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Hearing Date and Time: **January 18, 2012 at 9:45 a.m.**
Response Deadline: **December 1, 2011 at 4:00 p.m.**
Reply Deadline: **December 22, 2011 at 4:00 p.m.**

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

REORGANIZED DEBTORS' AMENDED SUPPLEMENTAL OBJECTION TO PROOF OF CLAIM NUMBER 71242 ASSERTED BY CHARTIS SPECIALTY INSURANCE COMPANY ON THE GROUND THAT THE CLAIM IS NOT PROPERLY SECURED BY A VALID RIGHT OF SETOFF

[CLAIM NO. 71242]

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REORGANIZED DEBTORS' AMENDED SUPPLEMENTAL OBJECTION TO PROOF OF CLAIM NUMBER 71242 ASSERTED BY CHARTIS SPECIALTY INSURANCE COMPANY ON THE GROUND THAT THE CLAIM IS NOT PROPERLY SECURED BY A VALID RIGHT OF SETOFF

Reorganized Debtor Motors Liquidation Company, formerly known as General Motors Corporation ("**Old GM**"), and its affiliated reorganized debtors (collectively, the "**Reorganized Debtors**"), respectfully submit their amended supplemental objection to proof of claim number 71242 asserted by Chartis Specialty Insurance Company on the ground that the claim is not properly secured by a valid right of setoff and, in support hereof, respectfully represent as follows:

PRELIMINARY STATEMENT

1. The Reorganized Debtors respectfully submit this amended supplemental claim objection (the "**Amended Objection**") to ask the Court to determine that Claim No. 71242 (the "**Amended Claim**"), asserted by Chartis Specialty Insurance Company and certain of its affiliates ("**Chartis**"), is not entitled to secured status because Chartis cannot properly exercise the right of setoff it asserts.

2. Chartis's Amended Claim arises by right of ***subrogation***, not from Old GM's insurance program with Chartis (the "**Insurance Program**"). (*See* Amended Claim, Exhibit B (stating that Chartis's Amended Claim is based on Chartis's issuance of "Pollution Legal Liability Select policy number PLS 2645055 … to Bristol Center LLC" and that Chartis, "[a]s the subrogee of Bristol Center LLC, … stands in the shoes of Bristol Center LLC").)

3. Chartis's Amended Claim explains that Bristol Center LLC ("**Bristol**") purchased an environmentally contaminated property from Old GM, and when Old GM became unable to pay for environmental remediation, Bristol became liable instead. Bristol turned to its insurer, which happened to be Chartis, and Chartis

assertedly has paid for and will pay for the remediation pursuant to an insurance policy it issued to Bristol. Chartis then asserted a claim against Old GM on the ground that Old GM would be liable to Bristol, and because Chartis had paid Bristol's debt, that Old GM was liable to Chartis by right of subrogation. (*See* Amended Claim, Exhibit B.)

4. The Reorganized Debtors have stipulated to allow Chartis's Amended Claim as a general unsecured claim in the negotiated amount of $4.5 million, but each party has retained the right to dispute whether the Amended Claim should be treated as secured. (*See* Stipulation and Agreed Order Approving a Partial Resolution of Certain Claims Asserted Against the Reorganized Debtors by Chartis Specialty Insurance Company and Lexington Insurance Company (the "**Stipulation**") between the Reorganized Debtors and Chartis (together, the "**Parties**").) The Stipulation was submitted to this Court by notice of presentment on November 7, 2011 (Docket No. 11119).

5. Pursuant to the Stipulation, on November 9, 2011, Chartis filed its Claim No. 71242 as an amended and superseding claim which expressly asserts that Chartis has a right of setoff and that its Amended Claim is secured. (*See* Amended Claim at 1; Stipulation ¶ 7.)

6. Chartis admits – as it must – that its Amended Claim arises from the insurance policy Chartis issued to ***Bristol***, and not from the policies Chartis issued to ***Old GM***. Chartis maintains, however, that the Parties' payment agreements (the "**Payment Agreements**") nevertheless give Chartis the right to use the collateral Old GM provided in connection with its obligations under the Insurance Program to pay Chartis's unrelated $4.5 million Amended Claim based on the coverage Chartis provided to Bristol.

7. As we show below, Chartis is wrong for at least four reasons. Two of these reasons merit discussion in this Preliminary Statement, however, both because they are dispositive and because they provide an important caution in evaluating Chartis's Amended Claim.

8. First, Chartis has no valid right to set off against Old GM's collateral because Chartis cannot properly exercise default remedies against Old GM. Chartis expressly asserts its purported setoff right as a remedy available "[i]n the event of default" under the Payment Agreements. (*See* Amended Claim at 2.) Chartis's entire discussion of whether Old GM is actually in default, however, is as follows: "[Old GM] has acknowledged its default in a supplemental claim objection filed October 6, 2011." (*Id.*)

9. Chartis's statement that Old GM has "acknowledged" default is unambiguously and undeniably false. The Reorganized Debtors' October 6, 2001 supplemental claim objection specifically argues that Chartis is not entitled to exercise a right of setoff because Old GM could ***not*** be treated as in default:

> 52. For at least four reasons, however, the Payment Agreement's Setoff Remedy does not justify Chartis in using the Reorganized Debtors' collateral to satisfy its Bristol Claim.
>
> 53. First, Chartis has no right to exercise the Setoff Remedy because it is available only "[i]f default occurs." Chartis has acknowledged to the Reorganized Debtors that, notwithstanding contrary statements in the Chartis Response, ***Old GM was not in default on any financial or other affirmative obligations to Chartis as of Old GM's bankruptcy filing***.
>
> 54. Further, Chartis's Response identifies only $41,956 in alleged monetary defaults in connection with the Insurance Program, which would limit Chartis's remedies to retaining only $41,956 of the Seized Cash. In addition, Chartis cannot claim to be entitled to exercise default remedies due to Old GM's bankruptcy filing, because the Insurance Program, consisting of various inter-related agreements, is an executory contract and ***11 U.S.C. § 365(b)(2) prohibits Chartis from treating Old GM as in default based solely on its bankruptcy filing***.

(Reorganized Debtors' (1) Supplemental Claim Objection and (2) Motion To Enforce the Plan Injunction and Automatic Stay and To Enjoin Chartis U.S. From Continuing To Retain More Than $20 Million It Improperly Seized from the Reorganized Debtors (the "**Supplemental Objection and Motion**") (Docket No. 11019) at ¶¶ 52-54.)

10. Further, the foregoing quoted paragraphs contain only a brief discussion of the alleged $41,956 in monetary defaults because the Supplemental Objection and Motion had already explained why Chartis's Amended Claim for that sum was without merit:

> 40. The Chartis Proofs of Claim state that: "the Debtors are indebted to Claimant for premiums, deductibles, and other related fees, expenses and obligations or, among other things, insurance coverages and services …." (*Id*. at 1 ¶ 1.)
>
> 41. Chartis has provided no documentation to substantiate these Insurance Program Claims, and the Claims cannot be reconciled with Old GM's books and records, which show nothing due. Further, the Reorganized Debtors understand that Chartis has acknowledged that no premiums, deductibles, related fees, expenses or obligations are actually due.… Accordingly, Chartis's Insurance Program Claims should be disallowed in their entirety.

(Supplemental Objection and Motion at ¶¶ 40-41.)

11. Thus, the Reorganized Debtors' Supplemental Objection and Motion did not "acknowledge default." To the contrary, it expressly ***rejected*** Chartis's contention that Old GM could be treated as in default.

12. Further, this Court must conclude that there has in fact been no actionable default. Chartis's Amended Claim alleges no facts to show that Old GM defaulted on its payment obligations, and Chartis did not seek to preserve a claim for non-payment of insurance premiums in the Stipulation. (*See* Stipulation ¶¶ 4-7 (superseding Chartis's prior proofs of claim and limiting the bases for any potential future proofs of claim).)

13. A second dispositive reason why Chartis is not entitled to exercise a setoff against Old GM's property is that the Payment Agreements required Old GM to post collateral only to satisfy Old GM's "Payment Obligation." Chartis's Amended Claim, because it is based on a right of subrogation and not on the Insurance Program, is not part of Old GM's "Payment Obligation."

14. The Payment Agreements required Old GM to provide collateral to Chartis, but specify, in a passage Chartis quotes in its Amended Claim, that, "You direct us to hold ***all*** … collateral for ***Your Payment Obligation*** as [it] may be payable now or may become payable in the future." (Amended Claim at 2 (quoting Payment Agreements at 6).)

15. According to Chartis, this provision means that Old GM "granted Claimant a first priority security interest in certain collateral and a contractual right to use and apply such collateral to satisfy ***any obligations that MLC owes to Claimant***…." (Amended Claim at 1 (emphasis added).)

16. In a passage that Chartis does ***not*** quote, however, the Payment Agreements define "Payment Obligation" in terms that exclude the Amended Claim: it means "the amounts that you must pay us for the insurance and services in accordance with the terms of the Policies, this Agreement, and any similar primary casualty insurance policies and agreements with us incurred before the inception date hereof." (Payment Agreements at 4.)

17. The Payment Agreements' definition of "Payment Obligation," which the Reorganized Debtors relied on in their Supplemental Objection and Motion but Chartis somehow fails to mention, is dispositive of Chartis's purported right of setoff. "All" of Old GM's collateral was held as collateral for its Payment Obligation, and its Payment Obligation did not include sums due to Chartis by right of subrogation,

because those sums did not arise from "insurance and services" provided in accord with Old GM's "policies and agreements" with Chartis. (*See* Payment Agreements at 4; Supplemental Objection and Motion at ¶ 57 (asserting that the Payment Agreements' definition of "Payment Obligation" precludes Chartis from exercising a setoff).)

18. The Payment Agreements' definition of "Payment Obligation" also shows that Chartis's assertion that it has a right of setoff is based on a second premise – that Old GM provided collateral for "any obligations that [Old GM] owes to Claimant" – which is unambiguously and undeniably false.

19. Additional relevant facts, and additional reasons why Chartis has no right of setoff, are discussed below.

JURISDICTION AND VENUE

20. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b) and 1334(b). The relief sought herein constitutes a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

FACTUAL BACKGROUND

A. The Chapter 11 Cases

21. On June 1, 2009 (the "**Commencement Date**"), Motors Liquidation Company (f/k/a General Motors Corporation), MLCS, LLC (f/k/a Saturn, LLC), MLCS Distribution Corporation (f/k/a Saturn Distribution Corporation), and MLC of Harlem, Inc. (f/k/a Chevrolet-Saturn of Harlem, Inc.) (collectively, the "**Initial Debtors**") commenced voluntary cases in this Court under chapter 11 of the Bankruptcy Code. On October 9, 2009, Remediation and Liability Management Company, Inc. and Environmental Corporate Remediation Company (the "**REALM/ENCORE Debtors**" and, together with the Initial Debtors, the "**Debtors**") commenced voluntary cases in this

Court under chapter 11 of the Bankruptcy Code, which cases are jointly administered under Case Number 09-50026 (REG). On September 15, 2009, the Initial Debtors filed their schedules of assets and liabilities and statements of financial affairs, which were amended on October 4, 2009. On October 15, 2009, the REALM/ENCORE Debtors filed their schedules of assets and liabilities and statements of financial affairs.

22. On September 16, 2009, this Court entered an order (Docket No. 4079) establishing November 30, 2009 as the deadline for each person or entity to file a proof of claim in the Initial Debtors' cases, including governmental units. On December 2, 2009, this Court entered an order (Docket No. 4586) establishing February 1, 2010 as the deadline for each person or entity to file a proof of claim in the REALM/ENCORE Debtors' cases (except governmental units, as defined in section 101(27) of the Bankruptcy Code, for which the Court established April 16, 2010 as the deadline to file proofs of claim).

23. On March 29, 2011, this Court entered an order confirming the Debtors' Second Amended Joint Chapter 11 Plan (the "**Confirmation Order**") (Docket No. 9941). All conditions to the occurrence of the Effective Date were met or waived on March 31, 2011, thereby making the Plan effective as of that date.

B. The Chartis Proofs of Claim

24. In November 2009, Chartis filed four substantively identical proofs of claim against Motors Liquidation Company and certain affiliated debtors (Claims Nos. 59680, 59681, 59682 and 59697) (the "**Proofs of Claim**"). Chartis designated its Proofs of Claim as unliquidated and secured by "right of setoff."

25. The Debtors objected to Chartis's Proofs of Claim in their 110th Omnibus Objection to Claims filed on December 3, 2010 (the "**Claim Objection**," Docket No. 8000). The Claim Objection sought disallowance of the Proofs of Claim

under section 502(e) of the Bankruptcy Code on the ground that they were, at best, contingent and unliquidated claims of a co-obligor. The Claim Objection also expressly reserved the Debtors' right to object to the Chartis Proofs of Claim "on any other basis."

26. In response to the Claim Objection, Chartis filed a Response dated March 4, 2011 (the "**Chartis Response**," Docket No. 9601) in which Chartis attempted to articulate a basis for certain limited aspects of its Proofs of Claim in more detail. Chartis provided only three paragraphs of additional detail, however, and did not provide any substantial documentation to support any aspect of its Proofs of Claim.

27. The Proofs of Claim asserted a right of setoff by stating that "[t]o the extent Claimant holds any cash or other collateral as security for its claim, regardless of whether such cash or collateral is property of the Debtors' estates, Claimant asserts a secured claim and/or a right of setoff and reserves its rights to collect against same by recoupment and/or setoff." (Proofs of Claim at 3 ¶ 8.) The Proofs of Claim provided no further justification or description of this purported right of setoff, however.

C. Chartis's Seizure of the Reorganized Debtors' Property

28. As of November 4, 2011, Chartis held at least $20,571,486 that it had received from Old GM as collateral in connection with the Old GM Insurance Program. (*See* Assumption and Collateralization Agreements, attached to the Declaration of Richard K. Milin dated November 17, 2011 in support of the relief sought herein (the "**Milin Decl.**") as Exhibit 2; Declaration of Thomas A. Morrow dated October 5, 2011 (the **"Morrow Decl."**), annexed to the Milin Declaration as Exhibit 1, ¶ 4; Stipulation at 1.) By that time, Chartis had long lacked any basis to assert that it was entitled to keep all of this cash as collateral under Old GM's insurance agreements with Chartis (the "**Old GM Insurance Agreements**").

29. Chartis has identified only the following insurance policies (the "**Identified Policies**") as yielding potential obligations that the Reorganized Debtors might be required to collateralize and reimburse:

Policy Type	**Insurer**	**Policy Number**	**Policy Limited and Collateral**
Pollution	Chartis Specialty Insurance Co.	7146277	$8,000,000
Storage Tanks	Chartis Specialty Insurance Co.	7146278	$2,000,000
Hazardous waste (Ohio Closure/Post Closure)	Chartis Specialty Insurance Co.	7146282	$5,822,539
Hazardous Waste (Michigan Corrective Action)	Chartis Specialty Insurance Co.	7146281	$3,839,721
Hazardous Waste (New Jersey Closure)	Lexington Insurance Co.	7146280	$297,022
Hazardous Waste (Illinois Closure)	Lexington Insurance Co.	7146279	$612,204

30. All of the foregoing insurance policies are "claims made" policies that have expired and, except for Policy No. 7146281, no covered claims could be asserted under them after April 1, 2011. (*See* Morrow Decl. ¶¶ 5-6.)

31. Further, although the claims period for Policy No. 7146281 did not expire until September 1, 2011, the Reorganized Debtors cancelled that Policy on March 31, 2011. (*See* Milin Decl., Exh. 3; Morrow Decl. ¶ 7.) Consequently, no new claims against the Reorganized Debtors or Chartis can properly be asserted under any of the Identified Policies – any such claims would be time-barred.

32. Also, the vast majority of potential claims under the Identified Policies were resolved by this Court's Confirmation Order approving the Plan and Environmental Response Trust incorporated therein. Decretal Paragraph 7 of the Confirmation Order states:

> The establishment and funding of the Environmental Response Trust and the transfer of the Environmental Response Trust Assets to the Environmental Response Trust or any entity formed by the Environmental Response Trust Administrative Trustee ***shall be in full settlement and satisfaction of all present and future civil environmental liabilities or obligations of the Debtors to the Governmental Authorities***, other than the claims and rights reserved ….

(*See* Confirmation Order at 19-21 (emphasis added).)

33. The Environmental Response Trust settlement resolved any potential claims by governmental authorities with respect to all of the sites covered by the Identified Policies except for the site at McCook, Illinois, which was no longer owned by the Debtors as of the Commencement Date. (*See* Morrow Decl. ¶ 8.)

34. In addition to being time-barred and resolved by Court order, almost all potential claims that might be asserted in the future under the Identified Policies have been released. At Chartis's request – and after engaging in months of effort and expending significant resources – the Reorganized Debtors obtained signed releases from all but one of the governmental authorities that, alone, could assert claims covered by the Identified Policies. The only exception is the Illinois authorities who have not yet provided a signed release for the McCook site. (*See* Morrow Decl. ¶ 9.)

35. As the Stipulation reflects, Chartis's potential exposure with respect to the McCook site is limited to – at most – approximately $8.6 million. The Reorganized Debtors dispute whether this amount is based on a genuine risk, but the Stipulation provides that approximately $8 million will be returned to the Reorganized Debtors from escrow if no relevant claim covered by Chartis materializes as of January 6, 2012. (*See* Stipulation ¶ 2.)

D. Chartis Refuses To Return the Seized Property

36. The Debtors requested the return of the approximately $20.6 million in Old GM property that Chartis held as collateral on March 1, 2011. Chartis refused the request and took control of the property for its own unspecified purposes about two days later. Chartis also refused numerous subsequent requests by the Reorganized Debtors for the return of this seized property. (*See* Morrow Decl. ¶ 13.)

37. The Debtors and the Reorganized Debtors made attempts to reach a negotiated resolution with Chartis after March 1, 2011, both with and without the assistance of counsel. The attempts were unsuccessful.

38. During the course of the Parties' negotiations, Chartis requested that the Reorganized Debtors obtain releases letters from the agencies that Chartis contended might have been able to assert claims under the Identified Policies. However, even though Chartis was provided with letters releasing potential claims for all sites except the site at McCook, Illinois, Chartis did not return any of the property it seized from Old GM. (*See* Morrow Decl. ¶ 18.)

39. On September 16, 2011, the Reorganized Debtors sent Chartis a formal demand letter setting out why Chartis's actions violated the Confirmation Order and automatic stay and requesting the return of the seized property by September 30, 2011. (*See* Milin Decl., Exh. 4.) Chartis failed to respond to the substance of the letter.

40. Because the Parties' negotiations continued to be unsuccessful despite Chartis's receipt of the release letters it had requested, the Reorganized Debtors were forced to file their Supplemental Objection and Motion.

41. After the Reorganized Debtors' Supplemental Objection and Motion was filed, the Parties were able to reach a partial resolution of their dispute, which they embodied in the Stipulation. Pursuant to the Stipulation, Chartis returned

approximately $12 million to the Reorganized Debtors and deposited approximately $8.6 million into escrow. Also, approximately $8 million of the escrowed amount is to be returned to the Reorganized Debtors by January 6, 2012 if no facially valid claim is asserted against Chartis under a specified insurance policy. (*See* Stipulation ¶ 2a.)

42. In addition, the Stipulation required Chartis to file an amended proof of claim that limited and superseded its four original Proofs of Claim. The Parties agreed that this superseding proof of claim would only state a claim arising out of the Bristol Center matter, that the claim would be asserted in the allowed amount of $4.5 million, and that Chartis would reserve the right to assert that the $4.5 million should be deemed secured based on Chartis's retention of Old GM's property as of the date the Stipulation was signed.

43. On November 9, 2011, Chartis filed its Amended Claim and asserted that this Claim should be deemed secured by right of setoff.

RELIEF REQUESTED

44. The Reorganized Debtors request that this Court enter an Order holding that Chartis's Amended Claim is a general unsecured claim because Chartis lacks the right to setoff it asserts, and granting the Reorganized Debtors such other and further relief as is just.

ARGUMENT

The Court Should Hold that Chartis's Amended Claim Is Unsecured Because Chartis Lacks the Right of Setoff It Asserts

45. Chartis's Amended Claim asserts that its allowed $4.5 million is "secured by certain collateral Claimant holds in accordance with the Payment Agreements." (Amended Claim at 3.) In fact, Chartis yielded possession of that

collateral, but the Stipulation provides that Chartis will be permitted to argue that the Claim "was a secured claim as of the date of [the Stipulation]." (*See* Stipulation ¶ 4.)

46. Chartis's argument that its Amended Claim is secured appears to be based on the following four premises:

(1) Chartis asserts that the Payment Agreements required Old GM to grant Chartis "a first priority security interest in certain collateral and a contractual right to use and apply such collateral to satisfy any obligations that [Old GM] owes to Claimant…." (Amended Claim at 1.)

(2) Chartis asserts that "[i]n the event of default," the Payment Agreements allow Chartis to:

> draw upon, liquidate, or take ownership of any or all collateral we hold … and hold or apply such amounts to any of Your Payment Obligation under this Agreement or any other premium, surcharge or deductible financing agreement between You and us, or under any Policies.

(Amended Claim at 2 (quoting Payment Agreements at 8). *See also* Payment Agreements at 3 (defining "Policies" to refer exclusively to policies Chartis issued to Old GM).)

(3) Chartis asserts that "MLC has acknowledged its default in a supplemental claim objection filed October 6, 2011." (Amended Claim at 2.)

(4) Chartis asserts that "Claimant has the right to: … satisfy Your obligations to us in whole or in part by set-off against any moneys, securities, collateral, consideration or property of Yours received by, pledged to, held by or otherwise available to us in connection with Your Payment Obligation. You authorize us after any default to charge any account that You maintain with us in connection with Your Payment Obligation in order to satisfy <u>any</u> of Your obligations." (Amended Claim at 2 (quoting, with Chartis's emphasis, Payment Agreements at 8).)

47. The first of these four premises, as discussed in the Preliminary Statement, is false. Chartis's Amended Claim states that Old GM granted Chartis a lien so that Chartis could "use and apply [Old GM's] collateral to satisfy any obligations that MLC owes to Claimant." (Claim at 1.) The Payment Agreements provide, in

contrast, that "all" of the collateral is to be used as "collateral for *Your Payment Obligation*," and the term "Your Payment Obligation" does not include claims for subrogation unrelated to Old GM's policies and agreements with Chartis. (*See* Claim at 2 (quoting Payment Agreements at 6). *See also* Payment Agreements at 4 (defining "Your Payment Obligation" as amounts related to policies Chartis issued to Old GM).)

48. Chartis's second premise is inapplicable to the Amended Claim, because it merely asserts Chartis's rights with respect to Old GM's Payment Obligation upon a default by Old GM. Old GM's Payment Obligation, as shown above, does not include Chartis's Amended Claim based on subrogation.

49. Chartis's third premise, as discussed in the Preliminary Statement, is false: Old GM does not "acknowledge" that it can be treated as in default under the Payment Agreements. Further, the Amended Claim states no reason other than Old GM's purported "acknowledgement" why Old GM can be treated as in default.

50. Chartis's fourth and final premise is inapplicable because Chartis has no right to exercise default remedies against Old GM. Even if it were applicable, moreover, it would not allow Chartis to exercise a setoff.

51. The default provisions of the Payment Agreements, on which Chartis rely, state in relevant part:

> If default occurs, we may take reasonable and appropriate steps that are necessary to protect our interest. We will exercise good faith consistent with usual and customary commercial and credit practice in selecting and exercising such steps. We may take steps such as the following:
>
> 1. We may declare the entire unpaid amount of Your Payment Obligation immediately due and payable.
>
> 2. We may change any or all unexpired Policies….

> 3. We may draw upon, liquidate, or take ownership of any or all collateral we hold regardless of the form, and hold or apply such amounts to any of Your Payment Obligation under this Agreement or any other premium, surcharge or deductible financing agreement between You and us, or under any Policies. However, we will not draw upon, liquidate, or take ownership of more collateral than is reasonably necessary to protect our interest.
>
> 4. We may require You to deliver to us additional collateral.…
>
> 5. We may cancel any or all unexpired Policies….
>
> 6. We may withhold payment of claims to You….
>
> 7. We may satisfy Your obligations to us in whole or in part by set-off against any moneys, securities, collateral, consideration or property of Yours received by, pledged to, held by or otherwise available to us in connection with Your Payment Obligation. You authorize us after any default to charge any account that You maintain with us in connection with Your Payment Obligation in order to satisfy any of Your obligations.

(Payment Agreements at 8.)

52. As noted above, the Payment Agreements' definition of "Your Payment Obligation" excludes Chartis's Amended Claim because that Claim is not an amount that Old GM "must pay us for the insurance and services in accordance with the terms of the Policies, this Agreement, and any similar primary casualty insurance policies and agreements with us incurred before the inception date hereof." (Payment Agreements at 4.)

53. Chartis has argued, however, that its seventh default remedy as quoted above (the "**Setoff Remedy**") allows Chartis to use Old GM's collateral to satisfy obligations other than Old GM's Payment Obligation because the Payment Agreements state, "We may satisfy ***Your obligations*** to us in whole or in part by set-off against any moneys, securities, collateral, consideration or property of Yours received

by, pledged to, held by or otherwise available to us in connection with Your Payment Obligation. You authorize us after any default to charge any account that You maintain with us in connection with Your Payment Obligation in order to satisfy any of ***Your obligations***." (Payment Agreements at 4 (emphasis added).) The term "Your obligations" in the quoted sentences is not specifically defined.

54. For at least three reasons, even if Old GM could be treated as in default -- and as discussed above it cannot -- the Payment Agreements' Setoff Remedy would not justify Chartis in using the Reorganized Debtors' collateral to satisfy its Amended Claim.

55. First, the Setoff Remedy specifies that it can be used only with respect to Old GM property that has been "received by, pledged to, held by or otherwise available to us in connection with Your Payment Obligation." (Payment Agreements at 8.) It appears, however, that Old GM's collateral could only have been legally held, under the Parties' Assumption and Collateralization Agreements, in a specified trust, and not by Chartis. Chartis has provided no documents to show whether Chartis itself held Old GM's collateral, whether Chartis could legally or properly hold that property instead of delivering it to a trust or escrow agent, or whether the property was pledged on terms that would make it available to pay Chartis's Amended Claim. Consequently, Chartis has failed to demonstrate a right to use Old GM's collateral for any Setoff Remedy.

56. Second, it is well established that a subrogee stands in the shoes of the subrogor and ordinarily can have no greater rights than the subrogor. Yet, Chartis appears to maintain that it can avail itself of the Reorganized Debtors' collateral pledged solely in connection with the Old GM Insurance Program to convert its unrelated subrogation claim based on Bristol's unsecured claim against the Reorganized

Debtors into a secured claim. Chartis has offered no legal support for this novel theory, and the Reorganized Debtors are aware of none.

57. Third, Chartis's Amended Claim does not fall within the scope of the undefined term "Your obligations to us" used in the Setoff Remedy. In context, the natural reading of "Your obligations to us" is to refer to obligations in connection with the Insurance Program, not unrelated obligations owed for other reasons. To read the term otherwise would be, in effect, to subject insured parties to an unfair and unintended surprise.

58. Also, "Your obligations to us" naturally refers only to Old GM's direct obligations to Chartis, and not to Old GM's obligations to parties like Bristol, who just happen to be insured by Chartis.

59. In addition, and arguably most importantly, other provisions of the Payment Agreements preclude any reading of "obligations to us" that might cover Chartis's Amended Claim. The Payment Agreements specify that Old GM "must deliver collateral acceptable to us to secure Your Payment Obligation," adding that Chartis "may apply any collateral we hold in connection with this or any other similar primary casualty insurance policies or agreements to Your Payment Obligation." (Payment Agreements at 6.) In context, this language suggests that Chartis will "apply any collateral" only to Old GM's Payment Obligation and not to unrelated obligations arising out of Chartis's business dealings with third parties.

60. Moreover, the Payment Agreements unambiguously limit use of the collateral to Old GM's Payment Obligations. These state that "You grant us a possessory security interest in any property You deliver to us to secure Your Payment Obligation" and "direct us to hold ***all such sums as collateral for Your Payment Obligation*** as [it] may be payable now or may become payable in the future." (Payment

Agreements at 6 (emphasis added).) Because the Payment Agreements direct Chartis to use ***all*** of the collateral for Old GM's Payment Obligation, Chartis has no right to use that collateral for anything else, such as a subrogation claim.

61. The Payments Agreement's specific restriction on Chartis's use of Old GM's collateral trumps any potential reading of the vague and undefined term "Your obligations to us" that might allow Chartis to apply the Seized Cash to the Bristol Claim. This is especially true given that the Payment Agreements must be construed against Chartis as their drafter, and that the phrase "Your obligations to us" is tucked away as the seventh numbered item in a list of default remedies.

62. In addition, there is every reason to believe that, if Chartis were to convince a Court that the phrase "Your obligations to us" is ambiguous, and if the parties were therefore to conduct discovery concerning its meaning, the result would be the same: Old GM could not reasonably have understood or intended that Chartis would use its Setoff Remedy as a reason to seize Old GM's collateral and apply it to a subrogation claim unrelated to Old GM's Payment Obligation.

63. Thus, for the foregoing reasons, Chartis has no valid right of setoff under the Payment Agreements and its Amended Claim should be held to be unsecured.

RESERVATION OF RIGHTS

64. The Reorganized Debtors expressly reserve their right to object to the Amended Claim on grounds other than those stated in this Objection, including the ground that even if the Payment Agreements did allow Chartis to execute a setoff, Chartis's inequitable conduct -- including its seizure of millions of dollars in Old GM's

collateral in violation of the Confirmation Order and automatic stay – should preclude it from executing a setoff.

CONCLUSION

65. For all of the foregoing reasons, this Court should hold that Chartis has no valid right of setoff, limit its Amended Claim to a general unsecured claim in the stipulated amount of $4.5 million, and grant the Reorganized Debtors such other and further relief as is just and proper.

DATED: New York, New York
November 17, 2011

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Richard K. Milin

Conflicts Counsel to the Reorganized Debtors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

DECLARATION OF RICHARD K. MILIN IN SUPPORT OF REORGANIZED DEBTORS' AMENDED SUPPLEMENTAL OBJECTION TO PROOF OF CLAIM NUMBER 71242 ASSERTED BY CHARTIS SPECIALTY INSURANCE COMPANY ON THE GROUND THAT THE CLAIM IS NOT PROPERLY SECURED BY A VALID RIGHT OF SETOFF

RICHARD K. MILIN hereby declares as follows:

1. I am a member of the Bar of the State of New York and of counsel to the firm of Togut, Segal & Segal LLP, conflicts counsel to Reorganized Debtors Motors Liquidation Company, *et al.*, formerly known as General Motors Corporation. I respectfully submit this Declaration based upon personal knowledge and my review of the files in support of the Reorganized Debtors' Amended Supplemental Objection to Proof of Claim Number 71242 Asserted by Chartis Specialty Insurance Company on the Ground that the Claim Is Not Properly Secured by a Valid Right of Setoff.

2. I attach as Exhibit 1 a copy of the Declaration of Thomas A. Morrow dated October 5, 2011 in support of the Reorganized Debtors' (1) Supplemental Claim Objection and (2) Motion To Enforce the Plan Injunction and Automatic Stay and

To Enjoin Chartis U.S. From Continuing To Retain More Than $20 Million It Improperly Seized from the Reorganized Debtors (Docket No. 11019).

3. I attach as Exhibit 2 copies of two Assumption and Collateralization Agreements effective July 10, 2009, entered into by and between: (i) Chartis Specialty Insurance Company (f/k/a American International Specialty Lines Insurance Company), General Motors LLC, and Motors Liquidation Company; and (ii) Lexington Insurance Company, General Motors LLC, and Motors Liquidation Company.

4. I attach as Exhibit 3 a copy of a letter dated March 31, 2011 from Motors Liquidation Company to Aon Risk Services Central.

5. I attach as Exhibit 4 a copy of a letter from Richard K. Milin to Michael S. Davis, Esq. dated September 16, 2011.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed in New York, New York on November 17, 2011

/s/ Richard K. Milin
RICHARD K. MILIN
TOGUT, SEGAL & SEGAL LLP
One Penn Plaza, Suite 3335
New York, New York 10019
(212) 594-5000

Exhibit 1

TOGUT SEGAL & SEGAL LLP
One Penn Plaza, Suite 3335
New York, New York 10119
Telephone: (212) 594-5000
Facsimile: (212) 967-4258
Albert Togut
Scott E. Ratner
Richard K. Milin

Conflicts Counsel to the Reorganized Debtors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

DECLARATION OF THOMAS A. MORROW IN SUPPORT OF REORGANIZED DEBTORS' (1) SUPPLEMENTAL CLAIM OBJECTION AND (2) MOTION TO ENFORCE THE PLAN INJUNCTION AND AUTOMATIC STAY AND TO ENJOIN CHARTIS U.S. FROM CONTINUING TO RETAIN MORE THAN $20 MILLION IT IMPROPERLY SEIZED FROM THE REORGANIZED DEBTORS

THOMAS A. MORROW hereby declares as follows:

1. I am a managing director of AlixPartners, LLP and served as a Vice President of Motors Liquidation Company ("**Old GM**," and as of the effective date of Old GM's confirmed Second Amended Joint Chapter 11 Plan (the "**Plan**"), the "**Reorganized Debtors**") throughout the period from Old GM's bankruptcy filing until the March 31, 2011 effective date of Old GM's Plan (the "**Effective Date**"). I have continued to serve Old GM after the Effective Date in the capacity of advisor. My responsibilities for Old GM and the Reorganized Debtors have primarily consisted of overseeing risk management activities.

2. I respectfully submit this Declaration based upon personal knowledge, my review of relevant documents and Court filings, and communications and

advice I have received as specified below in support of the Reorganized Debtors' (1) Supplemental Claim Objection and (2) Motion To Enforce the Plan Injunction and Automatic Stay and To Enjoin Chartis U.S. From Continuing To Retain More Than $20 Million It Improperly Seized from the Reorganized Debtors.

3. Chartis U.S. ("**Chartis**") currently holds at least $20,571,486 of the Reorganized Debtors' funds (the "**Seized Cash**") that the Reorganized Debtors have asked Chartis to return.

4. Chartis originally obtained the Seized Cash from Old GM as collateral in connection with the insurance agreements identified in the Assumption and Collateralization Agreements among Old GM, General Motors LLC, Chartis Specialty Insurance Co. and Lexington Insurance Co. effective July 10, 2009 (the "**Old GM Insurance Agreements**").

5. Chartis has identified the following insurance policies (the "**Identified Policies**"), and only the following policies, as yielding potential obligations that Old GM or the Reorganized Debtors might be required to collateralize:

Policy Type	Insurer	Policy Number	Policy Limited and Collateral
Pollution	Chartis Specialty Insurance Co.	7146277	$8,000,000
Storage Tanks	Chartis Specialty Insurance Co.	7146278	$2,000,000
Hazardous waste (Ohio Closure/Post Closure)	Chartis Specialty Insurance Co.	7146282	$5,822,539
Hazardous Waste (Michigan Corrective Action)	Chartis Specialty Insurance Co.	7146281	$3,839,721
Hazardous Waste (New Jersey Closure)	Lexington Insurance Co.	7146280	$297,022
Hazardous Waste (Illinois Closure)	Lexington Insurance Co.	7146279	$612,204

6. All of the foregoing insurance policies are "claims made" policies that have expired. Except for Policy No. 7146281, no covered claims could be asserted under them after April 1, 2011.

7. Although the claims period for Policy No. 7146281 did not expire until September 1, 2011, the Reorganized Debtors cancelled that policy on March 31, 2011.

8. My understanding is that the Environmental Response Trust Consent Decree and Settlement Agreement, which became effective on the Effective Date, resolved any potential claims by governmental authorities with respect to all of the sites covered by the Identified Policies except for the site at McCook, Illinois.

9. My understanding is that any potential claims that might be asserted in the future under the Identified Policies have been released. After April 1, 2011, at Chartis's request – and after engaging in months of effort and expending significant resources – the Reorganized Debtors obtained signed releases from all but one of the governmental authorities that alone, I have been advised, could assert claims covered by the Identified Policies. The only exception is the Illinois authorities who have not yet provided a signed release for the McCook site.

10. The policy limit of the Identified Policy that relates to McCook is $612,204.

11. By March 1, 2011, based on the Identified Policies' expiration and the Environmental Response Trust Consent Decree and Settlement Agreement, I concluded that Chartis would no longer have a good faith basis for keeping the collateral it had obtained from Old GM after the Effective Date.

12. By March 1, 2011, I also had been advised that Chartis's proofs of claims (the "**Proofs of Claim**") sought payment of premiums and deductibles that Old

GM did not actually owe and that the other sums Chartis sought in its Proofs of Claim were not owed or, at a minimum, were not supported by sufficient documentation for Old GM to determine that they were owed.

13. Accordingly, I requested that Chartis return the collateral on March 1, 2011.

14. On or about March 3, 2011, I was informed that Chartis had refused to return Old GM's approximately $20.6 million in collateral – the "Seized Cash" referred to above.

15. I have not been informed at any time since March 3, 2011 that Chartis is holding the Seized Cash in escrow or for the benefit of the Reorganized Debtors. Rather, my understanding is that Chartis took control of the Seized Cash for its own purposes.

16. No other insurer or surety refused to return Old GM's collateral in circumstances similar to Chartis's.

17. Old GM and, after the effective date of Old GM's Plan, the Reorganized Debtors, have made numerous requests for the return of the Seized Cash after March 1, 2011. These requests have all been refused, and none of the Seized Cash has been returned.

18. Old GM and the Reorganized Debtors have also made attempts to reach a negotiated resolution with Chartis after March 1, 2011, both with and without the assistance of counsel. Those attempts were unsuccessful. As part of the negotiations, Chartis requested that the Reorganized Debtors obtain releases letters, but even though Chartis has been provided with letters releasing potential claims for all sites except McCook, Illinois, Chartis has not returned any of the Seized Cash.

19. With respect to McCook, Chartis has provided no documentation to the Reorganized Debtors to show that any claims under the Identified Policies are likely to arise.

20. To date, Chartis has not provided a reasoned justification – or any written justification at all – for its continued retention of the Seized Cash.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed in New York, New York on October 5, 2011

/s/ Thomas A. Morrow
THOMAS A. MORROW
40 West 57TH Street
New York, New York 10019
(212) 490-2500

Exhibit 2

ASSUMPTION AND COLLATERALIZATION AGREEMENT
Effective July 10, 2009

entered into by and between

CHARTIS SPECIALTY INSURANCE COMPANY
(f/k/a American International Specialty Lines Insurance Company
(hereinafter, the "**Company**")

and

GENERAL MOTORS LLC
successor, by conversion to a Delaware limited liability company, of the Delaware corporation formerly known as General Motors Company[1], (hereinafter, "**NEW GM**")

and

MOTORS LIQUIDATION COMPANY (f/k/a General Motors Corporation),
a Delaware corporation[2] (hereinafter, "**OLD GM**")

WHEREAS, for the policy periods September 1, 2006 through September 1, 2007; September 1, 2007 through April 1, 2009; and April 1, 2009 through April 1, 2010, the Company issued to OLD GM, certain policies of insurance providing coverage for environmental liability (together with all endorsements, schedules and addenda thereto, the "**OLD GM Insurance Policies**"); and

WHEREAS, in conjunction with the OLD GM Insurance Policies, the Company and OLD GM executed that certain Payment Agreement effective September 1, 2006 (collectively with all addenda and schedules thereto, and the terms of any other agreements between the Company and OLD GM related thereto, the "**OLD GM Payment Agreement**"), detailing the respective liabilities, obligations and rights of the Company and OLD GM; and

WHEREAS, the OLD GM Insurance Policies and the OLD GM Payment Agreement are incorporated herein by reference and are hereinafter collectively referred to as the "**OLD GM Insurance Program Agreements**"; and

WHEREAS, as security for the obligations under the OLD GM Insurance Program Agreements, the Company currently maintains certain collateral in the form of (i) cash collateral in the amount of US Twelve Million Dollars ($12,000,000) (the "**Cash Collateral**"), which such Cash Collateral OLD GM and NEW GM each represents constitutes Restricted Cash (as defined in the Purchase Agreement) retained by OLD GM under the terms of the Purchase Agreement (defined below); and (ii) a collateral trust which, as of February 28, 2010, totals in the aggregate US Thirty One Million Three Hundred Thirty Four Thousand Nine Hundred Eleven Dollars and Fifty-Eight Cents ($31,334,911.58)(the "**Original Collateral Trust**"); and

WHEREAS, on June 1, 2009, OLD GM filed a voluntary petition under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"); and

---

[1] Pursuant to that certain Secretary of State Certificate of Conversion attached hereto as Exhibit A, NEW GM is the successor to General Motors Company by conversion to a Delaware limited liability company effective October 16, 2009.

[2] Pursuant to that certain Secretary of State Certificate of Corporate Name Change attached hereto as Exhibit B, General Motors Corporation changed its corporate name to "Motors Liquidation Company" effective July 9, 2009.

WHEREAS, pursuant to that certain Amended and Restated Master Sale and Purchase Agreement by and between OLD GM and NGMCO, Inc.[3] dated as of June 26, 2009, and approved by the Bankruptcy Court on July 5, 2009 (the "**Purchase Agreement**") and as described in detail therein; on July 10, 2009, NEW GM acquired substantially all of the assets of OLD GM, including but not limited to, in relevant part:

- the specific facilities identified on Exhibit D attached hereto (the "**Purchased Assets**"); and

- all of OLD GM's right, title, and interest in the portion of the Original Collateral Trust related to the Purchased Assets, which OLD GM and NEW GM each represents totals U.S. Twenty One Million Seven Hundred Eighty Seven Thousand Two Hundred Twenty-Three Dollars and Fifty-Eight Cents ($21,787,223.58) valued as of February 28, 2010 (the "**Purchased Collateral**"); and

WHEREAS, pursuant to and in accordance with the Purchase Agreement, Company, OLD GM and NEW GM (sometimes individually referred to herein as a "**Party**" and sometimes collectively referred to herein as the "**Parties**") desire to have NEW GM assume all of the existing, outstanding and future insurance debts, liabilities, and duties of OLD GM as such have been incurred and may be incurred with respect to the Purchased Assets (the "**Assumed Obligations**"), and NEW GM has agreed to assume the Assumed Obligations; and

WHEREAS, NEW GM is aware of and has a complete understanding of the extent of the Assumed Obligations and is prepared to memorialize its assumption of such Assumed Obligations through execution of this Assumption and Collateralization Agreement (this "**Agreement**"); and

WHEREAS, commencing on July 10, 2009, the Company issued to NEW GM certain policies of insurance providing coverage for environmental liability for the Assumed Obligations (together with all endorsements, the "**NEW GM Insurance Policies**"); and

WHEREAS, in conjunction with the NEW GM Insurance Policies, the Company and NEW GM executed that certain Payment Agreement effective July 10, 2009 (collectively with all addenda and schedules thereto, and the terms of any other agreements between the Company and NEW GM related thereto, the "**NEW GM Payment Agreement**"), detailing the respective liabilities, obligations and rights of the Company and NEW GM; and

WHEREAS, the NEW GM Insurance Policies and the NEW GM Payment Agreement are incorporated herein by reference and are hereinafter collectively referred to as the "**NEW GM Insurance Program Agreements;**" and

WHEREAS, to secure both the Assumed Obligations and its other obligations under the NEW GM Insurance Program Agreements, in accordance with the terms of this Agreement, NEW GM will provide the Company with certain security as more specifically set forth below in Paragraph 2.1; and

WHEREAS, it is understood and agreed by the Parties that NEW GM's assumption of the Assumed Obligations shall have no impact on the responsibilities of the Parties to each other, if any, outside the scope of this Agreement.

---

[3] Pursuant to that certain Secretary of State Certificate of Corporate Name Change attached hereto as Exhibit C, NGMCO, Inc., a Delaware corporation, changed its corporate name to "General Motors Company" effective July 9, 2009.

NOW, THEREFORE, in consideration of the premiums paid, premises and the mutual covenants contained herein, the Parties hereby do mutually agree as follows:

1. ASSUMPTION OF OBLIGATIONS

1.1 Effective July 10, 2009 (the "**Effective Date**"), and in accordance with the Purchase Agreement, OLD GM sold to NEW GM all of its right, title, and interest in the Purchased Assets and Purchased Collateral, and NEW GM assumed and agreed to perform, fulfill, and discharge all of the Assumed Obligations in conformity with the terms and conditions of the NEW GM Insurance Program Agreements. On and after the Effective Date, OLD GM shall have no further obligations or liabilities to Company related to the Assumed Obligations.

1.2 The Company hereby acknowledges and consents to the assumption of the Assumed Obligations by NEW GM.

2. SECURITY

2.1 The Company acknowledges that NEW GM shall, in conjunction with its assumption of the Assumed Obligations and pursuant to the terms of this Agreement and the NEW GM Insurance Program Agreements, procure in favor of the Company collateral in the form of a new collateral trust (the "**New Collateral Trust**"), or such other security in another form acceptable to the Company, in an amount equal to the Purchased Collateral (the "**NEW GM Security**") to secure both the Assumed Obligations and its obligations under the NEW GM Insurance Program Agreements. Subject to Sections 2.4, 2.5, and 2.6 below, NEW GM's procurement of the NEW GM Security shall satisfy its obligations to provide collateral under the NEW GM Insurance Program Agreements and the Assumed Obligations.

2.2 OLD GM consents to the transfer of the Purchased Collateral, plus interest accrued thereon between February 28, 2010 and the date of such transfer, to the New Collateral Trust. The Parties shall take all further actions necessary to effectuate the transfer of Purchased Collateral in accordance with the terms of this Agreement.

2.3 After the transfer of Purchased Collateral to the New Collateral Trust as set forth herein, (i) the amount equal to U.S. Nine Million Five Hundred Forty Seven Thousand Six Hundred Eighty Eight Dollars ($9,547,688.00) will remain in the Original Collateral Trust and (ii) the Cash Collateral shall be deposited in the Original Collateral Trust; and such resulting combined amount U.S. Twenty One Million Five Hundred Forty Seven Thousand Six Hundred Eighty Eight Dollars ($21,547,688.00) shall continue to secure the obligations of OLD GM under, and in accordance with, the OLD GM Insurance Program Agreements; the terms of which, except as amended herein, remain unchanged and in full force and effect.

2.4 Without limitation or regard to the purpose for which the NEW GM Security is originally provided, NEW GM hereby grants to the Company the right to liquidate or take ownership of any and all of the NEW GM Security and apply the proceeds to pay the Company any of the Assumed Obligations or other obligations of NEW GM, including but not limited to its obligations under the NEW GM Insurance Program Agreements.

2.5 It is understood and agreed by the Parties that nothing herein shall imply or serve to provide for a maximum value, cap or limit to the amount of security required at the present or in the future to secure the Assumed Obligations or other obligations of NEW GM, including but not limited to those obligations under the NEW GM Insurance Program Agreements. The terms and conditions of the NEW GM Insurance Program Agreements shall control the review and adjustment of

collateral. If as a result of such review the Company determines that additional collateral is required to secure the Assumed Obligations or other obligations of NEW GM, including but not limited to those obligations under the NEW GM Insurance Program Agreements, NEW GM will provide such additional collateral, in a form and amount acceptable to the Company, within thirty (30) days of the Company's written request.

2.6 Until such time as the NEW GM Collateral Trust is established and the NEW GM Security is received and accepted by the Company in accordance with Paragraphs 2.1 and 2.2 above, it is understood and agreed that the portion of the Original Collateral Trust that is Purchased Collateral is and will be available to pay the Company for the Assumed Obligations or other obligations of NEW GM, including but not limited to those obligations under the NEW GM Insurance Program Agreements.

3. REPRESENTATIONS, WARRANTIES AND COVENANTS

3.1 NEW GM agrees that all of the Assumed Obligations assumed pursuant to the terms of this Agreement shall be subject to the terms and conditions of the NEW GM Insurance Program Agreements only.

3.2 New GM and the Company agree to adhere to the existing coverages under the New GM Insurance Policies with respect to the Assumed Obligations for events that have occurred prior to the Effective Date and where claims are brought after the Effective Date.

3.3 Each of the Parties has entered into this Agreement based upon its own independent assessment of its rights and obligations under this Agreement and not based upon any representations, disclosures, or nondisclosures made by the other Party or by any other entity.

3.4 Each of the Parties represents and warrants that it is authorized to enter into this Agreement and the transactions contemplated herein; that the person or persons executing this Agreement on its behalf is/are authorized to do so; that it is not a party to any pending agreements, transactions or negotiations that would render this Agreement or any part hereof void, voidable or unenforceable; and that any authorizations, consents or approvals of any governmental or regulatory entity or authority required to make this Agreement valid and binding upon it has been obtained.

4. INDEMNIFICATION

NEW GM shall indemnify, defend and hold harmless the Company, its affiliates and their respective officers, directors, employees and agents from, against and with respect to any and all claims, liabilities, obligations, losses, damages, assessments, settlements, judgments, costs or expenses (including without limitation, reasonable attorneys' fees and costs and expenses reasonably incurred in investigating, preparing, defending against or prosecuting any litigation or claim), causes of action, suits, proceedings or demands, of any kind or character arising out of or in any manner incident, relating or attributable to any failure of NEW GM to perform, fulfill or discharge any of the insurance obligations assumed under this Agreement.

5. ARBITRATION

5.1 In the event of any dispute between the Company and NEW GM with reference to the interpretation, application, formation, enforcement or validity of this Agreement, or their rights with respect to any transaction involved, whether such dispute arose before or after the termination of this Agreement, such dispute upon the written request of any Party, will be submitted to binding arbitration.

5.2 Unless otherwise agreed to by the Company and NEW GM, all arbitrators will be executive officers or former executive officers of property or casualty or reinsurance companies domiciled in the United States not under the control of any of the Parties.

5.3 The arbitrators will interpret this Agreement as an honorable engagement and not merely a legal obligation; they are relieved of all judicial formalities and may abstain from following the strict rules of law, and they will make their award with a view toward effecting the general purpose of this Agreement in a reasonable manner.

5.4 The arbitrators will render their decision, in writing, based upon a hearing in which evidence may be introduced without following the strict rules of evidence, but in which cross-examination and rebuttal will be allowed. The arbitrators will have the power to award compensatory money damages, and interest thereupon, and will have exclusive jurisdiction over the entire matter in dispute, including any question as to its arbitrability; but the arbitrators will not have the power to award exemplary or punitive damages, however denominated, whether or not multiplied.

5.5 Each party to the arbitration will bear the expense of its own arbitrator and jointly and equally bear with the other party the expense of the arbitration.

5.6 Said arbitration will take place in New York, New York unless otherwise mutually agreed to by the Parties. The arbitration will be governed by the United States Arbitration Act, 9 U.S.C. 1, et seq., and judgment upon the award rendered by the arbitrators may be entered by a court having jurisdiction thereof.

5.7 This Article 5 will survive termination of this Agreement.

6. OTHER

The Bankruptcy Court shall have jurisdiction over the parties with respect to any disputes involving OLD GM regarding the terms or enforcement of this Agreement. Notwithstanding the preceding sentence, the Parties reserve all of their rights with respect to all jurisdictional issues, including the right to arbitration, regarding any dispute under the OLD GM Insurance Program Agreements, the Original Collateral Trust, the New GM Insurance Program Agreements, or the New Collateral Trust.

7. CONSTRUCTION

7.1 This Agreement shall be construed in accordance with the internal laws of the State of New York without regard to those provisions concerning conflicts of laws.

7.2 This Agreement is drafted in good faith. Should the need arise, the Parties shall cooperate in demonstrating to a court or arbitration panel that this Agreement, together with any terms and provisions contained therein, was negotiated in good faith.

7.3 It is expressly understood that this Agreement contains no admissions whatsoever regarding insurance coverage. This Agreement is not and shall not be interpreted as a contract or policy of insurance.

7.4 All Recitals included in this Agreement are specifically incorporated herein and made a part of this Agreement.

8. ENTIRE AGREEMENT

8.1 This Agreement is an integrated document, containing the entire undertaking between the Parties regarding the matters addressed herein, and, except as set forth in this Agreement, no representations, warranties, promises, inducements or considerations have been made or relied upon by the Parties.

8.2 This Agreement shall prevail over all prior communications between the Parties or their representatives regarding the matters contained herein.

9. EFFECT

This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, legal representatives, successors and permitted assigns.

10. SEVERABILITY

Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions and without affecting the validity or enforceability of such provision in any other jurisdiction.

11. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against either Party whose signature appears thereupon and all of which shall constitute one and the same instrument. This Agreement shall be deemed fully executed when one or more counterparts hereof, individually or taken together, shall bear the signatures of each Party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

CHARTIS SPECIALTY INSURANCE COMPANY

By: _____

Printed Name: Thomas J. O'Rourke

Title: Attorney-in-Fact

Date: April 23, 2010

GENERAL MOTORS LLC

By: _____

Printed Name: Alan G. Gier

Title: Director, Global Risk Management & Insurance

Date: April 7, 2010

MOTORS LIQUIDATION COMPANY

By: _____

Printed Name: Thomas A. Morrow

Title: Vice President

Date: May 11, 2010

EXHIBIT A

[Secretary of State Certificate of Conversion issued to NEW GM attached]

EXHIBIT B

[Secretary of State Certificate of Corporate Name Change issued to OLD GM attached]

EXHIBIT C

[Secretary of State Certificate of Corporate Name Change issued to "General Motors Company" effective July 9, 2009 attached]

EXHIBIT D (page 1 of 2)

Facility		UST Facility #
GM Desert Proving Ground — Yuma 1500 East GM Drive Yuma, AZ 85365-9498	UST/AST	0-010299
General Motors Manufacturing — Stamping Marion Metal Center 2400 W. Second Street Marion, IN 46952-0036	UST/AST	003121
General Motors Proving Grounds 3300 General Motors Road Milford, MI 48380-3726	UST/AST	0016461
General Motors Technical Center[4] Environmental Services Bldg. 1-1 Warren, MI 48090	UST/AST	00033132, 00036423, 00036429, 00036430, 00036431. 00036434
GM Flint Assembly G-3000 Van Slyke Road Flint, MI 48551	UST/AST	00017757
GM Pontiac North Campus – Powertrain 895 Joslyn Road Pontiac, MI 48340-2920	UST/AST	00038781
GM Powertrain Group Saginaw Metal Casting Operations 1629 N. Washington Avenue Saginaw, MI 48605	UST/AST	00010581
GM Powertrain Romulus Engine 36880 Ecorse Road Romulus, MI 48174	UST/AST	00002680
Lansing Grand River 920 Townsend Street Lansing, MI 48921	UST/AST	00013819

[4] Identified as GM Powertrain Vehicle Performance Center, 30003 Van Dyke Ave, Warren, MI 48090 in the Purchase Agreement. They are one and the same.

EXHIBIT D (page 2 of 2)

GM Powertrain Division **Tonawanda Engine Plant** **2995 River Road** **P. O. Box 21** **Buffalo, NY 14240**	**UST/AST**	**9-600598**
MFD Lordstown Metal Center **2369 Ellsworth-Baily Road** **Lordstown, OH 44481**	**UST/AST**	**78000021**

EXHIBIT D (continued)

GMVM Janesville Assembly[5] 544 Kellogg Ave. Janesville, WI 53546 Tank ID # 650215 Tank Capacity -- 20,000 gallons	**UST/AST**
GM Technical Center 6250 West Chicago Road Warren, MI 48090 EPA ID#: MID050615996	**Pollution**
GM Powertrain Group Defiance 26427 St., Rte 281 E. Defiance, OH 43512 EPA ID#: OHD005050273	**Pollution**
NACG Metal Fab 2369 Ellsworth-Bailey Road Lordstown, OH 44481 EPA ID#: OHD083321091	**Pollution**
GM Powertrain Group Defiance (RCRA & RSWA) 26427 St., Rte 281 E. Defiance, OH 43512 EPA ID#: OHD005050273	**Closure/Post Closure**
NACG Metal Fab Plant (RCRA) 2369 Ellsworth-Bailey Road Lordstown, OH 44481 EPA ID#: OHD083321091	**Closure/Post Closure**

[5] Identified as GM Assembly Janesville, 1000 Industrial Ave, Janesville, WI 53546 in the Purchase Agreement. They are one and the same.

LETTER AGREEMENT
Effective July 10, 2009

entered into by and between

LEXINGTON INSURANCE COMPANY
(hereinafter, the "**Company**")

and

GENERAL MOTORS LLC
successor, by conversion to a Delaware limited liability company, of the Delaware corporation formerly known as General Motors Company[1], (hereinafter, "**NEW GM**")

and

MOTORS LIQUIDATION COMPANY (f/k/a General Motors Corporation),
a Delaware corporation[2] (hereinafter, "**OLD GM**", and together with the Company and NEW GM, the "**Parties**")

WHEREAS, for the policy period April 1, 2009 through April 1, 2010, the Company issued to OLD GM, certain policies of insurance providing coverage for environmental liability (together with all endorsements, schedules and addenda thereto, the "**OLD GM Insurance Policies**"); and

WHEREAS, in conjunction with the OLD GM Insurance Policies, the Company and OLD GM executed a certain Payment Agreement effective April 1, 2009 (collectively with all addenda and schedules thereto, and the terms of any other agreements between the Company and OLD GM related thereto, the "**OLD GM Payment Agreement**"), detailing the respective liabilities, obligations and rights of the Company and OLD GM; and

WHEREAS, the OLD GM Insurance Policies and the OLD GM Payment Agreement are incorporated herein by reference and are hereinafter collectively referred to as the "**OLD GM Insurance Program Agreements**"; and

WHEREAS, as security for the obligations under the OLD GM Insurance Program Agreements, the Company currently maintains certain collateral in the form of cash collateral in the amount of US One Million Two Hundred Forty Five Thousand Five Hundred Sixty Dollars and Ninety-Eight Cents ($1,245,560.98) valued as of February 28, 2010 (the "**Original Collateral**"); and

WHEREAS, OLD GM (as Grantor), the Company (as Beneficiary), and The Bank of New York Mellon (as Escrow Agent) are parties to that certain Escrow, Security and Control Agreement for Payment Agreement Obligations effective May 6, 2009 (the "**Lexington Trust**");and

WHEREAS, on June 1, 2009, OLD GM filed a voluntary petition under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"); and

---

[1] Pursuant to that certain Secretary of State Certificate of Conversion attached hereto as Exhibit A, NEW GM is the successor to General Motors Company by conversion to a Delaware limited liability company effective October 16, 2009.

[2] Pursuant to that certain Secretary of State Certificate of Corporate Name Change attached hereto as Exhibit B, General Motors Corporation changed its corporate name to "Motors Liquidation Company" effective July 9, 2009.

WHEREAS, pursuant to that certain Amended and Restated Master Sale and Purchase Agreement by and between OLD GM and NGMCO, Inc.[1] dated as of June 26, 2009, and approved by the Bankruptcy Court on July 5, 2009 (the "**Purchase Agreement**") and as described in detail therein; on July 10, 2009, NEW GM acquired substantially all of the assets of OLD GM, including but not limited to, in relevant part, all of OLD GM's right, title, and interest in the portion of the Original Collateral in an amount equal to U.S. Three Hundred Forty Seven Thousand One Hundred Fifteen Dollars and Ninety-Eight Cents ($347,115.98) valued as of February 28, 2010 (the "**Purchased Collateral**"); and

WHEREAS, pursuant to the Purchase Agreement, and as approved by the Bankruptcy Court on March 5, 2010, OLD GM shall retain an amount equal to U.S. Eight Hundred Ninety Eight Thousand Four Hundred Forty Five Dollars ($898,445.00) of the Original Collateral.

NOW, THEREFORE, in consideration of the premiums paid, premises and the mutual covenants contained herein, the Parties hereby do mutually agree as follows:

1. Within thirty (30) days of the execution of this Letter Agreement (this "**Agreement**") by all Parties, Company shall (i) transfer the Purchased Collateral to NEW GM (in accordance with wire instructions to be provided by NEW GM); and (ii) transfer the remainder of the Original Collateral in an amount equal to U.S. Eight Hundred Ninety Eight Thousand Four Hundred Forty Five Dollars ($898,445.00) to the Lexington Trust, which sum shall be held therein in accordance with the terms of the OLD GM Insurance Program Agreements and the Lexington Trust.

2. OLD GM consents to the above-described transfer of the Purchased Collateral, plus interest accrued thereon between February 28, 2010 and the date of such transfer, to NEW GM.

3. The Parties shall take all further actions necessary to effectuate the above-described transfer of the Purchased Collateral in accordance with the terms of this Agreement.

4. Each of the Parties represents and warrants that it is authorized to enter into this Agreement and the transactions contemplated herein; that the person or persons executing this Agreement on its behalf is/are authorized to do so; that it is not a party to any pending agreements, transactions or negotiations that would render this Agreement or any part hereof void, voidable or unenforceable; and that any authorizations, consents or approvals of any governmental or regulatory entity or authority required to make this Agreement valid and binding upon it has been obtained.

5. NEW GM acknowledges that the Company is expressly relying on the representations made in this Agreement in connection with the above-described transfer of the Purchased Collateral to NEW GM. NEW GM further acknowledges that the Company may suffer damages if these representations are determined to be incorrect at any time. NEW GM does not undertake to be responsible for any such damages beyond the actual loss caused to the Company in the event any of these representations are determined to be incorrect; provided, however, that NEW GM's liability to the Company shall in no event exceed the amount of the Purchased Collateral, plus any further amounts incurred by Company for reasonable attorneys' fees and expenses.

[1] Pursuant to that certain Secretary of State Certificate of Corporate Name Change attached hereto as Exhibit C, NGMCO, Inc., a Delaware corporation, changed its corporate name to "General Motors Company" effective July 9, 2009.

6. It is understood and agreed by the Parties that nothing herein shall have an impact on the responsibilities of the Parties to each other outside the scope of this Agreement.

7. The terms of the OLD GM Insurance Program Agreements and the Lexington Trust, except as amended herein, remain unchanged and in full force and effect.

8. The Bankruptcy Court shall have jurisdiction over the Parties with respect to any disputes involving OLD GM regarding the terms or enforcement of this Agreement. Notwithstanding the preceding sentence, the Parties reserve all of their rights with respect to all jurisdictional issues, including the right to arbitration, regarding any dispute under the OLD GM Insurance Program Agreements, the Original Collateral Trust, the New GM Insurance Program Agreements, or the New Collateral Trust.

9. The terms of this Agreement cannot be changed or terminated orally, cannot be orally waived, shall be binding on the Parties and their successors and shall be governed in all aspects by the laws of the State of New York.

10. All Recitals included in this Agreement are specifically incorporated herein and made a part of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

LEXINGTON INSURANCE COMPANY

By: _____

Printed Name: Thomas J. O'Rourke

Title: Attorney-in-Fact

Date: April 23, 2010

GENERAL MOTORS LLC

By: _____

Printed Name: Alan G. Gier

Title: Director, Global Risk Management & Insurance

Date: April 7, 2010

MOTORS LIQUIDATION COMPANY

By: _____

Printed Name: Thomas A. Morrow

Title: Vice President

Date: May 11 2010

EXHIBIT A

[Secretary of State Certificate of Conversion issued to NEW GM attached]

EXHIBIT B

[Secretary of State Certificate of Corporate Name Change issued to OLD GM attached]

EXHIBIT C

[Secretary of State Certificate of Corporate Name Change issued to "General Motors Company" effective July 9, 2009 attached]

Exhibit 3

MLC

Motors Liquidation Company
401 S. Old Woodward, Suite 370
Birmingham, MI 48009

Phone: 313.486.4044
Fax: 313.486.4258

March 31, 2011

Aon Risk Services Central
Joseph G. Callanan, Jr.
3000 Town Center, Suite 3000
Southfield, MI 48075

RE: Motors Liquidation Company
Hazardous Waste-Corrective Action Policy 7146281 (13000 Eckles Road, Livonia, MI)
Collateral Amount: $3,839,721

Dear Mr. Callanan:

As you may know, Motors Liquidation Company ("MLC"), f/k/a General Motors Corporation, entered into a settlement agreement on October 20, 2010 with federal and state governmental authorities regarding MLC's environmental obligations at its owned real property, including MLC's site at 13000 Eckles Road, Livonia, MI. ("Settlement Agreement")[1] On March 3, 2011, this Settlement Agreement was approved by the United States Bankruptcy Court for the Southern District of New York as part of MLC's Chapter 11 Plan of Liquidation. The Settlement Agreement dictates that MLC's owned real property will be transferred to an Environmental Response Trust on March 31, 2011 and discharges MLC's corrective action responsibilities at its owned real property, including those corrective action obligations insured by Hazardous Waste-Corrective Action Policy 7146281. In exchange for MLC's funding of, and transfer of certain assets to the Environmental Response Trust, the governmental authorities have agreed not to seek, and have provided a covenant not to sue, MLC or the Environmental Response Trust with respect to any financial assurance required under environmental law relating to MLC's owned real property. (Settlement Agreement ¶ 96).

MLC hereby surrenders policy Hazardous Waste-Corrective Action Policy 7146281 and requests that you cancel Hazardous Waste-Corrective Action Policy 7146281 effective 12:00 midnight March 31, 2011. Please transfer any and all collateral being held in connection with Hazardous Waste-Corrective Action Policy 7146281 to MLC on March 31, 2011, the Effective Date of a confirmed plan of liquidation of MLC. Collateral should be transferred via wire transfer from collateral account to the following account:

JPMorgan Chase
611 Woodward Ave. Detroit, MI 48226

[1] A copy of the October 20, 2010 Environmental Response Trust Consent Decree and Settlement Agreement can be found on EPA's website at http://www.epa.gov/compliance/resources/cases/cleanup/cercla/mlc/index.html.

Account Name: MLC Master Funding Account
Account #: 838723369
Routing#: 021000021

Please make every effort to ensure that these funds are deposited in the aforementioned account by close of business on March 31, 2011. Should you have any questions or concerns, please contact Matthew D. Morton, MLC's counsel at Weil, Gotshal & Manges, at (202) 682-7053.

Tom Morrow, MLC

cc: Celeste R. Gill (P52484)
Assistant Attorney General
Environment, Natural Resources and
Agriculture Division
6th Floor, G. Mennen Williams Building
525 West Ottawa Street
P.O. Box 30755
Lansing, MI 48909

Exhibit 4

TOGUT, SEGAL & SEGAL LLP

ONE PENN PLAZA
NEW YORK, NEW YORK 10119

(212) 594-5000
FACSIMILE
(212) 967-4258
INTERNET
eMail@TeamTogut.com

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NEIL BERGER *
SCOTT E. RATNER *
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STEVEN S. FLORES
MICHAEL D. HAMERSKY
NAOMI G. MOSS
LARA R. SHEIKH
JONATHAN P. IBSEN°
ANTHONY F. PIRRAGLIA

*MEMBER NY AND NJ BAR
°MEMBER NY AND CT BAR
◦ MEMBER NY AND MA BAR
◦ MEMBER NY AND AZ BAR

September 16, 2011

Michael S. Davis, Esq.
Zeichner Ellman & Krause LLP
575 Lexington Avenue
New York, New York 10022
Tel. (212) 826-5311
Fax (866) 213 9038
MDavis@zeklaw.com

Re: Motors Liquidation Company, *et al.*
(f/k/a General Motors Corp, *et al.*)
Chapter 11 Case No. 09-50026 (REG)

Dear Michael:

On behalf of Motors Liquidation Company, *et al.*, f/k/a General Motors Corp., *et al.* ("Old GM"), we write to request the immediate return of $20,571,486 million in cash belonging to Old GM (the "Seized Cash") that your client Chartis U.S. ("Chartis") has improperly seized for its own purposes and has refused to return. As you know, Old GM has been requesting that Chartis return the Seized Cash since early March 2011, but Chartis has refused, and it has similarly failed to provide any substantial justification for its refusal. Old GM can only consider Chartis's conduct to be in bad faith, and it is a clear violation of both the Confirmation Order that Judge Gerber entered in the above-referenced bankruptcy case (the "Bankruptcy Case") and the automatic stay imposed by 11 U.S.C. § 362 (the "Automatic Stay"). Accordingly, unless Chartis returns Old GM's $20.5 million in Seized Cash by September 30, 2011, we will have no choice but to seek Court assistance in securing its return as well as damages and other appropriate relief.

To date, Chartis has provided no written explanation of its refusal to return the Seized Cash. As a result, Old GM has been forced to piece together Chartis's rationale from past discussions between the parties, Chartis's proofs of claim Nos. 59680-82 and 59697 (the "Proofs of Claim"), and Chartis's response to Old GM's initial objection to the Proofs of Claim (the

"Response"). From these sources, Chartis appears to be relying on three arguments in refusing to return the Seized Cash: (a) the argument that Old GM may owe Chartis significant sums under the "Insurance Program" referenced in the Proofs of Claim; (b) the argument that Old GM may owe Chartis up to $5 million in connection with the "Bristol" matter discussed in Exhibit B to the Proofs of Claim, and (c) the argument that Old GM may owe Chartis up to $1 million in connection with the "Renick Cadillac" settlement mentioned in Exhibit A to the Proofs of Claim.

As discussed below, these arguments provide no basis for Chartis's refusal to return the Seized Cash. At a minimum, the Insurance Program – which is Chartis's sole arguable basis for retaining at least $14.5 million of the Seized Cash – cannot possibly yield further claims against Old GM. Indeed, the only claims that Chartis might speculate could potentially arise out of the Insurance Program would be (1) time-barred, in that they could only be based on claims-made insurance policies that have now expired; (2) enjoined by Court order, because the Bankruptcy Court overseeing Old GM's bankruptcy has resolved substantially all of them under the Environmental Response Trust Consent Decree and Settlement Agreement (the "Environmental Response Trust"); and (3) expressly released in writing, because at Chartis's specific request (and at considerable expense), Old GM has obtained releases from each of the state agencies that could potentially assert demands covered by the Insurance Program, again with the exception of McCook. Moreover, the McCook policy, under which any claims had to have been asserted by April 1, 2011, had a coverage limit of only $612,204. Given these facts, Chartis's seizure and retention of Old GM's cash as a supposed protection against purely hypothetical liabilities that would be time-barred, resolved under the Environmental Response Trust *and* expressly released is not merely bad faith – it is outrageous.

Chartis Has No Right To Hold the Seized Cash To Collateralize Non-Existent Insurance Program Obligations

Chartis obtained the Seized Cash from Old GM as collateral in connection with the Insurance Program and "Old GM Insurance Agreements" described in the Assumption and Collateralization Agreements attached to this letter as Exhibit 1. By March 1, 2011, Chartis no longer had a good faith basis for keeping Old GM's cash, and Old GM requested its return. Instead, on or about March 3, 2011, Chartis seized Old GM's cash, which it could not plausibly claim it was merely holding in escrow, and thereby violated the Automatic Stay as well as the Bankruptcy Court's March 29, 2011 Confirmation Order continuing the Automatic Stay. *See* Confirmation Order, Docket No. 9941. Every other insurer or surety returned Old GM's collateral upon request in circumstances similar to those of Chartis; Chartis, and only Chartis, refused.

Since March 2011, Old GM has made several further requests for the return of its Seized Cash, and it has attempted to reach a negotiated resolution with Chartis, both with and without the assistance of counsel. Unfortunately, Chartis has responded by resorting to

obviously flawed arguments and delaying tactics, such as demanding release letters for merely potential claims that, as of April 1, 2011, would have been both time-barred and not assertable against Old GM or Chartis because they had been resolved pursuant to the Environmental Response Trust. As a result, Chartis has now refused to return Old GM's Seized Cash for more than five months without providing any plausible justification for doing so.

Chartis has no right to continue to hold the Seized Cash: the Old GM Insurance Agreements provide no authorization whatsoever for Chartis to keep Old GM's assets as collateral for claims against it that Chartis knows can never be made. Chartis has identified only the following insurance policies (the "Identified Policies") as yielding potential obligations that Old GM might be required to reimburse:

Policy Type	Insurer	Policy Number	Policy Limit and Collateral
Pollution	Chartis Specialty Insurance Co.	7146277	$8,000,000
Storage Tanks	Chartis Specialty Insurance Co.	7146278	$2,000,000
Hazardous waste (Ohio Closure/ Post Closure)	Chartis Specialty Insurance Co.	7146282	$5,822,539
Hazardous Waste (Michigan Corrective Action)	Chartis Specialty Insurance Co.	7146281	$3,839,721
Hazardous Waste (New Jersey Closure)	Lexington Insurance Co.	7146280	$297,022
Hazardous Waste (Illinois Closure)	Lexington Insurance Co.	7146279	$612,204

However, all of the foregoing insurance policies have expired and, except for Policy No. 7146281, no covered claims could be asserted under them after April 1, 2011. Further, although the claims period for Policy No. 7146281 did not expire until September 1, 2011, Old GM cancelled that Policy on March 31, 2011. [*See* Exhibit 2]. Consequently, no new claims against Old GM or Chartis can properly be asserted under the Identified Policies that Chartis has used as a pretext for its improper retention of the Seized Cash – any such claims would be time-barred.

Also, claims under the Identified Policies have been resolved by the Bankruptcy Court order approving the Environmental Response Trust. As Decretal Paragraph 7 of Old GM's Confirmation Order states:

> The establishment and funding of the Environmental Response Trust and the transfer of the Environmental Response Trust Assets to the Environmental Response Trust or any entity formed by the Environmental Response Trust Administrative Trustee ***shall be in full settlement and satisfaction of all present and future civil environmental liabilities or obligations of the Debtors to the Governmental Authorities,*** other than the claims and rights reserved ....

See Confirmation Order at pp. 19-21 (emphasis added). The Environmental Response Trust settlement resolved any potential claims by governmental authorities with respect to all of the sites covered by the Identified Policies except for the site at McCook, Illinois.

In addition to being time-barred and resolved by Court order, any potential claims that might be asserted in the future under the Identified Policies have been released. At Chartis's request – and after engaging in months of effort and expending significant resources – Old GM has obtained signed releases from all but one of the governmental authorities that alone could assert claims covered by the Identified Policies. The exception relates only to the Illinois authorities who have not yet provided a signed release for the McCook site but have indicated their willingness to do so. Further, as noted above, the Identified Policy that relates to McCook plainly cannot justify Chartis's retention of $20.5 million in Seized Cash – the policy limit is only $612,204.

Given these facts, Chartis's continued retention of the Seized Cash is a clear violation of the Bankruptcy Court's Confirmation Order and of the Automatic Stay that Order incorporates and extends. Section 10.4 of Old GM's confirmed Second Amended Joint Chapter 11 Plan (the "Plan") provides that the Automatic Stay remains in full force and effect until the closing of the Bankruptcy Case, and Section 10.7 of the Plan enjoins all parties in interest from taking any action to interfere with implementation or consummation of the Plan – such as seizing and refusing to return $20.5 million. Further, the Plan's provisions are made binding on claimants such as Chartis by Decretal Paragraph 5 of the Bankruptcy Court's Confirmation Order. Chartis's unjustified seizure and retention of $20.5 million of Old GM's cash is therefore a clear violation of these provisions of the Plan, for which Old GM, if necessary, will seek appropriate remedies.

Chartis Has No Right To Hold the Seized Cash To Collateralize Its Claimed Subrogation Rights Relating to the Bristol Claim

Despite the fact that it cannot lawfully retain any part of the Seized Cash to collateralize obligations under Old GM's Insurance Program (for the reasons discussed above), Chartis maintains that it has the right to retain approximately $5 million of the Seized Cash to pay sums that Old GM allegedly owes to Chartis in connection with the Bristol matter described in Exhibit B to Chartis's Proofs of Claim (the "Bristol Claim"). According to Chartis, Bristol Center LLC ("Bristol") is the current owner of environmentally contaminated Connecticut real

estate that formerly belonged to Old GM. *See* Chartis Proofs of Claim, Exhibit B. When Old GM could no longer pay the costs of environmental remediation, the State of Connecticut held Bristol responsible, and Bristol turned to its insurer, which happened to be Chartis. Chartis asserts that it has been paying for Bristol's remediation efforts and will presumably continue to do so until it exhausts the full $5 million in coverage and is therefore subrogated to Bristol's right to demand reimbursement from Old GM. In other words, Chartis's $5 million Bristol Claim does not arise out of the Insurance Program, the Identified Polices, or any other insurance policy that Chartis issued to Old GM – it arises entirely from Chartis's policy with an unrelated third party, Bristol. *See* Chartis Proofs of Claim, Exhibit B.

Nevertheless, Chartis has asserted that it is entitled to use the Seized Cash to reimburse itself for its Bristol Claim under the Old GM-Chartis Payment Agreement (included herewith as Exhibit 3, the "Payment Agreement"), which states, in what Chartis has identified as relevant part:

> If default occurs, we may take reasonable and appropriate steps that are necessary to protect our interest. We will exercise good faith consistent with usual and customary commercial and credit practice in selecting and exercising such steps. We may take steps such as the following:
>
> 1. We may declare the entire unpaid amount of Your Payment Obligation immediately due and payable.
> 2. We may change any or all unexpired Policies....
> 3. We may draw upon, liquidate, or take ownership of any or all collateral we hold regardless of the form, and hold or apply such amounts to any of Your Payment Obligation under this Agreement or any other premium, surcharge or deductible financing agreement between You and us, or under any Policies. However, we will not draw upon, liquidate, or take ownership of more collateral than is reasonably necessary to protect our interest.
> 4. We may require You to deliver to us additional collateral....
> 5. We may cancel any or all unexpired Policies....
> 6. We may withhold payment of claims to You....
> 7. We may satisfy Your obligations to us in whole or in part by set-off against any moneys, securities, collateral, consideration or property of Yours received by, pledged to, held by or otherwise available to us in connection with Your Payment Obligation. You authorize us after any default to charge any account that You maintain with us in connection with Your Payment Obligation in order to satisfy any of Your obligations.

Payment Agreement at p. 8.

The Payment Agreement defines "Your Payment Obligation" as: "the amounts that you must pay us for the insurance and services in accordance with the terms of the Policies, this

Agreement, and any similar primary casualty insurance policies and agreements with us incurred before the inception date hereof." Payment Agreement at p. 4.

Chartis has maintained that it is entitled to retain a portion of the Seized Cash because the seventh numbered default remedy quoted above (the "Setoff Remedy") allows Chartis to "satisfy Your obligations to us in whole or in part by set-off against any monies, securities, collateral, consideration or property of Yours received by, pledged to, held by or otherwise available to us in connection with Your Payment Obligation." For at least four reasons, however, the Setoff Remedy does not justify Chartis in retaining the Seized Cash to satisfy its Bristol Claim.

First, Chartis has no right to exercise the Setoff Remedy because it is available only "[i]f default occurs." Chartis has acknowledged to us that, notwithstanding contrary statements in its Response to Old GM's initial objection to its Proofs of Claim, Old GM was not in default on any financial or other affirmative obligations to Chartis as of Old GM's bankruptcy filing. Further, Chartis's Response identifies only $41,956 in alleged monetary defaults in connection with the Insurance Program, which would limit Chartis's remedies to retaining only $41,956 of the Seized Cash. In addition, Chartis cannot claim to be entitled to exercise default remedies due to Old GM's bankruptcy filing, because the Insurance Program, consisting of various inter-related agreements, is clearly an executory contract and 11 U.S.C. § 365(b)(2) prohibits Chartis from treating Old GM as in default based solely on its bankruptcy filing.

Second, the Payment Agreement specifies that the Setoff Remedy can be used only with respect to Old GM's property that has been "received by, pledged to, held by or otherwise available to us in connection with Your Payment Obligation." It appears, however, that Old GM's collateral could only have been legally held, under the Assumption and Collateralization Agreements, in a specified trust. Chartis has provided no evidence to show that the Seized Cash is legally or properly held by Chartis rather than by a trust or escrow agent, and it has failed to show that any agreements pledging the Seized Cash or making it available to Chartis would make it available to pay the Bristol claim. Consequently, Chartis has no right to use the Seized Cash for any Setoff Remedy.

Third, it is well established that a subrogee stands in the shoes of the subrogor and can have no greater rights than the subrogor. Yet Chartis appears to maintain that it can avail itself of Old GM's collateral to convert Bristol's unsecured claim against Old GM into a secured claim against Old GM. Chartis has offered no legal support for this novel theory, and it is contrary to black letter law.

Fourth, the Payment Agreement does not give Chartis the right to use Old GM's collateral to pay the Bristol Claim or any other claim that Chartis may assert against Old GM by right of subrogation. The Payment Agreement makes Old GM liable for its "Payment Obligation," but the Agreement's definition of that term, which is quoted above, limits it to specified

financial obligations arising out of the Insurance Program. The Bristol Claim, therefore, is not part of Old GM's Payment Obligation to Chartis.

The Bristol Claim also does not fall within the scope of the undefined term "obligations to us" that Chartis employs in describing the Setoff Remedy. In context, the natural reading of "obligations to us" is to refer to obligations in connection with the Insurance Program, not unrelated obligations owed for other reasons. Also, "obligations to us" naturally refers only to direct obligations to "us" – *i.e.*, Chartis – and not to indirect obligations to parties other than Chartis who, like Bristol, just happen to be insured by Chartis. Indeed, if the Setoff Remedy were intended to cover every conceivable debt that Old GM might owe to Chartis for any reason, it would allow Chartis to buy other parties' claims and secure or satisfy them with Old GM's collateral at the rate of one hundred cents on the dollar. In addition, if the parties had truly intended to give Chartis the right to use Old GM's collateral to satisfy debts unrelated to the Insurance Program, they would not have limited that right to be effective only upon default.

Equally important, other provisions of the Payment Agreement preclude any reading of "obligations to us" that might cover the Bristol Claim. The Payment Agreement specifies that Old GM "must deliver collateral acceptable to us to secure Your Payment Obligation," adding that Chartis "may apply any collateral we hold in connection with this or any other similar primary casualty insurance policies or agreements to Your Payment Obligation." Payment Agreement at p. 6. This language implies that Chartis will "apply any collateral" only to Old GM's Payment Obligation and not to unrelated obligations arising out of Chartis's business dealings with third parties.

Moreover, the next paragraph eliminates any ambiguity by expressly limiting use of Old GM's collateral to its Payment Obligations. It states that "You grant us a possessory security interest in any property You deliver to us to secure Your Payment Obligation" and "direct us to hold ***all such sums as collateral for Your Payment Obligation*** as they (sic) may be payable now or may become payable in the future." (Emphasis added.) Payment Agreement at p. 6. Because the Payment Agreement directs Chartis to use ***all*** of Old GM's collateral for its Payment Obligation, Chartis has no right to use that collateral for any other obligations such as the Bristol Claim.

The Payments Agreement's specific restriction on Chartis's use of Old GM's collateral trumps any potential reading of the vague and undefined term "obligations to us" that might allow Chartis to apply the Seized Cash to the Bristol Claim. This is especially true given that the Payment Agreement must be construed against Chartis as its drafter, and that the phrase "obligations to us" is tucked away as the ambiguous seventh numbered item in a list of default remedies. Further, there is every reason to believe that, if Chartis were to convince a Court that the phrase "obligations to us" is ambiguous, and if the parties were to conduct discovery concerning its meaning as a result, the result would be the same: Old GM could not reason-

ably have understood or intended that Chartis would use its Setoff Remedy as a reason to seize Old GM's collateral and apply it to a subrogation claim unrelated to its Payment Obligation. The Seized Cash must be returned.

Chartis Has No Right To Hold the Seized Cash To Collateralize Its Claimed Subrogation Rights Relating to the Renick Claim

Chartis's claim based on the Renick Cadillac matter (the "Renick Claim") provides even less justification for retaining even less of the Seized Cash than the Bristol Claim. Like the $5 million Bristol Claim, the $1 million Renick Claim arises from a right to subrogation that Chartis asserts it has based on an insurance policy it issued to a party other than Old GM. Chartis's Proofs of Claim describe the Renick Claim in full as follows:

> Renick Cadillac, Inc., Granite State Insurance Company, Policy #02 LX 003234283-2/000 (Commercial Garage Policy), Deutsch v. Renick Cadillac, Inc., et al., No. BC389150, Superior Court, Los Angeles County, California.
>
> Lexington has paid $1,000,000.00 in connection with settlement of the foregoing matter. Pursuant to its Proof of Claim, Lexington claims from the Debtor the amount of $1,000,000.00, plus any costs, including defense fees, paid by Lexington and/or any of its subsidiary, affiliate, and/or member companies in connection with the settlement of the foregoing matter, pursuant to the Debtor's indemnification obligations to the Insured Dealer.

As this description indicates, Chartis's Renick Claim seeks reimbursement from Old GM for sums that Chartis's affiliate Lexington paid to or on behalf of Renick Cadillac pursuant to an insurance policy issued to Renick, not Old GM. Like the Bristol Claim, the Renick Claim is a subrogation claim asserting rights that have no relationship to Old GM's Insurance Program. As a result, all of the reasons why Chartis cannot use the Seized Cash to satisfy the Bristol Claim apply equally to the Renick Claim. Moreover, Chartis has not provided, and Old GM has been unable to locate, any proof that Old GM actually owes any "indemnification obligations to the Insured Dealer." Consequently, Chartis has no right to retain any of the Seized Cash to satisfy or collateralize its Renick Claim.

Conclusion

For all of the foregoing reasons, among others, Chartis must return the Seized Cash by September 30, 2011. Neither Old GM's Insurance Program, nor Chartis's Bristol and Renick Claims, provide any genuine grounds for retaining $20.5 million of Old GM's money. Chartis has held the Seized Cash, with no good faith justification, for far too long. It has done so, moreover, in violation of the Bankruptcy Court's Confirmation Order and the Automatic Stay.

Please contact us immediately to discuss the return of Old GM's Seized Cash so that the parties can avoid any further costs or delays for which, as indicated above, Old GM reserves the right to hold Chartis accountable.

Very truly yours,

TOGUT, SEGAL & SEGAL LLP
By:

Richard K. Milin

RKM/lw, cj

cc: Michelle Leavitt, Esq.
Mr. Tom Morrow
Scott E. Ratner, Esq.

TOGUT, SEGAL & SEGAL LLP
One Penn Plaza, Suite 3335
New York, New York 10119
(212) 594-5000
Scott E. Ratner
Richard K. Milin

Conflicts Counsel to the Reorganized Debtors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

ORDER CONCERNING CHARTIS SPECIALTY INSURANCE COMPANY AND PROOF OF CLAIM NUMBER 71242

Upon consideration of: (i) the 110th Omnibus Objection to Claims filed on December 3, 2010 (Docket No. 8000); (ii) the Response to the Claim Objection by Chartis U.S. (**"Chartis"**), dated March 4, 2011 (Docket No. 9601); (iii) the Reorganized Debtors' (1) Supplemental Claim Objection and (2) Motion To Enforce the Plan Injunction and Automatic Stay and To Enjoin Chartis U.S. From Continuing To Retain More Than $20 Million It Improperly Seized from the Reorganized Debtors, dated October 6, 2011 (Docket No. 11019); (iv) the Stipulation and Agreed Order Approving a Partial Resolution of Certain Claims Asserted Against the Reorganized Debtors by Chartis Specialty Insurance Company and Lexington Insurance Company, dated November 7, 2011 (Docket No. 11119); (v) Proof of Claim No. 71242 filed by Chartis Specialty Insurance Company, f/k/a American International Specialty Lines Insurance Company, Lexington Insurance Company, and any other entities related to Chartis Inc. that have an interest in the subject matter thereof, dated November 9, 2011 (the "**Amended Claim**"); (vi) the Reorganized Debtors' Amended Supplemental Objection

to Proof of Claim Number 71242 Asserted by Chartis Specialty Insurance Company on the Ground that the Claim Is Not Properly Secured by a Valid Right of Setoff, dated November 17, 2011 (the "**Amended Objection**"); (vii) the response to the Amended Objection filed by Chartis (the "**Chartis Response**"); (vii) the reply to the Chartis Response filed by the Reorganized Debtors (the "**Reply**"); and the relief requested by the Amended Objection 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 Amended Objection having been provided; and a status conference having been conducted by this Court; and a subsequent hearing having been held to consider the relief requested in the Amended Objection (the **"Hearing"**); and upon consideration of: (i) the Amended Claim; (ii) the Amended Objection; (iii) the Chartis Response; (iv) the Reply; and (v) the pleadings submitted by the parties in support or opposition to the relief sought therein and upon the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Amended Objection is in the best interests of the Reorganized Debtors, their estates, creditors, and all parties in interest and that the legal and factual bases set forth in the Amended Objection establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefore, it is:

ORDERED, that Proof of Claim No. 71242 filed by Chartis Specialty Insurance Company, f/k/a American International Specialty Lines Insurance Company, Lexington Insurance Company, and any other entities related to Chartis Inc. that have an interest in the subject matter thereof, is reclassified and Allowed as a General Unsecured Claim (as defined in the Debtors' Second Amended Joint Chapter 11 Plan (Docket No. 9836)) in the amount of $4,500,000; and it is further

ORDERED, that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York
January __, 2012

_____
HONORABLE ROBERT E. GERBER
UNITED STATES BANKRUPTCY JUDGE

Status Conference: **November 22, 2011 at 9:45 a.m.**
Hearing Date and Time: **January 18, 2012 at 9:45 a.m.**
Response Deadline: **December 1, 2011 at 4:00 p.m.**
Reply Deadline: **December 22, 2011 at 4:00 p.m.**

TOGUT SEGAL & SEGAL LLP
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Conflicts Counsel to the Reorganized Debtors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

NOTICE OF HEARING ON REORGANIZED DEBTORS' AMENDED SUPPLEMENTAL OBJECTION TO PROOF OF CLAIM NUMBER 71242 ASSERTED BY CHARTIS SPECIALTY INSURANCE COMPANY ON THE GROUND THAT THE CLAIM IS NOT PROPERLY SECURED BY A VALID RIGHT OF SETOFF

[CLAIM NO. 71242]

PLEASE TAKE NOTICE THAT a hearing will be held before the Honorable Robert E. Gerber, United States Bankruptcy Judge, on **January 18, 2012 at 9:45 a.m.** (the **"Hearing"**) in Room 621 of the United States Bankruptcy Court for the Southern District of New York ("**Bankruptcy Court**"), One Bowling Green, New York, New York 10004-1408, or as soon thereafter as counsel can be heard, to consider the Reorganized Debtors' Amended Supplemental Objection to Proof of Claim Number 71242 Asserted by Chartis Specialty Insurance Company on the Ground that the Claim Is Not Properly Secured by a Valid Right of Setoff (the "**Amended Objection**").

PLEASE TAKE FURTHER NOTICE that, prior to the Hearing, a status

conference will be held in connection with the Amended Objection before the Honorable Robert E. Gerber, United States Bankruptcy Judge, on **November 22, 2011 at 9:45 a.m.** in Room 621 of the Bankruptcy Court, One Bowling Green, New York, New York 10004-1408.

PLEASE TAKE FURTHER NOTICE that responses, if any, to the Amended Objection must: (a) be made in writing, stating in detail the reasons therefore; (b) comply with the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York; (c) be filed with the Bankruptcy Court in accordance with General Order M-399 (i) electronically by registered users of the Bankruptcy Court's case filing system, or (ii) on a 3.5 inch disk (preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format) by all other parties in interest (d) be delivered in hard copy form to the chambers of the Honorable Robert E. Gerber, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Room 621, New York, New York 10004; and (e) be served upon: (i) Togut, Segal & Segal LLP, conflicts counsel for the Reorganized Debtors, One Penn Plaza, Suite 3335, New York, New York 10119 (Attn: Scott E. Ratner, Esq.); (ii) Dickstein Shapiro, LLP, attorney for the GUC Trust, 1633 Broadway, New York, New York 10019-6708 (Attn: Barry N. Seidel, Esq., and Stefanie Birbower Greer, Esq.); (iii) the Reorganized Debtors, c/o Motors Liquidation Company, 401 South Old Woodward Avenue, Suite 370, Birmingham, Michigan 48009 (Attn: Thomas Morrow); (iv) General Motors, LLC, 400 Renaissance Center, Detroit, Michigan 48265 (Attn: Lawrence S. Buonomo, Esq.); (v) Cadwalader, Wickersham & Taft LLP, attorneys for the United States Department of the Treasury, One World Financial Center, New York, New York 10281 (Attn: John J. Rapisardi, Esq.); (vi) the United States Department of the

Treasury, 1500 Pennsylvania Avenue NW, Room 2312, Washington, D.C. 20220 (Attn: Joseph Samarias, Esq.); (vii) Vedder Price, P.C., attorneys for Export Development Canada, 1633 Broadway, 47th Floor, New York, New York 10019 (Attn: Michael J. Edelman, Esq. and Michael L. Schein, Esq.); (viii) Kramer Levin Naftalis & Frankel LLP, attorneys for the statutory committee of unsecured creditors, 1177 Avenue of the Americas, New York, New York 10036 (Attn: Thomas Moers Mayer, Esq., Robert Schmidt, Esq., Lauren Macksoud, Esq., and Jennifer Sharret, Esq.); (ix) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Tracy Hope Davis, Esq.); (x) the U.S. Attorney's Office, S.D.N.Y., 86 Chambers Street, Third Floor, New York, New York 10007 (Attn: David S. Jones, Esq. and Natalie Kuehler, Esq.); (xi) Caplin & Drysdale, Chartered, attorneys for the official committee of unsecured creditors holding asbestos-related claims, 375 Park Avenue, 35th Floor, New York, New York 10152-3500 (Attn: Elihu Inselbuch, Esq. and Rita C. Tobin, Esq.) and One Thomas Circle, N.W., Suite 1100, Washington, DC 20005 (Attn: Trevor W. Swett III, Esq. and Kevin C. Maclay, Esq.); (xii) Stutzman, Bromberg, Esserman & Plifka, A Professional Corporation, attorneys for Dean M. Trafelet in his capacity as the legal representative for future asbestos personal injury claimants, 2323 Bryan Street, Suite 2200, Dallas, Texas 75201 (Attn: Sander L. Esserman, Esq. and Robert T. Brousseau, Esq.); (xiii) Gibson, Dunn & Crutcher LLP, attorney for Wilmington Trust Company as GUC Trust Administrator and for Wilmington Trust Company as Avoidance Action Trust Administrator, 200 Park Avenue, 47th Floor, New York, New York 10166 (Attn: Keith Martorana, Esq.); (xiv) FTI Consulting, as the GUC Trust Monitor and as the Avoidance Action Trust Monitor, One Atlantic Center, 1201 West Peachtree Street, Suite 500, Atlanta, Georgia 30309 (Attn: Anna Phillips); (xv) Crowell & Moring LLP, attorneys for the Revitalizing Auto

Communities Environmental Response Trust, 590 Madison Avenue, 19th Floor, New York, New York 10022-2524 (Attn: Michael V. Blumenthal, Esq.); and (xvi) Kirk P. Watson, Esq., as the Asbestos Trust Administrator, 2301 Woodlawn Boulevard, Austin, Texas 78703, so as to be received no later than **4:00 p.m. (Eastern Time) on December 1, 2011** (the "**Response Deadline**").

PLEASE TAKE FURTHER NOTICE that only responses made in writing and timely filed and received by the Response Deadline will be considered by the Bankruptcy Court at the Hearing and that if no responses to the Amended Objection are timely filed and served in accordance with the procedures set forth herein, the Bankruptcy Court may enter an order granting the relief requested in the Amended Objection without further notice.

Dated: New York, New York
November 17, 2011

TOGUT, SEGAL & SEGAL LLP
By:

/s/ Richard K. Milin
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Debtors Motors Liquidation Company, *et al.*