1793.22(b) creates a presumption that GM has had a reasonable number of attempts to conform the vehicle to its applicable express warranties if, within 18 months from delivery to the buyer or 18,000 miles on the vehicle's odometer, whichever occurs first, one or more of the following occurs:

- The same nonconformity results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven AND the nonconformity has been subject to repair two or more times by GM or its agents AND the buyer or lessee has directly notified GM of the need for the repair of the nonconformity.
- The same nonconformity has been subject to repair four or more times by GM or its agents AND the buyer has notified GM of the need for the repair of the nonconformity.

- The vehicle is out of service by reason of repair nonconformities by GM or its agents for a cumulative total of more than 30 calendar days after delivery of the vehicle to the buyer.

NOTICE TO GENERAL MOTORS AS REQUIRED ABOVE SHALL BE SENT TO THE FOLLOWING ADDRESS:

General Motors Corporation
P.O. Box 33170
Detroit, MI 48232-5170

Fax Number: 1-866-962-2868

When you make an inquiry, you will need to give the year, model, and mileage of your vehicle and your VIN.

Special Coverage Adjustment Programs Beyond the Warranty Period

Chevrolet is proud of the protection afforded by its warranty coverages. In order to achieve maximum customer satisfaction, there may be times when Chevrolet will establish a special coverage adjustment program to pay all or part of the cost of certain repairs not covered by the warranty or to reimburse certain repair expenses you may have incurred. Check with your Chevrolet dealer or call the Chevrolet Customer Assistance Center to determine whether any special coverage adjustment program is applicable to your vehicle.

When you make an inquiry, you will need to give the year, model, and mileage of your vehicle and your VIN.

Customer Assistance Offices

Chevrolet encourages customers to call the toll-free telephone number for assistance. However, if you wish to write or e-mail Chevrolet, refer to the address below.

United States

Chevrolet Customer Assistance Center
P.O. Box 33170
Detroit, MI 48232-5170

www.Chevrolet.com
1-800-222-1020
1-800-833-2438 (For Text Telephone devices (TTYs))

Roadside Assistance:
1-800-CHEV-USA (243-8872)
Fax Number: 1-866-962-2868

From Puerto Rico:
1-800-496-9992 (English)
1-800-496-9993 (Spanish)
Fax Number: 313-381-0022

From U.S. Virgin Islands:
1-800-496-9994
Fax Number: 313-381-0022

Canada

Customer Assistance Centre, CA1-163-005
General Motors of Canada Limited
1908 Colonel Sam Drive
Oshawa, Ontario L1H 8P7

1-800-263-3777 (English)
1-800-263-7854 (French)
1-800-263-3830 (For Text Telephone devices (TTYs))
Roadside Assistance: 1-800-268-6800

Mexico, Central America, and Caribbean Islands/Countries (Except Puerto Rico and U.S. Virgin Islands)

General Motors de Mexico, S. de R.L. de C.V.
Customer Assistance Center
Paseo de la Reforma # 2740
Col. Lomas de Bezares
C.P. 11910, Mexico, D.F.

01-800-508-0000
Long Distance: 011-52-53 29 0 800

Online Owner Center

The Owner Center is a resource for your GM ownership needs. Specific vehicle information can be found in one place.

The Online Owner Center allows you to:

- Get e-mail service reminders.
- Access information about your specific vehicle, including tips and videos and an electronic version of this warranty manual.
- Keep track of your vehicle's service history and maintenance schedule.
- Find GM dealers for service nationwide.
- Receive special promotions and privileges only available to members.

Refer to the web for updated information.

To register your vehicle, visit www.MyGMLink.com.

Don't Wait Until Your New Vehicle Limited Warranty – and Your Opportunity to Purchase the GM Protection Plan – Expire.

Learn how to protect yourself, with the GM Protection Plan, against costly repairs after your new vehicle limited warranty expires. A monthly payment plan makes it convenient and affordable. Just call or mail this request and you'll find out how you can get the security of knowing you're covered if something breaks down.

GM Protection Plan

No-Obligation GM Protection Information Request

☐ YES! Please send me free information about how I can protect myself from costly repair bills after my new vehicle limited warranty expires.

Name: _____

Address: _____ Apt#: _____

City: _____ State: _____ Zip: _____

Daytime Phone: ( ) _____ Evening Phone: ( ) _____

Vehicle Information

Vehicle Identification Number *(17 Digits)*

_____

Make/Model: _____ Year: _____

Purchase Date: _____ Mileage: _____

Complete and mail this request today and we'll send you FREE details about how you can add years and miles of protection.

Mail to: GM Protection Plan
P.O. Box 02968
Detroit, MI 48202

Or call 1-800-981-4677 toll-free for details today.

EXHIBIT F

IMPORTANT: This booklet contains important information about the vehicle's warranty coverage. It also explains **owner assistance information and GM's participation in an Alternative Dispute Resolution Program.** Keep this booklet with your vehicle and make it available to a Chevrolet dealer if warranty work is needed. Be sure to keep it with your vehicle if you sell it so future owners will have the information.
Owner's Name:
Street Address:
City & State:
Vehicle Identification Number (VIN):
Date Vehicle First Delivered or Put In Use:
Odometer Reading on Date Vehicle First Delivered or Put In Use:

Have you purchased the Genuine GM Protection Plan? The GM Protection Plan may be purchased within specific time/mileage limitations. See the information request form in the back of this booklet. Remember, if the service contract you are considering for purchase does not have the GM Protection Plan emblem shown above on it, then it is not the Genuine GM Protection Plan from GM.

Part No. 15854844 B Second Printing

2008 Chevrolet Limited Warranty and Owner Assistance Information

2008 Chevrolet Limited Warranty and Owner Assistance Information

An Important Message to Chevrolet Owners...

Chevrolet's Commitment to You

We are committed to assuring your satisfaction with your new Chevrolet.

Your Chevrolet dealer also wants you to be completely satisfied and invites you to return for all your service needs, both during and after the warranty period.

Owner Assistance

Your Chevrolet dealer is best equipped to provide all of your service needs. Should you ever encounter a problem that is not resolved during or after the limited warranty period, talk to a member of dealer management. Under certain circumstances, GM and/or GM dealers may provide assistance after the limited warranty period has expired when the problem results from a defect in material or workmanship. These instances will be reviewed on a case-by-case basis. If your problem has not been resolved to your satisfaction, follow the "Customer Satisfaction Procedure" as outlined under *Owner Assistance on page 30*.

We thank you for choosing a Chevrolet.

GM Participation in an Alternative Dispute Resolution Program

See the "Customer Satisfaction Procedure" under *Owner Assistance on page 30* for information on the voluntary, non-binding Alternative Dispute Resolution Program in which GM participates.

Warranty Service — United States and Canada

Your selling dealership has made a large investment to ensure that they have the proper tools, training, and parts inventory to make any necessary warranty repairs should they be required during the warranty period. We ask that you return to your selling dealer for warranty repairs. In the event of an emergency repair, you may take your vehicle to any authorized GM dealer for warranty repairs. However, certain warranty repairs require special tools or training that only a dealer selling your brand may have. Therefore, not all dealers are able to perform every repair. If a particular dealership cannot assist you, then contact the Customer Assistance Center. If you have changed your residence, visit any Chevrolet dealer in the United States or Canada for warranty service.

Warranty Coverage at a Glance

The warranty coverages are summarized below.

New Vehicle Limited Warranty

Bumper-to-Bumper (Includes Tires)

- Coverage is for the first 3 years or 36,000 miles, whichever comes first.

Powertrain

- Coverage is for 5 years or 100,000 miles, whichever comes first.

Sheet Metal

- Corrosion coverage is for the first 3 years or 36,000 miles, whichever comes first.
- Rust-through coverage is for the first 6 years or 100,000 miles, whichever comes first.

6.6L DURAMAX® Diesel Engine (If Equipped)

- Coverage is for 5 years or 100,000 miles, whichever comes first.

Emission Control System Warranty

For light duty trucks, see "How to Determine the Applicable Emissions Control System Warranty" under *Emission Control Systems Warranty on page 18* for more information.

Federal

- Gasoline Engines
  - Defects and performance for cars and light duty truck emission control systems are covered for the first 2 years or 24,000 miles, whichever comes first. From the first 2 years or 24,000 miles to 3 years or 36,000 miles defects in material or workmanship continue to be covered under the New Vehicle Limited Warranty Bumper-to-Bumper coverage explained previously. Specified major components are covered for the first 8 years or 80,000 miles, whichever comes first.

- Defects and performance for heavy duty truck emission control systems are covered for the first 5 years or 50,000 miles, whichever comes first.

- 6.6L DURAMAX® Diesel Engines are covered for the first 5 years or 50,000 miles, whichever comes first.

California

- Gasoline Engines
  - Defects and performance for cars and trucks with light duty or medium duty emission control systems are covered for the first 3 years or 50,000 miles, whichever comes first.
  - Specified components for cars or light duty trucks equipped with light duty or medium duty truck emission control systems are covered for the first 7 years or 70,000 miles, whichever comes first.

- 6.6L DURAMAX® Diesel Engines
  - Defects and performance for the emission control systems are covered for the first 5 years or 50,000 miles, whichever comes first.
  - Specified components for the emission control system are covered for the first 7 years or 70,000 miles, whichever comes first.

Important: Some California emission vehicles may have special coverages longer than those listed here. See "California Emission Control System Warranty" under *Emission Control Systems Warranty on page 18.*

Noise Emissions

- Coverage is for applicable vehicles weighing over 10,000 lbs based on the Gross Vehicle Weight Rating (GVWR) only, for the entire life of the vehicle.

General Motors Corporation New Vehicle Limited Warranty

GM will provide for repairs to the vehicle during the warranty period in accordance with the following terms, conditions, and limitations.

What Is Covered

Warranty Applies

This warranty is for GM vehicles registered in the United States and normally operated in the United States or Canada, and is provided to the original and any subsequent owners of the vehicle during the warranty period.

Repairs Covered

The warranty covers repairs to correct any vehicle defect related to materials or workmanship occurring during the warranty period. Needed repairs will be performed using new or remanufactured parts.

No Charge

Warranty repairs, including towing, parts, and labor, will be made at no charge.

Obtaining Repairs

To obtain warranty repairs, take the vehicle to a Chevrolet dealer facility within the warranty period and request the needed repairs. A reasonable time must be allowed for the dealer to perform necessary repairs.

Warranty Period

The warranty period for all coverages begins on the date the vehicle is first delivered or put in use and ends at the expiration of the coverage period.

Bumper-to-Bumper Coverage

The complete vehicle is covered for 3 years or 36,000 miles, whichever comes first, except for other coverages listed here under "What is Covered" and those items listed under "What Is Not Covered" later in this section.

Powertrain Coverage

The powertrain is covered for 5 years or 100,000 miles, whichever comes first, except for other coverages listed here under "What is Covered" and those items listed under "What is Not Covered" later in this section.

Engine: Cylinder head, block, timing gears, timing chain, timing cover, oil pump/oil pump housing, OHC carriers, valve covers, oil pan, seals, gaskets, turbocharger, supercharger and all internal lubricated parts as well as manifolds, flywheel, water pump, harmonic balancer and engine mount. Timing belts are covered until the first scheduled maintenance interval.

Transmission/Transaxle/Transfer Case: Case, all internal lubricated parts, torque converter, transfer case, transmission/transaxle mounts, seals, and gaskets.

Drive Systems: Final drive housing, all internal lubricated parts, axle shafts and bearings, constant velocity joints, axle housing, propeller shafts, universal joints, wheel bearings, locking hubs, front differential actuator, supports, front and rear hub bearings, seals and gaskets.

Tire Coverage

The tires supplied with your vehicle are covered against defects in material or workmanship under the Bumper-to-Bumper coverage. Any tire replaced will continue to be warranted for the remaining portion of the Bumper-to-Bumper coverage period.

Following expiration of the Bumper-to-Bumper coverage, tires may continue to be covered under the tire manufacturer's warranty. Review the tire manufacturer's warranty booklet or consult the tire manufacturer distributor for specific details.

Accessory Coverages

All GM accessories and parts sold by GM and permanently installed on a GM vehicle prior to delivery will be covered under the provisions of the New Vehicle Limited Warranty. In the event GM accessories are installed after vehicle delivery, or are replaced under the new vehicle warranty, they will be covered, parts and labor, for the balance of the vehicle warranty, but in no event less than 12 months/12,000 miles. This coverage is only effective for GM accessories permanently installed by a GM dealer or an associated GM-approved Accessory Distributor/Installer (ADI).

GM accessories sold over-the-counter, or those not requiring installation, will continue to receive the standard GM Dealer Parts Warranty of 12 months from the date of purchase, parts only.

GM Licensed Accessories are covered under the accessory-specific manufacturer's warranty and are not warranted by GM or its dealers.

Notice: **This warranty excludes:**

Any communications device that becomes unusable or unable to function as intended due to unavailability of compatible wireless service from the wireless communication carrier that provides service for the OnStar® system.

Sheet Metal Coverage

Sheet metal panels are covered against corrosion and rust-through as follows:

Corrosion: Body sheet metal panels are covered against rust for 3 years or 36,000 miles, whichever comes first.

Rust-Through: Any body sheet metal panel that rusts through, an actual hole in the sheet metal, is covered for up to 6 years or 100,000 miles, whichever comes first.

Important: Cosmetic or surface corrosion, resulting from stone chips or scratches in the paint, for example, is not included in sheet metal coverage.

Towing

Towing is covered to the nearest Chevrolet dealer if your vehicle cannot be driven because of a warranted defect.

6.6L DURAMAX® Diesel Engine Coverage

For trucks equipped with a 6.6L DURAMAX® Diesel Engine, the diesel engine, except those items listed under "What Is Not Covered" later in this section is covered for 5 years or 100,000 miles, whichever comes first. For additional information, refer to *Things You Should Know About the New Vehicle Limited Warranty on page 12*. Also refer to the appropriate emission control system warranty for possible additional coverages.

What Is Not Covered

Tire Damage or Wear

Normal tire wear or wear-out is not covered. Road hazard damage such as punctures, cuts, snags, and breaks resulting from pothole impact, curb impact, or from other objects is not covered. Also, damage from improper inflation, spinning, as when stuck in mud or snow, tire chains, racing, improper mounting or dismounting, misuse, negligence, alteration, vandalism, or misapplication is not covered.

Damage Due to Bedliners

Owners of trucks with a bedliner, whether after-market or factory installed, should expect that with normal operation the bedliner will move. This movement may cause finish damage and/or squeaks and rattles. Therefore, any damage caused by the bedliner is not covered under the terms of the warranty.

Damage Due to Accident, Misuse, or Alteration

Damage caused as the result of any of the following is not covered:

- Collision, fire, theft, freezing, vandalism, riot, explosion, or objects striking the vehicle
- Misuse of the vehicle such as driving over curbs, overloading, racing, or other competition. Proper vehicle use is discussed in the owner manual.
- Alteration or modification to the vehicle including the body, chassis, or components after final assembly by GM.
- Coverages do not apply if the odometer has been disconnected, its reading has been altered, or mileage cannot be determined.

Important: This warranty is void on vehicles currently or previously titled as salvaged, scrapped, junked, or totaled.

Damage or Corrosion Due to Environment, Chemical Treatments, and/or Aftermarket Products

Damage caused by airborne fallout, salt from sea air, salt or other materials used to control road conditions, chemicals, tree sap, stones, hail, earthquake, water or flood, windstorm, lightning, the application of chemicals or sealants subsequent to manufacture, etc., is not covered. See "Chemical Paint Spotting" under *Things You Should Know About the New Vehicle Limited Warranty on page 12* for more details.

Damage Due to Insufficient or Improper Maintenance

Damage caused by failure to follow the recommended maintenance schedule intervals and/or failure to use or maintain fluids, fuel, lubricants, or refrigerants recommended in the owner manual is not covered.

Damage Due to Contaminated or Poor Quality Fuel

Poor fuel quality or incorrect fuel may cause driveability problems such as hesitation, lack of power, stall, or no start. It may also render gauges inoperable or degrade functionality for components such as spark plugs, oxygen sensors, and the catalytic converter.

Damage from poor fuel quality, water contamination, incorrect diesel fuel or gasoline may not be covered.

It is recommended that gasoline meet specifications which were developed by automobile manufacturers around the world and contained in the World-Wide Fuel Charter which is available from the Alliance of Automobile Manufacturers at www.autoalliance.org/fuel_charter.htm. Gasoline meeting these specifications could provide improved driveability and emission control system performance compared to other gasoline.

Maintenance

All vehicles require periodic maintenance. Maintenance services, such as those detailed in the owner manual are the owner's expense. Vehicle lubrication, cleaning, or polishing are not covered. Failure of or damage to components requiring replacement or repair due to vehicle use, wear, exposure, or lack of maintenance is not covered.

Items such as:

- Audio System Cleaning
- Brake Pads/Linings
- Clutch Linings
- Coolants and Fluids

- Filters
- Keyless Entry Batteries *
- Limited Slip Rear Axle Service
- Tire Rotation
- Wheel Alignment/Balance **
- Wiper Inserts

are covered only when replacement or repair is the result of a defect in material or workmanship.

* Consumable battery covered up to 12 months only.

** Maintenance items after 7,500 miles.

Extra Expenses

Economic loss or extra expense is not covered.

Examples include:

- Inconvenience
- Lodging, meals, or other travel costs
- Loss of vehicle use
- Payment for loss of time or pay
- State or local taxes required on warranty repairs
- Storage

Other Terms: This warranty gives you specific legal rights and you may also have other rights which vary from state to state.

GM does not authorize any person to create for it any other obligation or liability in connection with these vehicles. **Any implied warranty of merchantability or fitness for a particular purpose applicable to this vehicle is limited in duration to the duration of this written warranty. Performance of repairs and needed adjustments is the exclusive remedy under this written warranty or any implied warranty. GM shall not be liable for incidental or consequential damages, such as, but not limited to, lost wages or vehicle rental expenses, resulting from breach of this written warranty or any implied warranty. ***

* Some states do not allow limitations on how long an implied warranty will last or the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you.

Hybrid Specific Warranty

For vehicles sold in the United States, in addition to the Bumper-to-Bumper Coverage described previously, General Motors will warrant certain Hybrid components for each 2008 Chevrolet Tahoe Two-mode Hybrid and Chevrolet Malibu Hybrid (hereafter referred to as Hybrid) for 8 years or 100,000 miles (160 000 kilometres), whichever comes first, from the original in-service date of the vehicle, against warrantable repairs to the specific Hybrid components of the vehicle.

For vehicles sold in Canada, in addition to the Base Warranty Coverage described in the GM Canadian Limited Warranty, Maintenance and Owner Assistance Booklet, General Motors of Canada Limited will warrant certain Hybrid components for each 2008 Chevrolet Tahoe Two-mode Hybrid and Chevrolet Malibu Hybrid (hereafter referred to as Hybrid) for 8 years, or 160,000 kilometres, whichever comes first, from the original in-service date of the vehicle, against warrantable repairs to the specific Hybrid components of the vehicle.

This warranty is for Hybrid vehicles registered in the United States or Canada, and normally operated in the United States or Canada. In addition to the initial owner of the vehicle, the coverage described in this Hybrid warranty is transferable at no cost to any subsequent person(s) who assumes ownership of the vehicle within the above described 8 years or 100,000 mile (160 000 kilometres) term. No deductibles are associated with this Hybrid warranty.

This Hybrid warranty is in addition to the express conditions and warranties described previously. The coverage and benefits described under "New Vehicle Limited Warranty" are not extended or altered because of this special Hybrid Component Warranty.

For 2008 Hybrid owners requiring more comprehensive coverage than that provided under this Hybrid warranty, a GM Protection Plan may be available. See your Chevrolet dealer for more details.

What is Covered

This Hybrid warranty covers repairs to correct any vehicle defect related to materials or workmanship occurring during the 8 year or 100,000 mile (160 000 kilometres) term for the following:

Towing

During the 8 year or 100,000 mile (160 000 km) Hybrid warranty period, towing is covered to the nearest Chevrolet servicing dealer if your vehicle cannot be driven because of a warranted Hybrid specific defect. Contact the Chevrolet Roadside Assistance Center for towing. Refer to the owner manual for details.

Malibu Hybrid Coverage

Hybrid Components

The energy storage control module and components including the Hybrid NiMh batteries, Hybrid battery disconnect, and Hybrid battery cooling fan.

Starter Generator Unit

The starter generator unit, starter generator control module, starter generator control module coolant pump, 3-phase cable assembly, starter generator drive belt, belt tensioner and brackets, belt pulley and brackets.

Other Hybrid Components

The 42-volt cable assembly, auxiliary transmission pump, hill start valve, and cabin heater coolant pump.

Tahoe Two-mode Hybrid Coverage

Transmission

Automatic transmission components including the transmission auxiliary fluid pump, transmission auxiliary pump controller, and 3 phase transmission cables.

Brakes

Brake modulator.

Other Hybrid Components

Battery pack, 300v cables, Drive Motor/Generator Control Module (DMCM), and Accessory Power Module.

What is Not Covered

In addition to the "What is Not Covered" section previously, this Hybrid warranty does not cover the following items:

Wear Items

Wear items, such as brake linings, are not covered in this Hybrid warranty.

Maintenance

As the vehicle owner, you are responsible for the performance of the scheduled maintenance listed in your owner manual. Maintenance intervals, checks, inspections, and recommended fluids and lubricants as prescribed in the owner manual are necessary to keep your vehicle in good working condition. Any damage caused by owner/lessee failure to follow scheduled maintenance may not be covered by warranty. Scheduled maintenance includes such items as:

- Brake Pads/Linings
- Coolants and Fluids
- Filters

Things You Should Know About the New Vehicle Limited Warranty

Warranty Repairs — Component Exchanges

In the interest of customer satisfaction, GM may offer exchange service on some vehicle components. This service is intended to reduce the amount of time your vehicle is not available for use due to repairs. Components used in exchange are service replacement parts which may be new, remanufactured, reconditioned, or repaired, depending on the component involved.

All exchange components used meet GM standards and are warranted the same as new components. Examples of the types of components that might be serviced in this fashion include: engine and transmission assemblies, instrument cluster assemblies, radios, compact disc players, tape players, batteries, and powertrain control modules.

Warranty Repairs — Recycled Materials

Environmental Protection Agency (EPA) guidelines and GM support the capture, purification, and reuse of automotive air conditioning refrigerant gases and engine coolant. As a result, any repairs GM may make to your vehicle may involve the installation of purified reclaimed refrigerant and coolant.

Tire Service

Any authorized Chevrolet or tire dealer for your brand of tires can assist you with tire service. If, after contacting one of these dealers, you need further assistance or you have questions, contact Chevrolet Customer Assistance Center. The toll-free telephone numbers are listed under *Owner Assistance on page 30.*

6.6L DURAMAX® Diesel Engine Components

For trucks equipped with a 6.6L Duramax® Diesel Engine, the complete engine assembly, including turbocharger components, is covered for defects in material or workmanship for 5 years or 100,000 miles, whichever comes first.

- Cylinder block and heads and all internal parts, intake and exhaust manifolds, timing gears, timing gear chain or belt and cover, flywheel, harmonic balancer, valve covers, oil pan, oil pump, water pump, fuel pump, engine mounts, seals, and gaskets
- Diesel Fuel Metering System: injection pump, nozzles, high pressure lines, and high pressure sealing devices
- Glow Plug Control System: control/glow plug assembly, glow plugs, cold advance relay, and Engine Control Module (ECM)
- Fuel injection control module, integral oil cooler, transmission adapter plate, left and right common fuel rails, fuel filter assembly, fuel temperature sensor, and function block

Important: Some of these components may also be covered by the Emission Warranty. See the "Emission Warranty Parts List" under *Emission Control Systems Warranty on page 18* for details.

Aftermarket Engine Performance Enhancement Products and Modifications

Some aftermarket engine performance products and modifications promise a way to increase the horsepower and torque levels of your vehicle's powertrain. You should be aware that these products may have detrimental effects on the performance and life of the engine, exhaust emission system, transmission, and drivetrain. The Duramax® Diesel Engine, Allison Automatic Transmission®, and drivetrain have been designed and built to offer industry leading durability and performance in the most demanding applications. Engine power enhancement products may enable the engine to operate at horsepower and torque levels that could damage, create failure, or reduce the life of the engine, engine emission system, transmission, and drivetrain. Damage, failure, or reduced life of the engine, transmission, emission system, drivetrain or other vehicle components caused by aftermarket engine performance enhancement products or modifications may not be covered under your vehicle warranty.

After-Manufacture "Rustproofing"

Your vehicle was designed and built to resist corrosion. Application of additional rust-inhibiting materials is neither necessary nor required under the Sheet Metal Coverage. GM makes no recommendations concerning the usefulness or value of such products.

Application of after-manufacture rustproofing products may create an environment which reduces the corrosion resistance built into your vehicle. Repairs to correct damage caused by such applications are not covered under your New Vehicle Limited Warranty.

Paint, Trim, and Appearance Items

Defects in paint, trim, upholstery, or other appearance items are normally corrected during new vehicle preparation. If you find any paint or appearance concerns, advise your dealer as soon as possible. Your owner manual has instructions regarding the care of these items.

Vehicle Operation and Care

Considering the investment you have made in your Chevrolet, we know you will want to operate and maintain it properly. We urge you to follow the maintenance instructions in your owner manual.

If you have questions on how to keep your vehicle in good working condition, see your Chevrolet dealer, the place many customers choose to have their maintenance work done. You can rely on your Chevrolet dealer to use the proper parts and repair practices.

Maintenance and Warranty Service Records

Retain receipts covering performance of regular maintenance. Receipts can be very important if a question arises as to whether a malfunction is caused by lack of maintenance or a defect in material or workmanship.

A "Maintenance Record" is provided in the maintenance schedule section of the owner manual for recording services performed.

The servicing dealer can provide a copy of any warranty repairs for your records.

Chemical Paint Spotting

Some weather and atmospheric conditions can create a chemical fallout. Airborne pollutants can fall upon and adhere to painted surfaces on your vehicle. This damage can take two forms: blotchy, ring-shaped discolorations, and/or small irregular dark spots etched into the paint surface.

Although no defect in the factory applied paint causes this, Chevrolet will repair, at no charge to the owner, the painted surfaces of new vehicles damaged by this fallout condition within 12 months or 12,000 miles of purchase, whichever comes first.

Warranty Coverage — Extensions

Time Extensions: The New Vehicle Limited Warranty will be extended one day for each day beyond the first 24 hour period in which your vehicle is at an authorized dealer facility for warranty service. You may be asked to show the repair orders to verify the period of time the warranty is to be extended. Your extension rights may vary depending on state law.

Mileage Extension: Prior to delivery, some mileage is put on your vehicle during testing at the assembly plant, during shipping, and while at the dealer facility. The dealer records this mileage on the first page of this warranty booklet at delivery. For eligible vehicles, this mileage will be added to the mileage limits of the warranty ensuring that you will receive full benefit of the coverage. Mileage extension eligibility:

- Applies only to new vehicles held exclusively in new vehicle inventory.
- Does not apply to used vehicles, GM-owned vehicles, dealer owned used vehicles, or dealer demonstrator vehicles.
- Does not apply to vehicles with more than 1,000 miles on the odometer even though the vehicle may not have been registered for license plates.

Touring Owner Service — Foreign Countries

If you are touring in a foreign country and repairs are needed, take your vehicle to a GM dealer facility, preferably one which sells and services Chevrolet vehicles. Once you return to the United States provide your dealer with a statement of circumstances, the original repair order, proof of ownership, and any paid receipt indicating the work performed and parts replaced for reimbursement consideration.

Important: Repairs made necessary by the use of improper or dirty fuels and lubricants are not covered under the warranty. See your owner manual for additional information on fuel requirements when operating in foreign countries.

Warranty Service — Foreign Countries

This warranty applies to GM vehicles registered in the United States and normally operated in the United States or Canada. If you have permanently relocated and established household residency in another country, GM may authorize the performance of repairs under the warranty authorized for vehicles generally sold by GM in that country. Contact an authorized GM dealer in your country for assistance.

Important: GM warranty coverages may be void on GM vehicles that have been imported/exported for resale.

Original Equipment Alterations

This warranty does not cover any damage or failure resulting from modification or alteration to the vehicle's original equipment as manufactured or assembled by General Motors. Examples of the types of alterations that would not be covered include cutting, welding, or disconnecting of the vehicle's original equipment parts and components.

Additionally, General Motors does not warranty non-GM parts and/or calibrations. The use of parts and/or control module calibrations not issued through General Motors will void the warranty coverage for those components that are damaged or otherwise affected by the installation of the non-GM part and/or control module calibration.

The only exception is that non-GM parts labeled "Certified to EPA Standards" are covered by the Federal Emissions Performance Warranty.

Recreation Vehicle and Special Body or Equipment Alterations

Installations or alterations to the original equipment vehicle, or chassis, as manufactured and assembled by GM, are not covered by this warranty. The special body company, assembler, or equipment installer is solely responsible for warranties on the body or equipment and any alterations to any of the parts, components, systems, or assemblies installed by GM. Examples include, but are not limited to, special body installations, such as recreational vehicles, the installation of any non-GM part, cutting, welding, or the disconnecting of original equipment vehicle or chassis parts and components, extension of wheelbase, suspension and driveline modifications, and axle additions.

Pre-Delivery Service

Defects in the mechanical, electrical, sheet metal, paint, trim, and other components of your vehicle may occur at the factory or while it is being transported to the dealer facility. Normally, any defects occurring during assembly are identified and corrected at the factory during the inspection process. In addition, dealers inspect each vehicle before delivery. They repair any uncorrected factory defects and any transit damage detected before the vehicle is delivered to you.

Any defects still present at the time the vehicle is delivered to you are covered by the warranty. If you find any defects, advise your dealer without delay. For further details concerning any repairs which the dealer may have made prior to you taking delivery of your vehicle, ask your dealer.

Production Changes

GM and GM dealers reserve the right to make changes in vehicles built and/or sold by them at any time without incurring any obligation to make the same or similar changes on vehicles previously built and/or sold by them.

Noise Emissions Warranty for Light Duty Trucks Over 10,000 LBS Gross Vehicle Weight Rating (GVWR) Only

GM warrants to the first person who purchases this vehicle for purposes other than resale and to each subsequent purchaser of this vehicle, as manufactured by GM, that this vehicle was designed, built, and equipped to conform at the time it left GM's control with all applicable United States EPA Noise Control Regulations.

This warranty covers this vehicle as designed, built, and equipped by GM, and is not limited to any particular part, component, or system of the vehicle manufactured by GM. Defects in design, assembly, or in any part, component, or vehicle system as manufactured by GM, which, at the time it left GM's control, caused noise emissions to exceed Federal Standards, are covered by this warranty for the life of the vehicle.

Emission Control Systems Warranty

The emission warranty on your vehicle is issued in accordance with the U.S. Federal Clean Air Act. Defects in material or workmanship in GM emission parts may also be covered under the New Vehicle Limited Warranty Bumper-to-Bumper coverage. There may be additional coverage on GM diesel engine vehicles. In any case, the warranty with the broadest coverage applies.

What Is Covered

The parts covered under the emission warranty are listed under "Emission Warranty Parts List" later in this section.

How to Determine the Applicable Emissions Control System Warranty

State and Federal agencies may require different emission control system warranty depending on:

- Whether the vehicle conforms to regulations applicable to light duty or heavy duty emission control systems.
- Whether the vehicle conforms to or is certified for California regulations in addition to U.S. EPA Federal regulations.

All vehicles are eligible for Federal Emissions Control System Warranty Coverage. If the emissions control label contains language stating the vehicle conforms to California regulations, the vehicle is also eligible for California Emissions Control System Warranty Coverage.

Federal Emission Control System Warranty

Federal Warranty Coverage

- Car or Light Duty Truck with a Gross Vehicle Weight Rating (GVWR) of 8,500 lbs. or less
  - 2 years or 24,000 miles and 8 years or 80,000 miles for the catalytic converter and the vehicle/powertrain control module (including emission-related software), whichever comes first.
- Light Duty Truck equipped with Heavy Duty Gasoline Engine and with a Gross Vehicle Weight Rating (GVWR) greater than 8,500 lbs.
  - 5 years or 50,000 miles, whichever comes first.

- Light Duty Truck equipped with Heavy Duty Diesel Engine and with a Gross Vehicle Weight Rating (GVWR) greater than 8,500 lbs.
  - 5 years or 50,000 miles, whichever comes first.

Federal Emission Defect Warranty

GM warrants to the owner the following:

- The vehicle was designed, equipped, and built so as to conform at the time of sale with the applicable regulations of the Federal Environmental Protection Agency (EPA).
- The vehicle is free from defects in material and workmanship which cause the vehicle to fail to conform with those regulations during the emission warranty period.

Emission related defects in the genuine GM parts listed under the Emission Warranty Parts List, including related diagnostic costs, parts, and labor are covered by this warranty.

Federal Emission Performance Warranty

Some states and/or local jurisdictions have established periodic vehicle Inspection and Maintenance (I/M) programs to encourage proper maintenance of your vehicle. If an EPA-approved I/M program is enforced in your area, you may also be eligible for Emission Performance Warranty coverage when all of the following three conditions are met:

- The vehicle has been maintained and operated in accordance with the instructions for proper maintenance and use set forth in the owner manual supplied with your vehicle.
- The vehicle fails an EPA-approved I/M test during the emission warranty period.
- The failure results, or will result, in the owner of the vehicle having to bear a penalty or other sanctions, including the denial of the right to use the vehicle, under local, state, or federal law.

GM warrants that your dealer will replace, repair, or adjust to GM specifications, at no charge to you, any of the parts listed under the "Emission Warranty Parts List" later in this section which may be necessary to conform to the applicable emission standards. Non-GM parts labeled "Certified to EPA Standards" are covered by the Federal Emission Performance Warranty.

California Emission Control System Warranty

This section outlines the emission warranty that GM provides for your vehicle in accordance with the California Air Resources Board. Defects in material or workmanship in GM emission parts may also be covered under the New Vehicle Limited Warranty Bumper-to-Bumper coverage. There may be additional coverage on GM diesel engine vehicles. In any case, the warranty with the broadest coverage applies.

This warranty applies if your vehicle meets both of the following requirements:

- Your vehicle is registered in California **or other states adopting California emission and warranty regulations.***
- Your vehicle is certified for sale in California as indicated on the vehicle's emission control information label.

*** *Important:*** Connecticut, Maine, Massachusetts, Pennsylvania, Rhode Island, and Vermont have California Emissions Warranty coverage. (New York adopted California emission standards, but not the California Emissions Warranty. The Federal Emissions Control Warranty applies to all non-PZEV vehicles in New York.)

California Partial Zero Emission Vehicles (PZEV) have extended coverage on all emission related parts.

Important: California, New York, Massachusetts, Vermont, Maine, Connecticut, Rhode Island, and New Jersey have PZEV Emission Warranty Coverage.

Your Rights and Obligations (For Vehicles Subject to California Exhaust Emission Standards)

In California, new motor vehicles must be designed, equipped, and built to meet the state's stringent anti-smog standards. GM must warrant your vehicle's emission control system for the periods of time and mileage listed provided there has been no abuse, neglect, or improper maintenance of your vehicle. Your vehicle's emission control system may include parts such as the fuel injection system, ignition system, catalytic converter, and engine computer. Also included are hoses, belts, connectors, and other emission related assemblies.

Where a warrantable condition exists, GM will repair your vehicle at no cost to you including diagnosis, parts, and labor.

California Emission Defect and Emission Performance Warranty Coverage

For cars and trucks with light duty or medium duty emissions:

- For 3 years or 50,000 miles, whichever comes first:
  - If your vehicle fails a smog check inspection, GM will make all necessary repairs and adjustments to ensure that your vehicle passes the inspection. This is your Emission Control System Performance Warranty.
  - If any emission related part on your vehicle is defective, GM will repair or replace it. This is your Short-term Emission Defects Warranty.
- For 7 years or 70,000 miles whichever comes first:
  - If an emission related part listed in this booklet specially noted with coverage for 7 years or 70,000 miles is defective, GM will repair or replace it. This is your Long-term Emission Control System Defects Warranty.
- For 8 years or 80,000 miles, whichever comes first:
  - If the catalytic converter, vehicle powertrain control module including emission related software is found to be defective, GM will repair or replace it under the Federal Emission Control System Warranty.
- For 8 years or 100,000 miles, whichever comes first for California Low Emission Vehicle 2 (LEV2) vehicles equipped with option code NUA:
  - If an emission related part listed in this booklet specially noted with 7 years/70,000 miles or 8 years/80,000 miles is defective, GM will repair or replace it. This is your Long-term Emission Control System Defect Warranty.
- For 15 years or 150,000 miles, whichever comes first for a Partial Zero Emission Vehicle (PZEV):
  - If any emission related part listed in this booklet is defective GM will repair or replace it. This is your (PZEV) Emission Control System Defects Warranty.

Any authorized Chevrolet dealer will, as necessary under these warranties, replace, repair, or adjust to GM specifications any genuine GM parts that affect emissions.

The applicable warranty period shall begin on the date the vehicle is delivered to the first retail purchaser or, if the vehicle is first placed in service as a demonstrator or company vehicle prior to sale at retail, on the date the vehicle is placed in such service.

Owner's Warranty Responsibilities

As the vehicle owner, you are responsible for the performance of the scheduled maintenance listed in your owner manual. GM recommends that you retain all maintenance receipts for your vehicle, but GM cannot deny warranty coverage solely for the lack of receipts or for your failure to ensure the performance of all scheduled maintenance.

You are responsible for presenting your vehicle to a GM dealer selling your vehicle line as soon as a problem exists. The warranted repairs should be completed in a reasonable amount of time, not to exceed 30 days.

As the vehicle owner, you should also be aware that GM may deny warranty coverage if your vehicle or a part has failed due to abuse, neglect, improper or insufficient maintenance, or modifications not approved by GM.

If you have any questions regarding your rights and responsibilities under these warranties, you should contact the Customer Assistance Center at 1-800-222-1020 or, in California, write to:

State of California Air Resources Board
Mobile Source Operations Division
P.O. Box 8001
El Monte, CA 91731-2990

Emission Warranty Parts List

The emission parts listed here are covered under the Emission Control System Warranty. The terms are explained previously in this section under the "Federal Emission Control System Warranty" and the "California Emission Control System Warranty".

Important: Certain parts may be covered beyond these warranties if shown with asterisk(s) as follows:

- (*) 7 years/70,000 miles, whichever comes first, California Emission Control System Warranty coverage.
- (**) 8 years/80,000 miles, whichever comes first, Federal Emission Control System Warranty coverage. (Also applies to California certified light duty and medium duty vehicles.)
- (*) and (**) are 8 years/100,000 miles, whichever comes first, for California LEV2 vehicles equipped with option code NUA.

The Emission Control System Warranty obligations do not apply to conditions resulting from tampering, abuse, neglect, or improper maintenance; or any other item listed under "What Is Not Covered" under *General Motors Corporation New Vehicle Limited Warranty on page 4.* The "Other Terms" presented under *General Motors Corporation New Vehicle Limited Warranty on page 4* also apply to the emission related warranties.

Powertrain Control System

ABS Control Module **
Camshaft Position Actuator *
Camshaft Position Actuator Valve
Coolant Level Sensor
Data Link Connector
Electronic Throttle Control (ETC) Motor
Engine Control Module (ECM) **
Engine Coolant Temperature Sensor
Fast Idle Solenoid
Flexible Fuel Sensor *
Fuel Control Module **
Intake Air Temperature Sensor
Malfunction Indicator Lamp
Manifold Absolute Pressure Sensor
Mass Air Flow Sensor
Oil Pressure Sensor (DoD™ only)
Oxygen Sensors
Powertrain Control Module (PCM) **
Programmable Read Only Memory (PROM)
Throttle Position Sensor
Throttle Position Switch
Vehicle Control Module (VCM) **
Vehicle Speed Sensor
Wheel Speed Sensor

Transmission Controls and Torque Management

GMLAN (CAN) Communications Circuit
Manual Transmission Clutch Switch
Park/Neutral Switch
Torque Converter Clutch Solenoids
Torque Converter Clutch Switch
Transmission Control Module **
Transmission Fluid Temperature Sensor
Transmission Gear Selection Switch (Diesel)
Transmission Internal Mode Switch
Transmission Pressure Control Solenoids
Transmission Pressure Switches
Transmission Shift Solenoids
Transmission Speed Sensors

Fuel Management System

Common Rail Assembly (6.6L DURAMAX® Diesel) *

Diesel Fuel Injection Pump *

Diesel Fuel Injection Pump Timing Adjust

Diesel Fuel Injector Control Module – EDU (6.6L DURAMAX® Diesel) *

Diesel Fuel Temperature Sensor

Direct Fuel Injector Assembly (6.6L DURAMAX® Diesel) *

Fuel Injector

Fuel Pressure Regulator

Fuel Rail Assembly *

Fuel Rail Pressure Sensor

Function Block (6.6L DURAMAX® Diesel)

High Pressure Fuel Pump (SIDI) *

Air Management System

Air Cleaner

Air Cleaner Diaphragm Motor

Air Cleaner Resonator

Air Cleaner Temperature Compensator Valve

Air Intake Ducts

Charge Air Control Actuator

Charge Air Control Solenoid Valve

Charge Air Control Valve

Charge Air Cooler *

Charge Air Cooler Fan

Idle Air Control Valve

Idle Speed Control Motor

Intake Manifold *

Intake Manifold Gasket (7/70 Only Uplander, Montana SV6, and DURAMAX® Diesel) *

Intake Manifold Heater

Intake Manifold Tuning Valve

Intake Manifold Tuning Valve Relay

Supercharger Assembly *

Throttle Body * (Replacement Only)

Throttle Body Heater

Throttle Closing Dashpot

Turbocharger Assembly *

Turbocharger Boost Sensor

Turbocharger Oil Separator

Turbocharger Thermo Purge Switch

Vacuum Pump (6.6L DURAMAX® Diesel)

Ignition System

Camshaft Position Sensor(s)

Crankshaft Position Sensor(s)

Distributor

Distributor Cap

Distributor Pick Up Coil

Distributor Rotor

Glow Plug(s) (Diesel)

Glow Plug Controller (Diesel)

Glow Plug Relay (Diesel)

Ignition Coil(s)

Ignition Control Module

Ignition Timing Adjustment

Knock Sensor

Spark Plug Wires

Spark Plugs

Catalytic Converter System

Catalytic Converter(s) and Muffler if attached as assembly **

Diesel Exhaust Temperature and Pressure Sensors

Diesel Particulate Filter (DPF) *

Exhaust Manifold (7/70 Only Corvette 7.0L, Equinox, Torrent, Uplander, Montana SV6, Cadillac DTS 4.6L and XLR, (Impala and Grand Prix 5.3L right side) and C/K Trucks < 14,000 GVWR 8.1L) *

Exhaust Manifold with Catalytic Converter attached as assembly **

Exhaust Manifold Gasket

Exhaust Pipes and/or Mufflers (when located between catalytic converters and exhaust manifold)

Positive Crankcase Ventilation System

Oil Filler Cap

PCV Filter

PCV Oil Separator

PCV Valve

Exhaust Gas Recirculation System

EGR Feed and Delivery Pipes or Cast-in Passages

EGR Valve

EGR Valve Cooler (6.6L DURAMAX® Diesel) *

EGR Vacuum Pump Assembly (6.6L DURAMAX® Diesel)

Secondary Air Injection System

Air Pump

Check Valves

Evaporative Emission Control System (Gasoline Engines)

Canister

Canister Purge Solenoid Valve

Canister Vent Solenoid

Fuel Feed and Return Pipes and Hoses

Fuel Filler Cap

Fuel Level Sensor

Fuel Limiter Vent Valve *

Fuel Tank(s) *

Fuel Tank Filler Pipe (with restrictor)

Fuel Tank Vacuum or Pressure Sensor

Hybrid

Auxiliary Transmission Fluid Pump

Battery Cooling Fan

Battery Pack Control Module (BPCM) *

Battery Pack Current Sensor

Brake Pedal Travel Sensor

Drive Motors A and B

Drive Motor A and B Resolvers

Drive Motor/Generator Control Module (DMCM - HCP, MCPA, MCPB) **

Electro-Hydraulic Brake Control Module (EBCM) **

Energy Storage Control Module **

Fuel Filler Pipe Adapter Seal

Hybrid Batteries

Hybrid Battery Temperature Sensors

Hybrid Battery Voltage Sensors

SGCM Coolant Circuit (fan and fan relay and pump)

Starter Generator Control Module **

Transmission Friction Elements

Transmission Substrate Temperature Sensor

Miscellaneous Items Used with Above Components are Covered

Belts

Boots

Clamps

Connectors

Ducts

Fittings

Gaskets

Grommets

Hoses

Housings

Mounting Hardware

Pipes

Pulleys

Sealing Devices

Springs

Tubes

Wiring

Parts specified in your maintenance schedule that require scheduled replacement are covered up to their first replacement interval or the applicable emission warranty coverage period, whichever comes first. If failure of one of these parts results in failure of another part, both will be covered under the Emission Control System Warranty.

Parts specified in your maintenance schedule that require scheduled replacement are covered up to their first replacement interval or the applicable emission warranty coverage period, whichever comes first. If failure of one of these parts results in failure of another part, both will be covered under the Emission Control System Warranty.

For detailed information concerning specific parts covered by these emission control systems warranties, ask your dealer.

Replacement Parts

The emission control systems of your vehicle were designed, built, and tested using genuine GM parts* and the vehicle is certified as being in conformity with applicable federal and California emission requirements. **Accordingly, it is recommended that any replacement parts used for maintenance or for the repair of emission control systems be new, genuine GM parts.**

The warranty obligations are not dependent upon the use of any particular brand of replacement parts. The owner may elect to use non-genuine GM parts for replacement purposes. Use of replacement parts which are not of equivalent quality may impair the effectiveness of emission control systems.

If other than new, genuine GM parts are used for maintenance replacements or for the repair of parts affecting emission control, the owner should assure himself/herself that such parts are warranted by their manufacturer to be equivalent to genuine GM parts in performance and durability.

* "Genuine GM parts," when used in connection with GM vehicles means parts manufactured by or for GM, designed for use on GM vehicles, and distributed by any division or subsidiary of GM.

Maintenance and Repairs

Maintenance and repairs can be performed by any qualified service outlet; however, warranty repairs must be performed by an authorized dealer except in an emergency situation when a warranted part or a warranty station is not reasonably available to the vehicle owner.

In an emergency, where an authorized dealer is not reasonably available, repairs may be performed at any available service establishment or by the owner, using any replacement part. Chevrolet will consider reimbursement for the expense incurred, including diagnosis, not to exceed the manufacturer's suggested retail price for all warranted parts replaced and labor charges based on Chevrolet's recommended time allowance for the warranty repair and the geographically appropriate labor rate. A part not being available within 10 days or a repair not being completed within 30 days constitutes an emergency. Retain receipts and failed parts in order to receive compensation for warranty repairs reimbursable due to an emergency.

If, in an emergency situation, it is necessary to have repairs performed by other than a Chevrolet dealer and you believe the repairs are covered by emission warranties, take the replaced parts and your receipt to a Chevrolet dealer for reimbursement consideration. This applies to both the Federal Emission Defect Warranty and Federal Emission Performance Warranty.

Receipts and records covering the performance of regular maintenance or emergency repairs should be retained in the event questions arise concerning maintenance. These receipts and records should be transferred to each subsequent owner. GM will not deny warranty coverage solely on the absence of maintenance records. However, GM may deny a warranty claim if a failure to perform scheduled maintenance resulted in the failure of a warranty part.

Claims Procedure

As with the other warranties covered in this booklet, take your vehicle to any authorized Chevrolet dealer facility to obtain service under the emission warranty. This should be done as soon as possible after failing an EPA-approved I/M test or a California smog check test, or at any time you suspect a defect in a part.

Those repairs qualifying under the warranty will be performed by any Chevrolet dealer at no charge. Repairs which do not qualify will be charged to you. You will be notified as to whether or not the repair qualifies under the warranty within a reasonable time, not to exceed 30 days after receipt of the vehicle by the dealer, or within the time period required by local or state law.

The only exceptions would be if you request or agree to an extension, or if a delay results from events beyond the control of your dealer or GM. If you are not so notified, GM will provide any required repairs at no charge.

In the event a warranty matter is not handled to your satisfaction, refer to the "Customer Satisfaction Procedure" under *Owner Assistance on page 30*.

For further information or to report violations of the Emission Control System Warranty, you may contact the EPA at:

Manager, Certification and Compliance
Division (6405J)
Warranty Claims
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

For a vehicle subject to the California Exhaust Emission Standards, you may contact the:

State of California Air Resources Board
Mobile Source Operations Division
P.O. Box 8001
El Monte, CA 97131-2990

Owner Assistance

Customer Satisfaction Procedure

Your satisfaction and goodwill are important to your dealer and to Chevrolet. Normally, any concerns with the sales transaction or the operation of your vehicle will be resolved by your dealer's sales or service departments. Sometimes, however, despite the best intentions of all concerned, misunderstandings can occur. If your concern has not been resolved to your satisfaction, the following steps should be taken:

STEP ONE: Discuss your concern with a member of dealer management. Normally, concerns can be quickly resolved at that level. If the matter has already been reviewed with the sales, service, or parts manager, **contact the owner of the dealer facility** or the general manager.

STEP TWO: If after contacting a member of dealer management, it appears your concern cannot be resolved by the dealer without further help **contact the Chevrolet Customer Assistance Center** by calling 1-800-222-1020. In Canada, contact GM of Canada Central Office in Oshawa by calling 1-800-263-3777: English, or 1-800-263-7854: French.

We encourage you to call the toll-free number in order to give your inquiry prompt attention. Have the following information available to give the Customer Assistance Representative:

- The Vehicle Identification Number (VIN). This is available from the vehicle registration, title, or the plate above the top of the instrument panel on the driver side, and visible through the windshield.
- The dealer name and location
- The vehicle's delivery date and present mileage

When contacting Chevrolet, remember that your concern will likely be resolved at a dealer's facility. That is why we suggest you follow Step One first if you have a concern.

STEP THREE: Both GM and your GM dealer are committed to making sure you are completely satisfied with your new vehicle. However, if you continue to remain unsatisfied after following the procedure outlined in Steps One and Two, you should file with the BBB Auto Line Program to enforce any additional rights you may have.

The BBB Auto Line Program is an out of court program administered by the Council of Better Business Bureaus to settle automotive disputes regarding vehicle repairs or the interpretation of the New Vehicle Limited Warranty.

Although you may be required to resort to this informal dispute resolution program prior to filing a court action, use of the program is free of charge and your case will generally be heard within 40 days. If you do not agree with the decision given in your case, you may reject it and proceed with any other venue for relief available to you.

You may contact the BBB Auto Line Program using the toll-free telephone number or write them at the following address:

BBB Auto Line Program
Council of Better Business Bureaus, Inc.
4200 Wilson Boulevard
Suite 800
Arlington, VA 22203-1804

www.lemonlaw.bbb.org
Telephone: 1-800-955-5100

This program is available in all 50 states and the District of Columbia. Eligibility is limited by vehicle age, mileage, and other factors. GM reserves the right to change eligibility limitations and/or to discontinue its participation in this program.

State Warranty Enforcement Laws

Laws in many states permit owners to obtain a replacement vehicle or a refund of the purchase price under certain circumstances. The provisions of these laws vary from state to state. To the extent allowed by state law, GM requires that you first provide us with written notification of any service difficulty you have experienced so that we have an opportunity to make any needed repairs before you are eligible for the remedies provided by these laws. Your written notification should be sent to the Chevrolet Customer Assistance Center.

Assistance For Text Telephone (TTY) Users

To assist customers who are deaf or hard of hearing and who use Text Telephones (TTYs), Chevrolet has TTY equipment available at its Customer Assistance Center and Roadside Assistance Center.

The TTY for the Chevrolet Customer Assistance Center is:

1-800-833-2438 in the United States
1-800-263-3830 in Canada

The TTY for the Chevrolet Roadside Assistance Center is:

1-888-889-2438 in the U.S.

Chevrolet Roadside Assistance

Chevrolet is proud to offer the response, security, and convenience of Chevrolet's 24-hour Roadside Assistance Program for a period of 5 years or 100,000 miles, whichever comes first. Consult your dealer or refer to the owner manual for details. The Chevrolet Roadside Assistance Center can be reached by calling 1-800-CHEV-USA (243-8872).

Roadside Assistance is not part of or included in the coverage provided by the New Vehicle Limited Warranty. General Motors and General Motors of Canada Limited reserve the right to make any changes or discontinue the Roadside Assistance program at any time without notification.

Chevrolet Courtesy Transportation

If your vehicle requires warranty repairs during the 5 year/100,000 mile (8 year/100,000 miles for Hybrid vehicles) warranty coverage period, alternate transportation and/or reimbursement of certain transportation expenses are available under the Courtesy Transportation Program. Several transportation options are available. Consult your dealer or refer to the owner manual for details.

Courtesy Transportation is not part of or included in the coverage provided by the New Vehicle Limited Warranty. General Motors and General Motors of Canada Limited reserve the right to make any changes or discontinue the Courtesy Transportation program at any time without notification.

Warranty Information for California Only

California Civil Code Section 1793.2(d) requires that, if GM or its representatives are unable to repair a new motor vehicle to conform to the vehicle's applicable express warranties after a reasonable number of attempts, GM shall either replace the new motor vehicle or reimburse the buyer the amount paid or payable by the buyer. California Civil Code Section 1793.22(b) creates a presumption that GM has had a reasonable number of attempts to conform the vehicle to its applicable express warranties if, within 18 months from delivery to the buyer or 18,000 miles on the vehicle's odometer, whichever occurs first, one or more of the following occurs:

- The same nonconformity results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven AND the nonconformity has been subject to repair two or more times by GM or its agents AND the buyer or lessee has directly notified GM of the need for the repair of the nonconformity.
- The same nonconformity has been subject to repair four or more times by GM or its agents AND the buyer has notified GM of the need for the repair of the nonconformity.

- The vehicle is out of service by reason of repair nonconformities by GM or its agents for a cumulative total of more than 30 calendar days after delivery of the vehicle to the buyer.

NOTICE TO GENERAL MOTORS AS REQUIRED ABOVE SHALL BE SENT TO THE FOLLOWING ADDRESS:

General Motors Corporation
P.O. Box 33170
Detroit, MI 48232-5170

Fax Number: 1-866-962-2868

When you make an inquiry, you will need to give the year, model, and mileage of your vehicle and your VIN.

Special Coverage Adjustment Programs Beyond the Warranty Period

Chevrolet is proud of the protection afforded by its warranty coverages. In order to achieve maximum customer satisfaction, there may be times when Chevrolet will establish a special coverage adjustment program to pay all or part of the cost of certain repairs not covered by the warranty or to reimburse certain repair expenses you may have incurred. Check with your Chevrolet dealer or call the Chevrolet Customer Assistance Center to determine whether any special coverage adjustment program is applicable to your vehicle.

When you make an inquiry, you will need to give the year, model, and mileage of your vehicle and your VIN.

Customer Assistance Offices

Chevrolet encourages customers to call the toll-free telephone number for assistance. However, if you wish to write or e-mail Chevrolet, refer to the address below.

United States

Chevrolet Customer Assistance Center
P.O. Box 33170
Detroit, MI 48232-5170

www.Chevrolet.com
1-800-222-1020
1-800-833-2438 (For Text Telephone devices (TTYs))

Roadside Assistance:

1-800-CHEV-USA (243-8872)
Fax Number: 1-866-962-2868

From Puerto Rico:
1-800-496-9992 (English)
1-800-496-9993 (Spanish)
Fax Number: 313-381-0022

From U.S. Virgin Islands:
1-800-496-9994
Fax Number: 313-381-0022

Canada

Customer Assistance Centre, CA1-163-005
General Motors of Canada Limited
1908 Colonel Sam Drive
Oshawa, Ontario L1H 8P7

1-800-263-3777 (English)
1-800-263-7854 (French)
1-800-263-3830 (For Text Telephone devices (TTYs))
Roadside Assistance: 1-800-268-6800

Mexico, Central America, and Caribbean Islands/Countries (Except Puerto Rico and U.S. Virgin Islands)

General Motors de Mexico, S. de R.L. de C.V.
Customer Assistance Center
Paseo de la Reforma # 2740
Col. Lomas de Bezares
C.P. 11910, Mexico, D.F.

01-800-508-0000
Long Distance: 011-52-53 29 0 800

Online Owner Center

The Owner Center is a resource for your GM ownership needs. Specific vehicle information can be found in one place.

The Online Owner Center allows you to:

- Get e-mail service reminders.
- Access information about your specific vehicle, including tips and videos and an electronic version of this warranty manual.
- Keep track of your vehicle's service history and maintenance schedule.
- Find GM dealers for service nationwide.
- Receive special promotions and privileges only available to members.

Refer to the web for updated information.

To register your vehicle, visit www.MyGMLink.com.

Don't Wait Until Your New Vehicle Limited Warranty – and Your Opportunity to Purchase the GM Protection Plan – Expire.

Learn how to protect yourself, with the GM Protection Plan, against costly repairs after your new vehicle limited warranty expires. A monthly payment plan makes it convenient and affordable. Just call or mail this request and you'll find out how you can get the security of knowing you're covered if something breaks down.

GM Protection Plan

No-Obligation GM Protection Information Request

☐ YES! Please send me free information about how I can protect myself from costly repair bills after my new vehicle limited warranty expires.

Name: _____

Address: _____ Apt#: _____

City: _____ State: _____ Zip: _____

Daytime Phone: ( ) _____ Evening Phone: ( ) _____

Vehicle Information

Vehicle Identification Number *(17 Digits)*

_____

Make/Model: _____ Year: _____

Purchase Date: _____ Mileage: _____

Complete and mail this request today and we'll send you FREE details about how you can add years and miles of protection.

Mail to: GM Protection Plan
P.O. Box 02968
Detroit, MI 48202

Or call 1-800-981-4677 toll-free for details today.

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

DONNA M. TRUSKY, ASHA JEFFRIES, GAYNELL COLE on behalf of themselves and all others similarly situated, Plaintiffs, vs GENERAL MOTORS COMPANY 300 Renaissance Center Detroit, MI48243 Defendant.	Case No. 2:11-cv-12815 HON. SEAN F. COX

STIPULATION AND ORDER TO STAY
LITIGATION PENDING RULINGS FROM THE UNITED STATES
BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

For the reasons stated below, the parties in this action stipulate to entry of an Order staying proceedings before this Court, until such time as the Bankruptcy Court for the Southern District of New York ("Bankruptcy Court) enters an Opinion or Order addressing the dispute identified below.

Plaintiffs in this putative class action have filed claims against General Motors LLC f/k/a General Motors Company ("New GM"), alleging that New GM breached express warranties with Plaintiffs and the putative class members. *See* Amended Class Action Complaint, dkt #15.

New GM filed a Motion to Dismiss arguing, in part, that the claims asserted and the relief sought by Plaintiffs are outside the scope of the warranty terms and impermissibly are premised on conduct of Motors Liquidation Company f/k/a General Motors

Corporation ("Old GM"). New GM contends that the claims and relief constitute a violation of the Order of the United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court") pursuant to which New GM acquired its assets and assumed specific liabilities only. *See* Motion to Dismiss, dkt #18. Additionally, New GM contends that the adjudication of the issues noted in this paragraph is within the exclusive jurisdiction of the Bankruptcy Court. Plaintiffs dispute New GM's position and believe that they properly may pursue their claims and seek relief against New GM and in this Court. The parties' disagreement constitutes an actual and pending dispute (the "Dispute").

Plaintiffs believe that it would serve judicial economy for them to file a Motion before the Bankruptcy Court, in Case No. 09-50026, requesting, *inter alia*, that the Bankruptcy Court address and resolve the Dispute in paragraph 2, above.

The parties stipulate that this proceeding should be stayed pending an Opinion or Order from the Bankruptcy Court resolving the Dispute in paragraph 2, above or expressly declining to do so.

IT IS HEREBY ORDERED that the proceedings in this action are stayed until such time as the Bankruptcy Court enters an Opinion or Order resolving the Dispute as noted above or expressly declining to do so. Although either party may notify the Court that the stay should be

lifted, it will be Plaintiffs' responsibility to ensure that the Court is properly notified of same.

SO ORDERED

Dated: November 21, 2011

s/ Sean F. Cox
Sean F. Cox
U. S. District Court Judge

SO STIPULATED

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EXHIBIT H

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

DONNA M. TRUSKY, ASHA JEFFRIES, GAYNELL COLE on behalf of themselves and all others similarly situated, Plaintiffs, vs GENERAL MOTORS COMPANY 300 Renaissance Center Detroit, MI48243 Defendant.	Case No. 2:11-cv-12815 HON. SEAN F. COX

STIPULATED ORDER GRANTING PLAINTIFFS' MOTION TO TRANSFER VENUE TO THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK PURSUANT TO 28 U.S.C. § 1412

1. This case is before the Court on the stipulation of the parties concerning Plaintiffs' Motion to Transfer Venue To The United States District Court For The Southern District Of New York Pursuant to 28 U.S.C. § 1412 ("Motion to Transfer"). *See* dkt #21.

2. Plaintiffs in this putative class action filed claims against General Motors LLC f/k/a General Motors Company ("New GM"), alleging that New GM breached express warranties with Plaintiffs and the putative class members. *See* Amended Class Action Complaint, dkt #15.

3. New GM filed a Motion to Dismiss arguing, in part, that the claims asserted and the relief sought by Plaintiffs are outside the scope of the warranty terms and impermissibly are premised on conduct of Motors Liquidation Company f/k/a General Motors Corporation ("Old GM"). New GM contends that the claims and relief constitute a violation of the Order of the

United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court") pursuant to which New GM acquired its assets and assumed specific liabilities only. *See* Motion to Dismiss, dkt #18. Additionally, New GM contends that the adjudication of the issues noted in this paragraph are within the exclusive jurisdiction of the Bankruptcy Court. Plaintiffs dispute New GM's position and believe that they properly may pursue their claims and seek relief against New GM and in this Court. The parties' disagreement constitutes an actual and pending dispute (the "Dispute").

4. Plaintiffs asserted that it would serve judicial economy for them to petition the Bankruptcy Court, in Case No. 09-50026, and request, *inter alia*, that the Bankruptcy Court address and resolve the Dispute in paragraph 3, above. Consequently, Plaintiffs requested, and New GM agreed, to the entry of an Order staying this action until such time as the Bankruptcy Court resolves the Dispute as noted above or declines to do so ("Stay Order"). This Court entered the Stay Order on November 21, 2012. *See* dkt #20.

5. Plaintiffs later concluded that, in order to seek such relief from the Bankruptcy Court, it is necessary to transfer this case to the United States District Court, Southern District of New York, for ultimate referral to the Bankruptcy Court. On January 17, 2012, Plaintiffs filed their Motion to Transfer. See dkt #21.

6. Although New GM does not agree with all of the assertions of the Plaintiffs offered in support of their Motion to Transfer, New GM does not object to the transfer of this case.

7. New GM hereby withdraws the pending Motion to Dismiss (dkt #18) without prejudice, reserving all rights to answer or otherwise respond to the current Amended Complaint or any amended pleading.

IT IS HEREBY ORDERED:

1. Plaintiffs' Motion to Transfer is **GRANTED**;

2. This case is hereby transferred to the United Stated District Court, Southern District of New York;

3. New GM's current Motion to Dismiss (dkt #18) is withdrawn without prejudice; and

4. New GM shall have forty-five (45) days to answer or otherwise respond to Plaintiffs' Amended Complaint or any amended pleading after the date this case is transferred to, and docketed with, the District Court in New York.

Dated: February 10, 2012

s/ Sean F. Cox
Sean F. Cox
U. S. District Judge

SO STIPULATED

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EXHIBIT I

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONNA M. TRUSKY, AHSA JEFFRIES, GAYNELL COLE on behalf of themselves and all others similarly situated,

Plaintiff,

vs.

GENERAL MOTORS COMPANY

Defendant.

Case No. 2:11-cv-12815-SFC-LJM

Honorable Sean F. Cox

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DECLARATION OF STEVEN D. OAKLEY
IN SUPPORT OF MOTION TO DISMISS FOR LACK JURISDICTION

I, Steven D. Oakley, declare and state:

1. I am employed by General Motors LLC ("GM") as Manager, Dealer Service and Warranty Operations. I make this declaration in support of GM's motion to dismiss this matter for lack of subject matter jurisdiction.

2. In connection with my responsibilities in the ordinary course, I have access to GM's systems and records with respect to vehicle warranties and repairs performed pursuant to those warranties ("Warranty Records"). These Warranty Records include data acquired by GM from General Motors Corporation ("Old GM") pursuant to the bankruptcy 363 sale consummated in 2009.

3. GM's Warranty Records are maintained by vehicle identification number. GM records reflect[1] that the claims asserted by individual plaintiffs pertain to the following vehicles:

a) A Chevrolet Impala LT Sedan, Vehicle Identification Number 2G1WT58N881214824 (the "Trusky Vehicle")

b) A 2008 Chevrolet Impala, 50th Anniversary Edition, Vehicle Identification Number 2G1WV58KKX81252684 (the "Cole Vehicle")

c) A 2007 Chevrolet Impala LT Sedan, Vehicle Identification Number 2G1WT58K879258098 (the "Jeffries Vehicle")

4. I have reviewed warranty records related to the Trusky Vehicle, which indicate as follows:

a) The Trusky Vehicle was initially delivered on February 18, 2008 by Allan A. Hornbeck Chevrolet in Forest City, Pennsylvania. The reported mileage at delivery was 10.

b) In consequence, the Bumper to Bumper coverage (three years/36,000 miles) on the Trusky Vehicle expired no later than February 18, 2011.

5. I have reviewed warranty records related to the Cole Vehicle, which indicate as follows:

a) The Cole Vehicle was initially delivered on June 26, 2008. The reported mileage at delivery was 254.

[1] Because Ms. Jeffries purchased her vehicle used, GM was required to inquire with the selling dealer to identify the vehicle identification number of her vehicle.

b) In consequence, the Bumper to Bumper coverage (three years/36,000 miles) on the Cole Vehicle expired no later than June 26, 2011.

c) On July 5, 2011, the vehicle was presented for service at Ramey Motors, Inc. in Princeton, West Virginia. Although the applicable warranty was then expired, the dealer performed a tire replacement on GM's expense as customer goodwill.

6. I have reviewed warranty records related to the Jeffries Vehicle, which indicate as follows:

a) The Jeffries Vehicle was initially delivered January 2, 2007. The reported mileage at delivery was 10.

b) In consequence, the Bumper to Bumper coverage (three years/36,000 miles) on the Jeffries Vehicle expired no later than January 2, 2010. However, on February 12, 2009, the Jeffries Vehicle received warranty service from Gordon Chevrolet, Inc. in Garden City, Michigan. At that time, vehicle mileage was reported as 35,979. Accordingly, unless use of the vehicle ceased immediately, the Bumper to Bumper coverage on the Jeffries expired in February or March of 2009. This is consistent with information received from Merollis Chevrolet, which indicates that the Jeffries vehicle had 39,115 miles when sold to Ms. Jeffries in June of 2009. See Odometer Statement Attached as Exhibit A.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed this 26th day of September, 2011.

Steven D. Oakley

EXHIBIT J

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	**Chapter 11**
MOTORS LIQUIDATION COMPANY, *et al.*, f/k/a General Motors Corp., *et al.*	:	**Case No.: 09-50026 (REG)**
Debtors.	:	**(Jointly Administered)**
DONNA M. TRUSKY, GAYNELL COLE, and PATRICIA DICKERSON, on behalf of themselves and all others similarly situated,	:	**Adv. Proc. No.: 12-09803 (REG)**
Plaintiffs,	:	
v.	:	
GENERAL MOTORS COMPANY,	:	
Defendant.	:	

ORDER GRANTING MOTION OF GENERAL MOTORS LLC TO DISMISS PLAINTIFFS' SECOND AMENDED COMPLAINT

Upon the Motion, dated July 16, 2012 (the "**Motion**"), of General Motors LLC ("**New GM**") to dismiss Plaintiffs' Second Amended Complaint,[1] all as more fully described in the Motion; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and the Court having found and determined that the relief sought in the Motion is in the best interests of New GM and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

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

ORDERED that the Motion is granted as set forth herein; and it is further

ORDERED that the Adversary Proceeding is dismissed with prejudice, and the Plaintiffs shall take nothing under the Second Amended Complaint; and it is further

ORDERED that the claims and causes of action asserted by Plaintiffs against New GM in the Second Amended Complaint are dismissed with prejudice; and it is further

ORDERED that all costs are taxed against the party originally incurring same; and it is further

ORDERED that the Court shall retain jurisdiction, to the fullest extent permissible under law, to construe or enforce this Order.

Dated: New York, New York
_____, 2012

_____
THE HONORABLE ROBERT E. GERBER
UNITED STATES BANKRUPTCY JUDGE