Hearing Date and Time: March 2, 2010 at 11:00 a.m. (Eastern Time)
Objection Date and Time: February 25, 2010 at 4:00 p.m. (Eastern Time)

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

NOTICE OF GENERAL MOTORS LLC'S MOTION (I) FOR DECLARATORY RELIEF REGARDING THE STATUS OF A CERTAIN SUBLEASE OR, IN THE ALTERNATIVE, RELIEF FROM THE ASSUMPTION AND ASSIGNMENT OF A CERTAIN SUBLEASE TO GM PURSUANT TO RULE 60(b) AND (II) TO RESCIND THE AGREEMENT TO RESOLVE OBJECTION TO CURE NOTICE BETWEEN GM AND KNOWLEDGE LEARNING CORPORATION DATED AUGUST 14, 2009

PLEASE TAKE NOTICE THAT:

Upon the annexed motion, dated January 28, 2010, General Motors LLC ("**GM**"), filed its Motion (I) for Declaratory Relief Regarding the Status of a Certain Sublease or, in the Alternative, Relief from the Assumption and Assignment of a Certain Sublease to GM Pursuant to Rule 60(b) and (II) to Rescind the Agreement to Resolve Objection to Cure Notice Between GM and Knowledge Learning Corporation Dated August 14, 2009 (the "**Motion**").

The Motion seeks an order from the Court determining that a certain sublease relating to real property between Knowledge Learning Corporation and the Debtors was not assumed by the Debtors and assigned to GM. Alternatively, if the Court determines that the sublease was assumed by the Debtors and assigned to GM, GM requests relief from such assignment under Federal Rule of Civil Procedure 60, as incorporated by Federal Rule of Bankruptcy Procedure 9024. In conjunction with these requests for relief, GM moves that the Court rescind the related cure settlement agreement between GM and KLC on the basis of mutual mistake of fact. A hearing on the Motion will be held before the Honorable Robert E. Gerber, United States Bankruptcy Judge, Room 621 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004, on **March 2, 2010 at 11:00 a.m. (Eastern Time)**, or as soon thereafter as counsel may be heard.

A copy of the Motion may be obtained by (a) contacting the attorneys for GM, Honigman Miller Schwartz and Cohn LLP, 660 Woodward Avenue, 2290 First National Building, Detroit, Michigan 48226 (Attn. Robert B. Weiss, Esq. and Joseph R. Sgroi, Esq.), Telephone: (313) 465-7000; (b) accessing the Court's website at http://www.nysb.uscourts.gov (please note that a PACER password is needed to access documents on the Court's website); (c) viewing the docket of these cases at the Clerk of the Court, United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004; or (d) accessing the public website maintained by the Debtors' court-appointed claims and noticing agent in these cases at: **www.motorsliquidationdocket.com**

The deadline to file any objections and responses to the Motion is **February 25, 2010** at **4:00 p.m. (Eastern Time)** (the "**Objection Deadline**").

Objections and responses, if any, to the Motion must be in writing and must (a) conform to the Bankruptcy Rules, the Local Rules of the Bankruptcy Court for the Southern District of New York, and any case management orders in these chapter 11 cases, (b) set forth the name of the objecting party, the nature and amount of claims or interests held or asserted by the objecting party against the Debtors' estates or property, and (c) set forth the basis for the objection and the specific grounds therefore.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, and shall be filed with the Bankruptcy Court (a) electronically in accordance with General Order M-242 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court's filing system, and (b) by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with hard copy delivered directly to Chambers), in accordance with General Order M-182 (which can be found at www.nysb.uscourts.gov), and served in accordance with General Order M-242, and on (i) Honigman Miller Schwartz and Cohn LLP, Attn: Robert B. Weiss and Joseph R. Sgroi, 660 Woodward Avenue, 2290 First National Building, Detroit Michigan 48226; (ii) General Motors LLC, 300 Renaissance Center, Detroit, Michigan 48226 (Attn: Lawrence S. Buonomo, Esq.); (iii) the Debtors, Motors Liquidation Company f/k/a General Motors Corp. et al., AlixPartners, LLP, 2000 Town Center, Suite 2400, Southfield, Michigan 48075 (Attn: Michelle Smith) and Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Evan S. Lederman, Esq.); (iv) 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.); (v) the United States Department of the Treasury, 1500 Pennsylvania Avenue, NW, Room 2312, Washington. D.C. 20020, (Attn: Matthew Feldman, Esq.); (vi) Vedder Price, attorneys for Export Development Canada, 1633 Broadway, 47th Floor, New York, New York 10019 (Attn: Michael J. Edelman, Esq. and Michael L. Schein, Esq.); (vii) Kramer Levin Naftalis & Frankel LLP, attorneys for the Committee of Unsecured Creditors, 1177 Avenue of the Americas, New York, New York 10036 (Attn: Kenneth H. Eckstein, Esq., Thomas Moers Mayer, Esq., Adam C. Rogoff, Esq., and Gordon Z. Novod, Esq.); (viii) the attorneys for the International Union, United Automobile, Aerospace and Agriculture Implement Workers of America ("**UAW**"), 8000 East Jefferson Avenue, Detroit, Michigan 48214 (Attn: Daniel W. Sherrick, Esq.); (ix) Cleary Gottlieb Steen & Hamilton LLP, attorneys for the UAW, One Liberty Plaza, New York, New York 10006 (Attn: James L. Bromley, Esq.); (x) Cohen, Weiss and Simon LLP, attorneys for the UAW, 330 W. 42nd Street, New York, New York 10036 (Attn: Babette Ceccotti, Esq.); (xi) the Office of the United States Trustee for the Southern District of New York (Attn: Diana G. Adams, Esq.), 33 Whitehall Street, 21st Floor, New York, New York 10004; (xii) Knowledge Learning Corporation, 650 NE Holladay Street, Portland, OR 97232 (Attn: Darrell Lyons); (xiii) KinderCare Learning Centers, Inc., 650 NE Holladay Street, Portland, OR 97232 (Attn: Real Estate Assets); (xiv) Bradley Arant Boult Cummings LLP, attorneys for Knowledge Learning Corporation, 1600 Division Street, Suite 700, P.O. Box 340025, Nashville, TN 37203 (Attn: Austin L. McMullen); and (xv) 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 Matthew L. Schwartz, Esq.), so as to be **received** no later than the **Objection Deadline.**

PLEASE TAKE FURTHER NOTICE that objecting parties are required to attend the Hearing. Failure to appear at the Hearing may result in relief being granted or denied upon default.

HONIGMAN MILLER SCHWARTZ AND COHN LLP
Counsel for General Motors LLC

Dated: January 28, 2010

By: /s/ Joseph R. Sgroi
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In Re	:	Chapter 11
MOTORS LIQUIDATION COMPANY (f/k/a General Motors Corp.), et al.,	:	Case No. 09-50026 (REG) (Jointly Administered)
Debtors.	:	Hon. Robert E. Gerber

GENERAL MOTORS LLC'S MOTION (I) FOR DECLARATORY RELIEF REGARDING THE STATUS OF A CERTAIN SUBLEASE OR, IN THE ALTERNATIVE, RELIEF FROM THE ASSUMPTION AND ASSIGNMENT OF A CERTAIN SUBLEASE TO GM PURSUANT TO RULE 60(b) AND (II) TO RESCIND THE AGREEMENT TO RESOLVE OBJECTION TO CURE NOTICE BETWEEN GM AND KNOWLEDGE LEARNING CORPORATION DATED AUGUST 14, 2009

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TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

General Motors LLC ("**GM**"),[1] for its Motion (I) for Declaratory Relief Regarding the Status of a Certain Sublease or, in the Alternative, Relief from the Assumption and Assignment of a Certain Sublease to GM Pursuant to Rule 60(b) and (II) to Rescind the Agreement to Resolve Objection to Cure Notice Between GM and Knowledge Learning Corporation Dated August 14, 2009 (the "**Motion**"), respectfully represents:

INTRODUCTION

In connection with the sale to GM of substantially all of the assets of Motors Liquidation Company f/k/a General Motors Corporation ("**MLC**"), GM designated a fleet purchase agreement between the Debtors and Knowledge Learning Corporation ("**KLC**") for assumption and assignment. The Debtors assumed and assigned the fleet purchase agreement to GM on or about July 10, 2009. GM subsequently designated a sublease between the Debtors and KLC as rejectable by the Debtors, and the Debtors moved to reject the sublease. KLC recently filed an objection to the Debtors' motion to reject the sublease, claiming that the Debtors assumed and assigned the sublease to GM instead of the fleet purchase agreement.

Under the assumption and assignment procedures approved by the Court, the Debtors did not assume and assign the sublease to GM. GM files this Motion seeking an order from the Court determining that only the fleet purchase agreement was assumed by the Debtors and assigned to GM. Alternatively, if the Court determines that the sublease was assumed and

[1] General Motors Company (formerly NGMCO, Inc.) was the successor-in-interest to Vehicle Acquisition Holdings LLC, the purchaser of substantially all of MLC's assets pursuant to a sale consummated under section 363 of the Bankruptcy Code. Since the closing of the sale, General Motors Company has converted to a Delaware limited liability company and changed its name to General Motors LLC.

assigned to GM, GM requests relief from such assignment under Federal Rule of Civil Procedure 60 (as incorporated by Federal Rule of Bankruptcy Procedure 9024, "**Rule 60**"). In conjunction with these requests for relief, GM moves that the Court rescind the related cure settlement agreement between GM and KLC on the basis of mutual mistake of fact.

JURISDICTION AND VENUE

1. The action for declaratory relief is made pursuant to 28 U.S.C. § 2201 and Rule 57 of the Federal Rules of Civil Procedure (the "**Federal Rules**").[2] The alternative action for relief from the assumption and assignment is made pursuant to Rule 60.

2. This Court has jurisdiction to consider this matter under 28 U.S.C. §§ 157 and 1334.

3. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. § 1409.[3]

BACKGROUND

The Contracts between the Debtors and KLC

4. Prior to the Petition Date (defined below), KLC operated a child care and learning facility that provided subsidized child care services to the unionized workforce at Saturn's

[2] GM's action for declaratory relief relating to the alleged assumption and assignment of the Sublease (as defined below) is not one of the enumerated causes of action required to be brought as an adversary proceeding under Rule 7001 of the Federal Rules of Bankruptcy Procedure.

[3] The Court expressly retained jurisdiction to resolve this action in paragraph 15 of Sale Procedures Order (as defined below) and paragraph 71 of the Sale Order (as defined below).

Spring Hill manufacturing operation. KLC subleased property from Saturn, LLC under an Amended and Restated Sublease Agreement (the "**Sublease**").[4]

5. Additionally, MLC and KLC were parties to a 2010 Model Year Competitive Assistance Program Agreement (the "**CAP Agreement**"). Subject to certain conditions, the CAP Agreement provides that KLC will receive discounts on GM-brand vehicles during the 2010 model year. A copy of the CAP Agreement is attached as Exhibit 1.

The GM Sale Procedures

6. On June 1, 2009 (the "**Petition Date**"), MLC, 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 "**Debtors**") filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

7. On June 2, 2009, the Court entered its Order (I) Approving Procedures for Sale of Debtors' Assets Pursuant to the Master Sale and Purchase Agreement with Vehicle Acquisition Holdings LLC, a U.S. Treasury-Sponsored Purchaser; (II) Scheduling Bid Deadline and Sale Hearing Date; (III) Establishing Assumption and Assignment Procedures and Fixing Notice Procedures; and (IV) Approving Form of Notice (Docket No. 274) (the "**Sale Procedure Order**"), which governed "all bids and sale procedures relating to the Purchased Assets."[5] Sale Procedure Order ¶ 3.

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[4] The primary lease is between the Industrial Development Board of Maury County, Tennessee and Saturn Corporation. Both the Sublease and the primary lease are voluminous, and are therefore not attached to this Motion. A copy of either document will be provided on request.

[5] Unless otherwise defined, capitalized terms have the meaning assigned in the Sale Procedures Order.

8. The Sale Procedures Order provided the exclusive procedures for the assumption and assignment of designated executory contracts and unexpired leases from the Debtors to the Purchaser (the "**Assumption and Assignment Procedures**"). Sale Procedures Order ¶ 10 (stating that the Assumption and Assignment Procedures "shall govern the assumption and assignment of the Assumable Executory Contracts in connection with the sale of the Purchased Assets to the Purchaser").

9. In connection with the Assumption and Assignment Procedures, the Debtors maintained a secure website (the "**Contract Website**") that listed each executory contract and unexpired lease that the Purchaser had designated as an Assumable Executory Contract. The applicable non-Debtor counterparty could access the Contract Website to view current information regarding the status of its contracts or leases with the Debtors and the proposed cure amount associated with such contracts or leases. *Id.*

10. As required by the Assumption and Assignment Procedures, the Debtors also maintained a separate schedule of Assumable Executory Contracts (the "**Schedule**"). *Id.* The Assumption and Assignment Procedures provide for the assumption and assignment of the Assumable Executory Contracts on the Schedule to the Purchaser as part of the contemplated sale of MLC's assets under section 363 of the Bankruptcy Code. *Id.* The Assumption and Assignment Procedures make no provision for the assumption and assignment of contracts or leases not listed on the Schedule. *See id.* (providing that, if the Purchaser removed a contract or lease from the Schedule, such contract or lease "shall cease to be an Assumable Executory Contract").

11. If the Purchaser designated a contract or lease as an Assumable Executory Contract, the Assumption and Assignment Procedures obligated the Debtors to notify applicable contract counterparties with "instructions for accessing the information on the Contract Website relating to such Non-Debtor Counterparty's Assumable Executory Contract and (ii) the procedures for objecting to the proposed assumption and assignment of the Assumable Executory Contract." *Id.* Contract counterparties had ten days from the date of the notice to file an objection to the assumption and assignment. *Id.*

Assumption of the CAP Agreement

12. The Debtors' Schedule and KLC's Contract Website listed the CAP Agreement as an Assumable Executory Contract.[6] Accordingly, on June 5, 2009, the Debtors sent KLC a notice of intent to assume the CAP Agreement (the "**Notice**"). The Notice was addressed to the KLC employee at the address identified by the CAP Agreement. A copy of the Notice is attached as Exhibit 2.

13. The Contract Website identified the CAP Agreement as an "Agreement" with GM Contract ID 2744, and provided a proposed cure amount of $0. *See* Schedule Listing for Contract 5716-00749080 and Contract Website Listing for Contract 5716-00749080 attached as

[6] As part of the sale process, the CAP Agreement and the Sublease were identified internally by their individual identification numbers. The CAP Agreement was contract 5716-00749080. The Sublease was contract 5716-00019334.

Exhibits 3 and 4, respectively.[7] In accordance with the Sale Procedures Order, the deadline to object to the assumption and assignment of the CAP Agreement was June 15, 2009.

14. On July 5, 2009, the Court approved the sale of substantially all of the Debtors' assets to GM in the Order (I) Authorizing Sale of Assets Pursuant to Amended and Restated Master Sale and Purchase Agreement; (II) Authorizing Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with the Sale; and (III) Granting Related Relief (Docket No. 2968) (the "**Sale Order**").

15. On July 7, 2009, KLC tardily filed an assumption and assignment objection (Docket No. 3030) (the "**First Objection**").[8] Incorrectly assuming that GM designated the Sublease for assumption and assignment, KLC objected to GM's proposed cure amount, asserting that the correct cure amount was $123,316.60. First Objection ¶¶ 3, 8. On information and belief, this represents the amounts owed under the Sublease.

16. Because KLC objected only to GM's proposed cure amount, and not to the assumption and assignment generally,[9] the Debtors were authorized by the Sale Procedures Order and the Sale Order to assume and assign the CAP Agreement to GM on the closing date.[10]

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[7] On or about August 2, 2009, as part of a larger effort to provide contract counterparties with additional detail regarding the contracts designated for assumption, GM modified the Contract Website by providing the name of the agreement on the Contract Website as "(CAP)" and further describing the agreement as "(One Model Year)."

[8] In the First Objection, KLC contends that its ability to object by the deadline was "materially impaired" because, while "the Debtors sent an Assumption Notice to KLC," the Cure Notice was not "addressed as required" under the Sublease. First Objection ¶ 6. The Cure Notice was sent to: Knowledge Learning Corporation, Darrell Lyons, 650 NE Holladay St., Portland, Oregon, 97232. This is the address provided on the header of the CAP Agreement—the agreement that the Debtors intended to assume and assign to GM.

[9] First Objection ¶ 8 ("KLC does not object to the assumption and assignment of the Agreement.").

[10] Sale Procedures Order and the Sale Order authorized the Debtors to assume and assign the contracts and leases listed on the Schedule that were subject to an outstanding objection, so long as that objection was limited to

On July 10, 2009, the sale closed and the Debtors assumed the CAP Agreement and assigned it to GM.

GM Elects to Negotiate a Cure Settlement with KLC

17. Notwithstanding KLC's failure to file a timely objection to the cure amount proposed by GM on the Contract Website, GM elected to reconcile the cure amount with KLC through its standard cure reconciliation process, and attempt to negotiate a consensual resolution to KLC's cure objection.

18. The GM Command Center in Warren, Michigan (the "**Command Center**") managed the assumption and assignment process and the cure dispute resolution process for GM. The Command Center assigned specific GM employees to manage, negotiate, and resolve many of the contract assumption and cure objections filed in the bankruptcy case. Because of the size and complexity of the transfer of contracts and leases from the Debtors to GM, the Command Center relied heavily on the negotiators to effectively manage the reconciliation of cure amounts and resolve contract assumption objections.

19. On July 23, 2009, in accordance with GM's standard cure reconciliation process, the GM negotiator assigned to KLC's objection provided KLC with a cure reconciliation template, and instructed KLC to explain their alleged cure amount in detail and provide the documentation supporting such cure amount. On July 24, 2009, KLC sent the GM negotiator the completed template, which listed a cure amount of $128,307.60. On information and belief, this represents the amounts owed under the Sublease.

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the amount needed to cure contract defaults under 11 U.S.C. § 365. *See* Sale Procedures Order ¶ 10; Sale Order ¶ 23.

20. Apparently proceeding on the false assumption that the Sublease was the contract designated for assumption,[11] the GM negotiator, after briefly investigating the veracity of documents submitted by KLC and the amounts owing under the Sublease, advised the Command Center that KLC was in fact owed a cure payment of $123,313. After further negotiations with KLC, the GM negotiator requested and received approval from the Command Center to increase this amount to $128,307.60.

21. On or about August 14, 2009, KLC executed GM's standard letter agreement resolving its cure objection (the "**Cure Agreement**"). The Cure Agreement provided, in pertinent part, that the executory contracts and unexpired leases that GM identified in the Notice would be assumed and assigned to GM, and that GM would pay $128,307.60 (the "**Cure Amount**") to KLC in satisfaction of its cure obligations. A copy of the Cure Agreement is attached as Exhibit 5.

The Sublease is Designated as a Rejectable Executory Contract

22. As of June 15, 2009, the Sublease was on a list of contracts that, pending final confirmation from GM, would be rejected by the Debtors. A redacted copy of the rejection schedule is attached as Exhibit 6.

23. On June 19, 2009, the GM employee responsible for determining whether to assume or reject the Sublease informed the real estate assumption and assignment team that the

[11] For reasons unrelated to this error, the negotiator is no longer employed by GM. Accordingly, her rationale for proceeding on this assumption and failing to consult the Contract Website or Schedule to determine the identity of the contract noticed for assumption is unknown.

Sublease would not be designated for assumption and assignment to GM and, therefore, could be designated for immediate rejection by the Debtors.[12]

24. On October 23, 2009, the Debtors filed their Eighth Omnibus Motion Pursuant to 11 U.S.C § 365 to Reject Certain Executory Contracts and Unexpired Leases of Nonresidential Real Property (Docket No. 4291) (the "**Rejection Motion**"). One of the leases designated for rejection was the Sublease. Rejection Motion Ex. A.

25. On November 2, 2009, KLC objected to the Debtors' rejection of the Sublease (Docket No. 4338) (the "**Second Objection**"). KLC alleges in the Second Objection that the Debtors assumed and assigned the Sublease to GM, and therefore cannot reject it.

ARGUMENT

I(A). The Sublease Was Not Assumed and Assigned to GM

26. GM is entitled to a declaratory judgment that the CAP Agreement—not the Sublease—was assumed and assigned to GM. GM intended to assume the CAP Agreement, and has performed every action required by the Sale Procedures Order, the Sale Order, and the MSPA to assume and assign the CAP Agreement. GM sent the Notice to the individual at the address identified in the CAP Agreement, and designated the CAP Agreement for assumption by listing it on the Schedule and the Contract Website. According to the Schedule and the Contract Website, the CAP Agreement was assigned to GM on July 10, 2009, approximately one month before GM executed the Cure Agreement with KLC.

[12] The GM real estate assumption and assignment team and certain of the Debtors' representatives conducted additional discussions concerning whether rejection of the Sublease by the Debtors would be the most appropriate and beneficial option, and on September 4, 2009, GM ultimately expressed its position that the Sublease should be rejected. On information and belief, GM did not indicate during these discussions, or at any other time, that it would designate the Sublease for assumption and assignment.

27. Conversely, GM did not intend to assume the Sublease, and outside of the inexplicable decision by the GM negotiator to agree to pay KLC the cure amount owing under the Sublease, has not performed any of the actions required by Sale Procedures Order, the Sale Order, or the MSPA to assume and assign the Sublease. The Sublease was not identified in the Notice, nor was it ever noticed for assumption and assignment pursuant to the Assumption and Assignment Procedures. The Sublease is not listed on KLC's Contract Website or on the Schedule as an Assumable Executory Contract, and GM has no reason to believe that the Sublease was ever on the Contract Website or the Schedule.

28. Further, shortly after the Petition Date, the GM real estate team identified the Sublease as a lease that would not be designated for assumption and assignment and could be rejected by the Debtors. On October 23, 2009, the Debtors filed a motion to reject the Sublease. GM did not oppose the rejection, or exercise its option to designate the Sublease for assumption.

29. It is not clear whether the GM negotiator expressly represented to KLC that the contract listed on the Contract Website was the Sublease. But such representations, even if made, could not effectuate an assumption and assignment of the Sublease under the Assumption and Assignment Procedures.

30. Similarly, GM's execution of the Cure Agreement did not effectuate an assumption and assignment of the Sublease. The Cure Agreement only references the contracts identified on the Notice. The contract identified by the Notice and listed on the Contract Website is the CAP Agreement.

31. The Assumption and Assignment Procedures ensured that one of the single largest transfers of assets in U.S. history was properly recorded in a single authoritative record. Deviating from these procedures and modifying the record based on an erroneous cure payment would inject a significant measure of uncertainty into the finality of the MLC sale.

I(B). ALTERNATIVELY, GM is Entitled to Relief Under Rule 60(b)(1) On the Basis of Mutual Mistake or Excusable Neglect

32. Even if the Court determines that GM's execution of the Cure Agreement effectuated an implicit assumption of the Sublease, GM is nevertheless entitled to relief from the assumption and assignment of the Sublease under Rule 60(b)(1). Rule 60(b)(1) permits a party to obtain relief from "a final judgment, order, or proceeding" on the basis of "mistake, inadvertence, surprise, or excusable neglect." FED. R. CIV. P. 60(b)(1).

33. In deciding a motion for relief under Rule 60(b), a court "must balance the policy in favor of serving the ends of justice against the policy in favor of finality." *Sec. Pac. Mortgage and Real Estate Servs., Inc. v. Herald Ctr. Ltd.*, 731 F. Supp. 605, 610 (S.D.N.Y. 1990). *See also Kotlicky v. U.S. Fidelity & Guaranty Co.*, 817 F.2d 6, 9 (2nd Cir. 1987).

34. Courts in the Second Circuit emphasize three factors in analyzing a motion for relief under Rule 60(b):

a. the evidence in support of the motion is "highly convincing";

b. the moving party shows good cause for its failure to act sooner; and

c. no undue hardship is imposed on other parties.

See Kotlicky, 817 F.2d at 9; *Sec. Pac. Mortgage*, 731 F. Supp. at 610.

35. Justice favors granting GM relief from any implied assumption and assignment. GM implemented robust assumption and assignment procedures to ensure an accurate transfer of assets to GM. Beginning well before the Petition Date, GM dedicated hundreds of employees and third-party professionals to the task of shepherding assets from MLC to GM, created – at significant expense – a secure database to disseminate information to negotiation teams and contract counterparties, and obtained Court approval for its various proposed sale procedures. Pursuant to these procedures, GM properly noticed and took the steps necessary to assume the CAP Agreement, not the Sublease.

36. The execution of the Cure Agreement with an incorrect cure amount was not due to an institutional lack of diligence. Responsible for negotiating and resolving approximately 590 contract assumption and assignment objections, which collectively implicated tens of thousands of production, service, real estate, equipment, and tooling contracts and leases, the Command Center could not reasonably engage in a detailed review of each contract designated for assignment.

37. GM acted as soon as reasonably possible under the circumstances. The Cure Agreement was signed on or about August 14, 2009. Until November 2, 2009, the date of the Second Objection, GM had no reason to know of the dispute. And because the GM negotiator who negotiated the Cure Agreement with KLC left GM on or about October 1, 2009, it took several weeks to work backwards through the Cure Agreement, Schedule, Contract Website, Notice, and other critical documents to determine the source of the dispute.

38. KLC will suffer no undue hardship if the assumption is undone. Absent the mutual mistake of fact regarding the contract on the Schedule, the Sublease would have been rejected, and KLC would have a potential rejection claim and a potential administrative expense claim against the Debtors' estates. If the assumption is reversed, KLC will be left with the same potential rejection damages and administrative expense claims, plus a potential claim for several additional months of administrative expenses that GM may be required to fund pursuant to the terms of the MSPA. Further, overturning the assumption will not require the Court to claw back the Cure Amount, because the Cure Amount has not been paid by GM. "When an innocent mistake can be rectified without harm to anyone (loss of a windfall is not the kind of harm that a court should endeavor to avert), it should be." *In re UAL Corp.*, 411 F.3d 818, 823-24 (7th Cir. 2005) (Posner, J.) (affirming bankruptcy court's order that vacated earlier order approving debtor's decision to retain airplane leases under Rule 60(b)).

39. GM, on the other hand, will suffer significant hardship. With finished vehicle production at the Spring Hill facility currently idled for the foreseeable future, GM has no immediate or long-term need for child care services at this location. If the sublease is assigned to GM, GM will be forced to either continue to pay KLC substantial service and/or enrollment subsidies for services it does not require, or terminate the Sublease and pay a significant penalty under the applicable lease termination provision.

II. The Cure Agreement Should Be Rescinded on the Basis of Mutual Mistake of Fact

40. In conjunction with GM's requests for relief with respect to the assumption and assignment of the CAP Agreement, GM also requests that the Court rescind the Cure Agreement

on the basis of mutual mistake of fact. The Restatement (Second) of Contracts provides a useful and oft-cited test for mutual mistake:

> Where mistake of both parties at the time a contract was made as to a basic assumption on which the contract was made has a material effect on the agreed exchange of performances, the contract is voidable by the adversely affected party unless he bears the risk of the mistake under the rule stated in § 154.

RESTATEMENT (SECOND) OF CONTRACTS § 152 (1981).

41. The mistake here was to a basic assumption in the Cure Agreement. The purpose of the Cure Agreement was to resolve a dispute regarding the cure amount owing under the contract designated for assumption. KLC and the GM negotiator mistakenly believed that the contract designated for assumption was the Sublease, when in fact it was the CAP Agreement. "Where the mistake is both mutual and substantial, as herein, there is absence of the requisite 'meeting of the minds' to contract." *D'Antoni v. Goff*, 383 N.Y.S.2d 117 (N.Y. App. Div. 1976) (reversing lower court ruling where parties to a sale of land contract mutually mistaken regarding the amount of land in a particular plot).

42. This mistake had a material effect on the agreed exchange of performances. GM had no outstanding cure obligations under the CAP Agreement, but is obligated to pay KLC $128,307.60 under the Sublease.

43. Neither party bears the risk of mistake. Section 154 of the Restatement provides that a party bears the risk of mistake where:

a. the risk is allocated to him by agreement of the parties;

b. he is aware, at the time the contract is made, that he has only limited knowledge with respect to the facts to which the mistake relates but treats his limited knowledge as sufficient;

c. the risk is allocated to him by the court on the ground that it is reasonable in the circumstances to do so.

44. In this case, the Cure Agreement does not allocate risk to either GM or KLC. Neither party operated under the belief that it had only limited knowledge as to the identity of the contract being assumed and assigned to GM. There is no basis to allocate risk to GM, as both GM and KLC acknowledged in the Cure Agreement that they are sophisticated parties, and at the time the Cure Agreement was executed, both the GM negotiator and KLC had access to information that would have corrected their mutual mistake.[13]

NOTICE

45. GM has provided notice of this Motion to parties-in-interest in accordance with the Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c) and 9007 Establishing Notice and Case Management Procedures, dated August 3, 2009 (Docket No. 3629). GM submits that such notice is sufficient and further notice need be provided. No previous request for the relief sought in this Motion has been made by GM to this or any other court.

CONCLUSION

Accordingly, GM respectfully requests that the Court enter an order, substantially in the form of the attached Exhibit 7, (i) determining that the Debtors did not assume and assign the Sublease to GM or, alternatively, granting GM relief from the assumption and assignment of the Sublease under Rule 60(b); (ii) ordering that the Cure Agreement is rescinded on the basis of mutual mistake of fact; and (iii) granting GM such other relief as the Court deems just and equitable.

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[13] As the exhibit attached to KLC's Second Objection reflects, at the time the Cure Agreement was executed, the Contract Website described the designated contract as "(CAP) (One Model Year)."

Respectfully submitted,

HONIGMAN MILLER SCHWARTZ AND COHN LLP
Counsel for General Motors LLC

Dated: January 28, 2010

By: /s/ Joseph R. Sgroi
Robert B. Weiss (Michigan Bar No. P28249)
Joseph R. Sgroi (Michigan Bar No. P68666)
2290 First National Building
660 Woodward Avenue
Detroit, MI 48226
Telephone: (313) 465-7570
Facsimile: (313) 465-7571
Email: jsgroi@honigman.com

DETROIT.4018357.8

EXHIBIT 1

Darrell Lyons
Knowledge Learning Corporation
650 NE Holladay St.
Suite 1400
Portland, OR 97232

Dear Darrell,

General Motors Fleet and Commercial Operations is pleased to offer Knowledge Learning Corporation the attached Competitive Assistance Program in response to your company's representation of competitive offers.

This Competitive Assistance will appear as an **invoice credit** as indicated in the attached.

To ensure accurate and timely payment of Competitive Assistance, use of the **Processing Code F6Q** and **FAN 905196** is required on all vehicle order requests and delivery reporting data for models specified as eligible for Competitive Assistance. **It is imperative that you communicate the Processing Code and FAN to your dealer or leasing company prior to placing an order.** Failure to do so may result in charge backs to you and/or the dealer.

On behalf of General Motors Fleet and Commercial Operations, I would like to thank you for allowing us the opportunity to be your fleet company for the 2010 model year.

Very truly yours,

Clay Okabayashi
Fleet Account Executive

We request that all other contents of this agreement remain confidential.

List of Attachments

1. 2010 Model Year Competitive Assistance Program Agreement
2. Vehicle Ordering and Delivery Instructions
3. Out-of-Stock Purchase Agreement

2010 Model Year Competitive Assistance Program

Knowledge Learning Corporation

LOCATION: 650 NE Holladay St Suite1400 Portland, OR 97232
APPROVED: August 14, 2009
VERSION: 2
PROCESSING CODE: F6Q
CONTACT: Darrell Lyons
DEAL NUMBER: 2744
FAN: 905196
PHONE: 503-872-1551
SUBMITTED BY: Clay Okabayashi

The Competitive Assistance detailed below is offered for the 2010 model year. This offer is based on the representation of Knowledge Learning Corporation that they have received a competitive offer lower than that offered by General Motors Fleet and Commercial Operations.

ALLOWANCES FOR ELIGIBLE MODELS

Model	Tier 1	Tier 2	Tier 3	Tier 4	Invoice Credit*
Malibu 4 Cylinder (excluding Hybrid)	$2,300	$2,400	$2,500	$2,600	$2,300
Malibu 6 Cylinder	$3,000	$3,100	$3,200	$3,300	$3,000
Impala	$3,850	$4,050	$4,250	$4,350	$3,850
Silverado 1500 Regular Cab	$2,300	$2,400	$2,500	$2,600	$2,300
Silverado (excluding 1500 Regular Cab and Hybrid)	$3,000	$3,200	$3,400	$3,500	$3,000
Sierra 1500 Regular Cab	$2,300	$2,400	$2,500	$2,600	$2,300
Sierra (excluding 1500 Regular Cab and Hybrid)	$3,000	$3,200	$3,400	$3,500	$3,000
Express Cargo	$5,700	$5,900	$6,100	$6,200	$5,700
Express Cutaway	$5,800	$6,000	$6,300	$6,400	$5,800
Savana Cargo	$5,700	$5,900	$6,100	$6,200	$5,700
Savana Cutaway	$5,800	$6,000	$6,300	$6,400	$5,800
Tahoe Hybrid	$3,000	$3,000	$3,000	$3,000	$3,000
Yukon Hybrid	$3,000	$3,000	$3,000	$3,000	$3,000
Minimum Purchase Requirement	100	250	300	400	

*Represents competitive assistance that is included in the tier amounts that will be reflected as an invoice credit.

TERMS AND CONDITIONS OF COMPETITIVE ASSISTANCE PROGRAM

Payment by Invoice Credit

Competitive Assistance is payable as an **invoice credit** at the amounts listed in the table above. If minimum purchase requirements are not met, Knowledge Learning Corporation agrees, by signing this agreement, to refund the applicable level of Competitive Assistance that is over and above the amounts included in the GM National Fleet Purchase Program (FVX) in effect at the time of vehicle delivery. Additional Competitive Assistance for higher volume tiers will be payable upon application provided the minimum purchase requirements are attained. Application must be made to General Motors Fleet and Commercial Operations by December 31, 2010. Your General Motors Fleet Account Executive can provide the instructions for your application procedure.

2010 Model Year Competitive Assistance Program

Knowledge Learning Corporation

LOCATION: 650 NE Holladay St Suite1400 Portland, OR 97232
APPROVED: August 14, 2009
VERSION: 2
PROCESSING CODE: F6Q
CONTACT: Darrell Lyons
DEAL NUMBER: 2744
FAN: 905196
PHONE: 503-872-1551
SUBMITTED BY: Clay Okabayashi

Out-of-Stock Purchases
Vehicles purchased directly from GM dealer inventory are eligible for the Competitive Assistance included in this agreement. To qualify for this Competitive Assistance, the attached "CAP Out of Stock Purchase Agreement" form must be completed by Knowledge Learning Corporation or its authorized Fleet Management Company and the applicable dealer.

Vehicle Pricing
If the dealer invoice price of a comparably equipped vehicle is reduced during the term of this agreement, General Motors reserves the right to reduce the Competitive Assistance allowances listed above by the amount of the price reduction.

Price Protection
Price Protection is provided for the 2010 model year at introductory prices. Price protection pertains to ordered units only (excludes out-of-stock units) and applies only to those specific vehicles identified as receiving Competitive Assistance. Price protection includes price increases based on economics and destination and freight charges. Price protection excludes vehicle price increases made necessary due to equipment adjustments, government-mandated equipment and emission changes, optional equipment made standard, mid-cycle enhancements and vehicle design changes.

Ownership Requirements
All vehicles delivered under this program must be titled, licensed and registered in the name of Knowledge Learning Corporation or in the name of their Fleet Management Company and retained by Knowledge Learning Corporation for use in the United States for a minimum of 6 months.

Other GM Vehicle Purchases
All new GM cars and light duty trucks purchased with the retail alternative or other fleet incentives, in lieu of competitive assistance, will count toward the attainment of minimum purchase requirements included in this agreement if these vehicles are titled, licensed and registered in the name of Knowledge Learning Corporation or their Fleet Management Company, are for business use in the United States and are reported by Knowledge Learning Corporation's dealer or Fleet Management Company using a fleet delivery type with Knowledge Learning Corporation's Fleet Account Number (FAN). Vehicles delivered retail or registered in the name of an individual for personal use will not count toward minimum purchase requirements.

VEHICLE ORDERING REQUIREMENTS

PROCESSING CODE: F6Q
FAN: 905196

For all brands listed in the agreement that are eligible to receive competitive assistance allowances:

- It is mandatory that the Processing Code and FAN appear on every order request placed via GM Order Workbench.
- The FAN is required on all delivery reporting entries via GM Order Workbench.

2010 Model Year Competitive Assistance Program

Knowledge Learning Corporation		**LOCATION:**	650 NE Holladay St Suite1400 Portland, OR 97232	**APPROVED:**	August 14, 2009
				VERSION:	2
PROCESSING CODE:	F6Q	**CONTACT:**	Darrell Lyons	**DEAL NUMBER:**	2744
FAN:	905196	**PHONE:**	503-872-1551	**SUBMITTED BY:**	Clay Okabayashi

GENERAL PROVISIONS

Agreement

This Agreement (i) contains the entire understanding of the Parties relating to the subjects hereto, (ii) supersedes all prior statements, representations, and agreements, and (iii) cannot be amended except by written instruments signed by all parties. The Parties represent and agree that, in entering into this Agreement, they have not relied upon any oral or written agreements, representations, statements, or promises, express or implied, not specifically set forth in this Agreement. The Parties expressly waive application of any law, statute, or judicial decision allowing oral modifications, amendments, or additions to this Agreement notwithstanding this express written provision requiring a writing signed by the Parties.

Export Compliance

Knowledge Learning Corporation hereby agrees that the disposition or resale of the vehicles supplied by GM under this agreement are subject to the export control laws and regulations of the United States (U.S.) and shall comply with such laws and regulations.

Choice of Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan as if entirely performed therein, without regard to the conflicts of law and principles thereof.

SIGNATURES

This competitive assistance offer is valid for *(User Insert)* from the date approved and will expire on *(User Insert)* unless accepted in writing by Knowledge Learning Corporation and returned prior to the expiration date.

The foregoing competitive assistance offer has been accepted:

Signature of Commercial Account Representative	Title	Date
Signature of GM FAE, Clay Okabayashi	Fleet Account Executive Title	Date

PLEASE RETURN TO CLAY OKABAYASHI, YOUR FLEET ACCOUNT EXECUTIVE

EXHIBIT 2

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

5716-00749080
KNOWLEDGE LEARNING CORPORATION
DARRELL LYONS
650 NE HOLLADAY ST.
PORTLAND OR 97232

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

2. In order to view the Cure Amount for the Assumable Executory Contracts to which you are a party, you must log onto: http://www.contractnotices.com.

3. To log on, please use the user name and password provided to you below.

4. If you have questions about the Assumable Executory Contracts or proposed Cure Amounts, you may call your GM representative.

User ID: NUnX3RS9
Password: RZ490Gav4LKM

Vendor ID #: 5716-00749080

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

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

PLEASE TAKE NOTICE THAT:

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

2. The MPA, which, together with certain ancillary agreements, contemplates a set of related transactions for the sale of substantially all the Debtors' assets,

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

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

defined as the "Purchased Assets" in Section 2.2(a) of the MPA, including certain Contracts and Leases, subject to higher or better offers.

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

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

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

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

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

for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Diana G. Adams, Esq.).

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

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

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

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

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

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

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

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

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

17. If a party other than the Purchaser is determined to be the highest or best bidder for the assets to be sold pursuant to the 363 Transaction, you will receive a separate notice providing additional information regarding the treatment of your Contract or Lease; *provided,*

however, that if the applicable Cure Amount has been established pursuant to the procedures set forth in this Notice, it shall not be subject to further dispute if the new purchaser seeks to acquire such contract or Lease.

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

Dated: New York, New York
December 23, 2009

/s/ Stephen Karotkin
Harvey R. Miller
Stephen Karotkin
Joseph H. Smolinsky

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Debtors
and Debtors in Possession

EXHIBIT 3

Vendor Master ID	Vendor Master Name	AlixPartners Number	Counterparty Name	Contract Status	noticed	Decision	GM Contract ID	Legal Entity	Contract Name	Start Date	End Date	Contract Type	Contract Description
5716-00749080	Knowledge Learning Corporation	5716-00749080	Knowledge Learning Corporation	ASSUMED JULY 10, 2009	APA0605	NewCo	2744	General Motors Coroporation	CAP			Agreement	1 Model Year

Business Unit	Department/Functional Area	GM Business Lead	GPSC Lead	PO Balance (Value)	Contract Location	AlixPartners Category	Contract Number	PO Status	Vendor ID	Source ID	Last Modified By
VSSM	Marketing	Campbell, James M.	Mehall, Carolyn		Decentralized	VSSM - Fleet	GM-00749080	TBD	905196	CAP Deals - not in al-in_052709_leavy	july 10 closing newco update

EXHIBIT 4

Row ID	GM ID	Vendor ID	Counter Party Name	Contract Type	Contract Status	Contract Name	Contract Description	GM Business Unit	GM Department
5716-00749080	2744	905196	Knowledge Learning Corporation	Agreement	ASSUMED JULY 10, 2009	CAP	1 Model Year	VSSM	Marketing

EXHIBIT 5

30009 Van Dyke Avenue
Warren, Michigan 48090

August 14, 2009

Rene Gonzalez
Knowledge Learning Center
650 NE Holladay Street, Suite 1400
Portland, Oregon 98727

***Re:* Agreement to Resolve Objection to Cure Notice**

Dear GM Supplier:

This letter is an agreement between General Motors Company (formerly NGMCO, Inc.) ("Purchaser") and Knowledge Learning Center, on behalf of itself and its subsidiaries and affiliates (collectively, "Supplier"), relating to the resolution of Supplier's objection (the "Objection") to a notice of intent to assume and assign certain executory contracts and/or unexpired leases (the "Cure Notice") under § 365 of the Bankruptcy Code (11 U.S.C. §§ 101 *et seq.*) and to evidence the agreement whereby Purchaser is satisfying all Cure Amounts as defined in the Sale Order (as defined below).

On June 1, 2009 (the "Petition Date"), Motors Liquidation Company (formerly General Motors Corporation) ("Old GM") and its debtor-subsidiaries commenced Case No. 09-50026 (the "Bankruptcy Case") currently pending before the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). Old GM issued to Supplier the Cure Notice in accordance with the Bankruptcy Court's order approving, among other things, procedures for the sale of substantially all of GM's assets pursuant to § 363 of the Bankruptcy Code (the "363 Transaction"), which was entered on June 2, 2009 [Docket No. 274] (the "Sale Procedures Order").[1] Subsequently, on July 5, 2009, the Bankruptcy Court entered its Order approving the 363 Transaction. The Cure Notice identifies certain executory contracts and/or unexpired leases (each an "Agreement" and, collectively, the "Agreements") that Old GM proposes to assume and assign to the Purchaser in accordance with the Sale Order. The Cure Notice also sets forth GM's proposed amount to cure all prepetition defaults under the Agreement(s), as required by § 365(b) of the Bankruptcy Code (the "Proposed Cure Amount").

On 6/7/09, 2009, Supplier filed the Objection to the Cure Notice [Docket No. 3030].

[1] Undefined capitalized terms used in this Agreement have the meanings set forth in the Sale Procedures Order (defined below).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Supplier and Purchaser agree as follows:

1. **Assumption and Assignment**. Effective upon the Supplier's and Purchaser's execution of this letter agreement, the Agreement(s)' status on the Contract Website shall be changed to reflect "Assumed".

2. **Agreed Cure Amount.** To the extent not previously paid in the ordinary course of business, within five (5) business days following Supplier's and Purchaser's execution of this letter agreement, Purchaser will pay to Supplier $128,307.60 (the "Agreed Cure Amount"), which represents Supplier's and Purchaser's agreement in satisfaction of any and all Cure Amounts (as defined in the Sale Order) as of the Commencement Date in respect of the Agreements to be assigned to Purchaser. Supplier agrees that Purchaser's payment of the Agreed Cure Amount is in full and final satisfaction of all claims of Supplier against Old GM and Purchaser, as the case may be, or any of their respective affiliates or subsidiaries arising under or related to the Agreement(s) and that paragraph 25 of the Sale Order shall be in full force and effect as between Supplier and Purchaser, upon Supplier's receipt of payment of the Agreed Cure Amount.

3. **Postpetition Obligations.** Purchaser will perform all obligations that arise or come due under the Agreement(s) on or after the Petition Date as and when such obligations come due in accordance with the Agreements(s)' terms in the ordinary course of business (the "Postpetition Obligations").

4. **Withdrawal of the Objection.** To the extent not previously withdrawn, the Objection is withdrawn and Supplier will take all actions necessary to withdraw promptly the objection from the Bankruptcy Court's docket.

5. **Confidentiality.** GM and Supplier agree that this letter agreement's content is confidential and not intended for dissemination beyond the parties without the express written consent of each of the parties. Notwithstanding the foregoing, any party may disclose the existence and terms of this Agreement (i) to the extent required by law or by any governmental agency or required or requested to be disclosed pursuant to legal process (including discovery requests) or in connection with any bankruptcy, insolvency, or similar proceeding involving any of the parties, (ii) to the extent necessary to enforce this letter agreement and (iii) to any employee, officer, director, agent, affiliate, representative, investor, partner, member, shareholder, or actual or potential financing source of such party or such party's affiliates (provided that any such person or entity is directed to maintain such information in confidence as contemplated by this Section and that such party shall be responsible and liable for the failure of any such person or entity to maintain such information in confidence as contemplated by this Section).

6. **General Terms.**

(a) This letter agreement and the Sale Order together is the entire understanding of the parties in connection with the subject matter of this letter agreement.

(b) The persons executing this letter agreement warrant that they have the corporate power and authority to execute this letter agreement and that this letter agreement has been duly authorized by the parties.

(c) This letter agreement may be executed in any number of counterparts and by each party hereto on separate counterparts, each of which when so executed and delivered will be an original, but all of which together will constitute one and the same instrument. For purposes of this letter agreement, signatures obtained by facsimile or other electronic means will constitute original signatures.

(d) This letter agreement and the parties' respective rights and obligations are binding upon their respective successors and assigns, and together with the rights and remedies of the parties under this letter agreement, inure to the benefit of the parties and their respective successors and assigns.

(e) This letter agreement may not be amended or modified unless the amendments or modifications are in writing signed by the parties.

(f) The parties to this letter agreement acknowledge and agree that the rights and interests of the parties under this letter agreement are intended to benefit solely the parties to this letter agreement.

(g) No delay or failure of the parties to exercise any respective right, power or privilege under this letter agreement will affect such right, power or privilege, nor will any single or partial exercise thereof preclude any further exercise thereof, nor the exercise of any other right, power or privilege.

(h) Should any provision of this letter agreement be held invalid, prohibited, or unenforceable in any one jurisdiction it will, as to that jurisdiction only, be ineffective to the extent of such holding without invalidating the remaining provisions of this letter agreement, and any such holding does not invalidate or render unenforceable that provision in any other jurisdiction wherein it would be valid and enforceable.

(i) This letter agreement is entered into among competent persons who are experienced in business and represented by counsel, and the parties and their respective counsel have carefully reviewed this letter agreement. Any ambiguous language in this agreement will not be construed against either party as the drafter of this letter agreement.

(j) This letter agreement is made in the State of New York and is governed by, and construed and enforced in accordance with, the internal laws of the State of New York, without regard to conflicts of laws principles.

(k) This letter agreement is subject to all of the terms, conditions and limitations set forth in the Sale Order. In the event of any conflict between the terms of this letter agreement and the terms of the Sale Order, the terms of the Sale Order shall prevail. Nothing contained herein shall be deemed to alter, modify, expand or diminish the terms of the Sale Order.

7. **CONSULTATION WITH COUNSEL.** THE PARTIES ACKNOWLEDGE THAT THEY HAVE BEEN GIVEN THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE BEFORE EXECUTING THIS LETTER AGREEMENT AND ARE DOING SO WITHOUT DURESS, INTIMIDATION, OR COERCION AND WITHOUT RELIANCE UPON ANY REPRESENTATIONS, WARRANTIES, OR COMMITMENTS OTHER THAN THOSE REPRESENTATIONS, WARRANTIES, OR COMMITMENTS SET FORTH IN THIS LETTER AGREEMENT.

8. **JURY TRIAL WAIVER.** THE PARTIES ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT, BUT THAT THIS RIGHT MAY BE WAIVED. THE PARTIES EACH KNOWINGLY, VOLUNTARILY, AND WITHOUT DURESS, INTIMIDATION, OR COERCION, WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ALL DISPUTES ARISING OUT OF OR IN RELATION TO THIS LETTER AGREEMENT OR ANY OTHER AGREEMENTS BETWEEN THE PARTIES EXECUTED IN CONNECTION WITH THIS LETTER AGREEMENT. NO PARTY WILL BE DEEMED TO HAVE RELINQUISHED THE BENEFIT OF THIS JURY-TRIAL WAIVER UNLESS THE RELINQUISHMENT IS IN A WRITTEN INSTRUMENT SIGNED BY THE PARTY TO WHICH THE RELINQUISHMENT WILL BE CHARGED.

[Remainder of this page intentionally left blank]

Please acknowledge your agreement to the above terms by signing in the space provided.

Very truly yours,

GENERAL MOTORS COMPANY (formerly NGMCO, Inc.)

By: Susanna Webber

Its: Executive Director

Acknowledged and Agreed:

Knowledge Learning Corporation,
On behalf of itself and its subsidiaries and affiliates

By: _____

Its: V.P. of Finance - CCLC

APPROVED BY LEGAL DEPARTMENT
DATE: 5-14-09
SIGNATURE: _____

DETROIT 3726331 6

EXHIBIT 6

Property State	Property City	Property Name	Property Address	NET ANNUAL SPEND	STRATEGIC	Lease Ref #	Counterparty Name	AlixPartnersNumber	contractnumber

REDACTED

REDACTED

Spring Hill	GMVO Saturn Assembly	100 Saturn Parkway	TBD	NO	30000182	KinderCare Learning Centers, Inc.	5716-00019327	16313692
							5716-00019328	16313696
							5716-00019329	16313695
							5716-00019330	16313694
							5716-00019331	16313693
							5716-00019332	16313697
							5716-00019333	16313698
							5716-00019334	16313699

REDACTED

EXHIBIT 7

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

ORDER GRANTING GENERAL MOTORS LLC'S MOTION (I) FOR DECLARATORY RELIEF REGARDING THE STATUS OF A CERTAIN SUBLEASE OR, IN THE ALTERNATIVE, RELIEF FROM THE ASSUMPTION AND ASSIGNMENT OF A CERTAIN SUBLEASE TO GM PURSUANT TO RULE 60(b) AND (II) TO RESCIND THE AGREEMENT TO RESOLVE OBJECTION TO CURE NOTICE BETWEEN GM AND KNOWLEDGE LEARNING CORPORATION DATED AUGUST 14, 2009

Upon the Motion by General Motors LLC ("**GM**") (I) for Declaratory Relief Regarding the Status of a Certain Sublease or, in the Alternative, Relief from the Assumption and Assignment of a Certain Sublease to GM Pursuant to Rule 60(b) and (II) to Rescind the Agreement to Resolve Objection to Cure Notice Between GM and Knowledge Learning Corporation Dated August 14, 2009 (the "**Motion**"),[1] all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. § 1409; and due and proper notice of the Motion having been provided to (i) the Debtors; (ii) the attorneys for the Debtors; (iii) the United States Department of the Treasury; (iv) the attorneys for the United States Department of the Treasury;

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

(v) the attorneys for Export Development Canada; (vi) the attorneys for the Committee of Unsecured Creditors; (vii) the attorneys for the International Union, United Automobile, Aerospace and Agriculture Implement Workers of America; (viii) the Office of the United States Trustee for the Southern District of New York; (ix) Knowledge Learning Corporation ("**KLC**"); (x) the attorneys for Knowledge Learning Corporation; and (xi) all entities that requested notice in the Debtors' chapter 11 cases; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "**Hearing**"); and upon the record of the Hearing and all of the proceedings before the Court; and the Court having found and determined just cause for the relief requested in the Motion; and after due deliberation and sufficient cause appearing therefor, it is ORDERED and DETERMINED that:

1. The Motion is granted.

2. The Debtors assumed and assigned the 2010 Model Year Competitive Assistance Program Agreement between the Debtors and KLC to GM effective July 10, 2010.

3. The Debtors did not assume and assign the Amended and Restated Sublease Agreement between the Debtors and KLC to GM.

4. The Agreement to Resolve Objection to Cure Notice between KLC and GM dated August 14, 2009 is rescinded.

5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: _____, New York
_____, 2010

_____
United States Bankruptcy Judge

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