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Counsel for the Ad Hoc Supplemental Group of Answering Term Lenders

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

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In re: :
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MOTORS LIQUIDATION COMPANY, et al., : Chapter 11
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Debtors : Case No. 09-50026 (MG)
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: (Jointly Administered)
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MOTORS LIQUIDATION COMPANY AVOIDANCE :
ACTION TRUST, by and through the Wilmington :
Trust Company, solely in its capacity as Trust : Adversary Proceeding
Administrator and Trustee, : No. 09-00504 (MG)
:
Plaintiff, :
:
-against- :
:
JPMORGAN CHASE BANK, N.A. et al., :
:
Defendants. :
:
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**ANSWER OF AD HOC SUPPLEMENTAL GROUP
OF ANSWERING TERM LENDERS**

The Ad Hoc Supplemental Group of Answering Term Lenders (the “**Answering Term Lenders**”),¹ by their undersigned attorneys, for their Answer to the Amended Complaint dated May 20, 2015 (the “**Amended Complaint**”) of the Motors Liquidation Company Avoidance Action Trust, by and through Wilmington Trust Company, solely in its capacity as the trust administrator and trustee (the “**Trust**” or “**Plaintiff**”), answer as follows:

1. The allegations contained in Paragraph 1 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 1 of the Amended Complaint.

2. The allegations contained in Paragraph 2 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 2 of the Amended Complaint.

3. The allegations contained in Paragraph 3 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 3 of the Amended Complaint.

¹ A full list of the Answering Term Lenders is set forth on Appendix A hereto.

Defined terms used in this Answer that are not otherwise defined herein have the meanings ascribed to them in the Amended Complaint.

4. The allegations contained in Paragraph 4 of the Amended Complaint do not contain any allegations against the Answering Term Lenders, and as such no response is required. To the extent a response is required, in accordance with Local Bankruptcy Rule 7012-1, the Answering Term Lenders do not consent to the entry of final orders or judgment by the Bankruptcy Court if it is determined that the Bankruptcy Court does not have jurisdiction to enter a final judgment or order consistent with Article III of the United States Constitution.

5. The allegations contained in Paragraph 5 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 5 of the Amended Complaint.

6. The Answering Term Lenders admit that Motors Liquidation Company f/k/a General Motors Corporation and certain of its subsidiaries (collectively, the “**Debtors**”) filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”) on June 1, 2009 (the “**Petition Date**”) in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”).

7. The Answering Term Lenders admit the allegations contained in Paragraph 7 of the Amended Complaint.

8. The allegations contained in Paragraph 8 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny the allegations contained in Paragraph 8 of the Amended Complaint, except admit that the *Final Order Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004(A) Approving a DIP Credit Facility and Authorizing the Debtors to Obtain Post-Petition Financing Pursuant*

Thereto, (B) Granting Related Liens and Super-Priority Status, (C) Authorizing the Use of Cash Collateral and (D) Granting Adequate Protection to Certain Pre-Petition Secured Parties, dated June 25, 2009 [Dkt. No. 2529] (the “**DIP Order**”) provides the Official Committee of Unsecured Creditors of Motors Liquidation Company f/k/a General Motors Corporation (the “**Committee**”) with certain limited rights “with respect only to the perfection of first priority liens of the Prepetition Senior Facilities Secured Parties [as defined in the DIP Order]”, and refer to the DIP Order for a full and accurate recitation of its terms.

9. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 9 of the Amended Complaint.

10. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 10 of the Amended Complaint.

11. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 11 of the Amended Complaint.

12. The allegations contained in Paragraph 12 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny the allegations contained in Paragraph 12 of the Amended Complaint, except admit that the Bankruptcy Court entered an order (the “**Confirmation Order**”) [Dkt. No. 9941] confirming the *Debtors’ Second Amended Joint Chapter 11 Plan* [Dkt. No. 9836] (the “**Plan**”) and refer to the Plan for a full and accurate recitation of its terms.

13. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 13 of the Amended Complaint.

14. The allegations contained in Paragraph 14 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny the allegations contained in Paragraph 14 of the Amended Complaint, and refers to the DIP Order, the Confirmation Order, the Plan and the Trust Agreement for the terms set forth therein.

15. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 15 of the Amended Complaint.

16. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 16 of the Amended Complaint.

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180. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 180 of the Amended Complaint.

181. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 181 of the Amended Complaint.

182. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 182 of the Amended Complaint.

183. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 183 of the Amended Complaint.

184. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 184 of the Amended Complaint.

185. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 185 of the Amended Complaint.

186. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 186 of the Amended Complaint.

187. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 187 of the Amended Complaint.

188. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 188 of the Amended Complaint.

189. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 189 of the Amended Complaint.

190. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 190 of the Amended Complaint.

191. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 191 of the Amended Complaint.

192. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 192 of the Amended Complaint.

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197. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 197 of the Amended Complaint.

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298. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 298 of the Amended Complaint.

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531. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 531 of the Amended Complaint.

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541. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 541 of the Amended Complaint.

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558. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 558 of the Amended Complaint.

559. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 559 of the Amended Complaint.

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563. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 563 of the Amended Complaint.

564. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 564 of the Amended Complaint.

565. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 565 of the Amended Complaint.

566. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 566 of the Amended Complaint.

567. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 567 of the Amended Complaint.

568. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 568 of the Amended Complaint.

569. The allegations contained in Paragraph 569 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 569 of the Amended Complaint.

570. The allegations contained in Paragraph 570 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny the allegations contained in Paragraph 570 of the Amended Complaint, except admit that the Trust collectively refers to the parties listed in Paragraphs 15 through 569 of the Amended Complaint as “Defendants.”

571. The Answering Term Lenders deny the allegations contained in Paragraph 571, except admit that General Motors Corporation (“**General Motors**”), Saturn Corporation, and JPMorgan, as Administrative Agent, entered into the Term Loan Agreement and refer to the Term Loan Agreement for the terms set forth therein.

572. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 572 of the Amended Complaint, except admit that certain lenders, including some of those named as Defendants in this action, extended credit to the Debtors secured by a first-priority lien on certain assets of the Debtors pursuant to the terms of the Term Loan Agreement, and refer to the Term Loan Agreement for the terms set forth therein.

573. The Answering Term Lenders admit the allegations contained in Paragraph 573 of the Amended Complaint.

574. The Answering Term Lenders deny the allegations contained in Paragraph 574 of the Amended Complaint, except admit that the Debtors filed a motion on the Petition Date seeking, *inter alia*, authority from the Bankruptcy Court to obtain post-petition financing (the “**DIP Motion**”) [Dkt. No. 64], and refer to the DIP Motion for the terms set forth therein.

575. The Answering Term Lenders deny the allegations contained in Paragraph 575 of the Amended Complaint, except admit that the Debtors filed the DIP Motion seeking, *inter alia*, authority from the Bankruptcy Court to apply the proceeds of the DIP Credit Facility (as defined in the DIP Order) to repay in full all claims under the Term Loan Agreement and refer to the DIP Motion for the terms set forth therein.

576. The Answering Term Lenders deny the allegations contained in Paragraph 576 of the Amended Complaint, except admit that the Trust was involved in negotiating the DIP Order and that the DIP Order provides the Trust with certain limited rights “with respect only to the perfection of the first priority liens of the Prepetition Senior Facilities Secured Parties [as defined in the DIP Order],” and refer to the DIP Order for the terms set forth therein.

577. The Answering Term Lenders deny the allegations contained in Paragraph 577 of the Amended Complaint, except admit that DIP Credit Facility (as defined in the DIP Order) was approved by the Bankruptcy Court and that the DIP Order provides the Committee with certain limited rights “with respect only to the perfection of first priority liens of the Prepetition Senior Facilities Secured Parties [as defined in the DIP Order]” and refer to the DIP Order for the terms set forth therein.

578. The Answering Term Lenders deny the allegations contained in Paragraph 578 of the Amended Complaint, except admit that the interest and principal outstanding at the time of payment under the Term Loan Agreement has been repaid out of the proceeds of the DIP Credit Facility (as defined in the DIP Order) and refer to the DIP Order for the terms set forth therein.

579. The allegations contained in Paragraph 579 of the Amended Complaint constitute legal conclusions as to which no responsive pleading is required. To the extent a response is required, the Answering Term Lenders deny the allegations contained in Paragraph 579 of the Amended Complaint and refer to the DIP Order for the terms set forth therein.

580. The Answering Term Lenders deny the allegations contained in Paragraph 580 of the Amended Complaint, except admit that the Committee purported to bring this action to challenge the first-priority lien that secured the loan made under the Term Loan Agreement.

581. The Answering Term Lenders deny the allegations contained in Paragraph 581 of the Amended Complaint, except admit that two UCC-1 financing statements were filed with the Delaware Secretary of State on November 30, 2006 in connection with the Term Loan Agreement (the “**Term Loan UCC Financing Statements**”), and refer to the Term Loan UCC Financing Statements for the terms set forth therein.

582. The Answering Term Lenders deny the allegations contained in Paragraph 582 of the Amended Complaint, except admit that a UCC-3 financing statement amendment dated October 30, 2008 (the “**October 2008 Amendment**”) was filed with the Delaware Secretary of State, and respectfully refer to the October 2008 Amendment for the terms set forth therein.

583. The allegations contained in Paragraph 583 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny the allegations contained in paragraph 583 of the Amended Complaint.

584. The Answering Term Lenders deny the allegations contained in Paragraph 584 of the Amended Complaint, except admit that on or about March 1, 2013, the Bankruptcy Court entered a *Decision on Cross Motions for Summary Judgment* (the “**Decision**”) [Adv. Pro. Dkt. No. 71], a *Judgment* (the “**Judgment**”) [Adv. Pro. Dkt. No. 73] and an *Order on Cross Motions for Summary Judgment* (the “**Order**”) [Adv. Pro. Dkt. No. 72] and refer to the Decision, the Judgment, and the Order for the terms set forth therein.

585. The Answering Term Lenders deny the allegations contained in Paragraph 585 of the Amended Complaint, except admit that on or about January 21, 2015, the United States Court of Appeals for the Second Circuit entered a decision (the “**Second Circuit Decision**”), and refer to the Second Circuit Decision for the terms set forth therein.

**AS AND FOR AN ANSWER
TO THE FIRST CLAIM FOR RELIEF**

586. The Answering Term Lenders repeat and re-allege their responses to Paragraphs 1 through 585 of the Amended Complaint as if fully set forth herein.

587. The allegations contained in Paragraph 587 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 587 of the Amended Complaint.

588. The allegations contained in Paragraph 588 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 588 of the Amended Complaint.

589. The allegations contained in Paragraph 589 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 589 of the Amended Complaint.

**AS AND FOR AN ANSWER
TO THE SECOND CLAIM FOR RELIEF**

590. The Answering Term Lenders repeat and re-allege their responses to Paragraphs 1 through 589 of the Amended Complaint as if fully set forth herein.

591. The Answering Term Lenders deny the allegations contained in Paragraph 591 of the Amended Complaint.

592. The allegations contained in Paragraph 592 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders admit that Section 549(a) of the Bankruptcy Code states that “the trustee may avoid a transfer of property of the estate . . . that occurs after the commencement of

the case . . . that is not authorized . . . by the court” and refer to Section 549 of the Bankruptcy Code for the provisions set forth therein.

593. The Answering Term Lenders deny the allegations contained in Paragraph 593 of the Amended Complaint, except admit that the DIP Order authorized the Debtors to apply the proceeds of the DIP Credit Facility (as defined in the DIP Order) to repay amounts outstanding under the Term Loan Agreement and refer to the DIP Order for the terms set forth therein.

594. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 594 of the Amended Complaint.

595. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 595 of the Amended Complaint.

596. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 596 of the Amended Complaint.

597. The Answering Term Lenders deny the allegations contained in Paragraph 597 of the Amended Complaint, except admit that the DIP Order provides the Trust with certain limited rights “with respect only to the perfection of first priority liens of the Prepetition Senior Facilities Secured Parties [as defined in the DIP Order]” and refer to the DIP Order for the terms set forth therein.

598. The Answering Term Lenders deny the allegations contained in Paragraph 598 of the Amended Complaint.

599. The Answering Term Lenders deny the allegations contained in Paragraph 599 of

the Amended Complaint.

600. The Answering Term Lenders deny the allegations contained in Paragraph 600 of the Amended Complaint.

601. The Answering Term Lenders deny the allegations contained in Paragraph 601 of the Amended Complaint, except admit that some portion of the collateral was secured and perfected by filings other than the Financing Statement.

602. The allegations contained in Paragraph 602 of the Amended Complaint constitute legal conclusions as to which no responsive pleading is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 602 of the Amended Complaint.

603. The Answering Term Lenders deny the allegations contained in Paragraph 603 of the Amended Complaint.

**AS AND FOR AN ANSWER
TO THE THIRD CLAIM FOR RELIEF**

604. The Answering Term Lenders repeat and re-allege their responses to Paragraphs 1 through 603 of the Amended Complaint as if fully set forth herein.

605. The Answering Term Lenders deny the allegations contained in Paragraph 605 of the Amended Complaint.

606. The Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 606 of the Amended Complaint.

607. The allegations contained in Paragraph 607 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations of Paragraph 607 of the Amended Complaint.

608. The allegations contained in Paragraph 608 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 608 of the Amended Complaint.

609. The allegations contained in Paragraph 609 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 609 of the Amended Complaint.

610. The allegations contained in Paragraph 610 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 610 of the Amended Complaint.

611. The allegations contained in Paragraph 611 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 611 of the Amended Complaint.

612. The Answering Term Lenders deny the allegations contained in Paragraph 612 of the Amended Complaint.

613. The Answering Term Lenders deny the allegations contained in Paragraph 613 of the Amended Complaint.

614. The allegations contained in Paragraph 614 of the Amended Complaint constitute legal conclusions as to which no response is required. To the extent a response is required, the Answering Term Lenders deny knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 614 of the Amended Complaint.

615. The Answering Term Lenders deny the allegations contained in Paragraph 615 of the Amended Complaint.

**AS AND FOR AN ANSWER
TO THE FOURTH CLAIM FOR RELIEF**

616. The Answering Term Lenders repeat and re-allege their responses to Paragraphs 1 through 615 of the Amended Complaint as if fully set forth herein.

617. The Answering Term Lenders deny the allegations contained in Paragraph 617 of the Amended Complaint.

618. The Answering Term Lenders deny the allegations contained in Paragraph 618 of the Amended Complaint.

The Answering Term Lenders further deny and object to each one of Plaintiff's "prays for judgment" numbered 1 through 8 and set forth on pages 77 and 78 of the Amended Complaint.

AFFIRMATIVE DEFENSES

In asserting the following additional defenses to Plaintiff's claims, the Answering Term Lenders do not concede that the assertion of such defenses imposes any burden of proof or persuasion on the Answering Term Lenders with respect thereto. Furthermore, the Answering

Term Lenders have not yet completed their investigation and, to the extent that investigation and/or discovery warrant, reserve the right to supplement, amend, or delete any or all of the following additional defenses prior to any trial of this action, and to assert any additional cross-claims, counterclaims, and third-party claims as they become known or available.

At the present time, the Answering Term Lenders assert that the claims alleged in the Amended Complaint against the Answering Term Lenders are barred, in whole or in part, because:

FIRST AFFIRMATIVE DEFENSE

The Amended Complaint fails to state a claim against the Answering Term Lenders upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred for insufficient service of process.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrines of laches and equitable estoppel.

FIFTH AFFIRMATIVE DEFENSE

The October 2008 Amendment is void and ineffective because JPMorgan, in its capacity as Administrative Agent for the Synthetic Lease, was not the secured party of record under the Term Loan UCC Financing Statements and therefore had no power or authority to authorize the Debtors to file the October 2008 Amendment.

SIXTH AFFIRMATIVE DEFENSE

The October 2008 Amendment is void and ineffective because JPMorgan did not obtain the consent of the Answering Term Lenders to permit the Debtors to file that amendment as required under the Term Loan Agreement.

SEVENTH AFFIRMATIVE DEFENSE

The October 2008 Amendment is void and ineffective because JPMorgan, both in its capacity as administrative agent for the Synthetic Lease and in its capacity as Administrative Agent for the Term Loan, exceeded the extent of its authority as an agent of its principals, including the Answering Term Lenders, when it permitted the Debtors to file the October 2008 Amendment.

EIGHTH AFFIRMATIVE DEFENSE

The October 2008 Amendment is void and ineffective because JPMorgan did not authorize its filing.

NINTH AFFIRMATIVE DEFENSE

The unauthorized filing of the October 2008 Amendment did not waive the Answering Term Lenders' security interest in certain assets of the Debtors pursuant to the Term Loan Agreement and the Term Loan UCC Financing Statements.

TENTH AFFIRMATIVE DEFENSE

Each of the Answering Term Lenders were secured parties and had perfected security interests on the Petition Date in certain assets of the Debtors pursuant to the Term Loan Agreement as set forth in multiple UCC-1 financing statements filed throughout the United States, including, but not limited to the UCC-1 financing statement numbered 6416822 3 and

filed on November 30, 2006 with the Secretary of State of Delaware listing Saturn Corporation as the “debtor” as well as multiple state fixture filings.

ELEVENTH AFFIRMATIVE DEFENSE

The claims asserted in the Amended Complaint against the Answering Term Lenders are barred by the doctrines of *in pari delicto*, unclean hands and/or the *Wagoner* Rule.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff is estopped from alleging that the security interests of the Answering Term Lenders were terminated or, in the alternative, the Bankruptcy Court should find that the Debtors held the collateral under the Term Loan Agreement pursuant to a constructive trust.

THIRTEENTH AFFIRMATIVE DEFENSE

The claims asserted in the Amended Complaint against the Answering Term Lenders are barred by the doctrine of mistake, which requires reinstatement of the erroneously discharged security interests.

FOURTEENTH AFFIRMATIVE DEFENSE

At the time any of the purported transfers referenced in the Amended Complaint were allegedly made by the Debtors, each of the Answering Term Lenders was a perfected secured creditor thereby excepting all of the alleged transfers from avoidance as preferential transfers pursuant to Bankruptcy Code Section 547(b)(5).

FIFTEENTH AFFIRMATIVE DEFENSE

The claims asserted in the Amended Complaint against the Answering Term Lenders are barred by the doctrine of earmarking.

SIXTEENTH AFFIRMATIVE DEFENSE

The claims asserted in the Amended Complaint are barred to the extent that any of the Answering Term Lenders are not transferees from which the Trust may recover the value of an avoided transfer under Section 550(b) of the Bankruptcy Code.

SEVENTEENTH AFFIRMATIVE DEFENSE

The claims asserted in the Amended Complaint against one or more of the Answering Term Lenders are barred to the extent one or more of the Answering Term Lenders was a mere conduit with respect to any of the alleged transfers.

EIGHTEENTH AFFIRMATIVE DEFENSE

The claims asserted in the Amended Complaint are barred to the extent that any of the Answering Term Lenders did not receive a transfer made under the Term Loan Agreement on May 27, 2009.

NINETEENTH AFFIRMATIVE DEFENSE

The claims asserted in the Amended Complaint are barred to the extent that any of the Answering Term Lenders did not receive a transfer made under the Term Loan Agreement on June 30, 2009.

TWENTIETH AFFIRMATIVE DEFENSE

Because the DIP Order reserves for the Trust “only [the right to challenge] the perfection of first priority liens of the Postpetition Senior Facilities Secured Parties,” the Trust lacks standing and authority to bring the Second, Third, and Fourth Claims for Relief asserted in the Amended Complaint.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The First and Third Claims for Relief, and the Fourth Claim for Relief inasmuch as it seeks disallowance in connection with the First and Third Claims for Relief, are barred by Section 546(e) of the Bankruptcy Code.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Pursuant to Bankruptcy Code Section 547(c)(2), the alleged transfers sought from the Answering Term Lenders in the Amended Complaint were (a) in payment of a debt incurred by the Debtors in the ordinary course of business or financial affairs of the Debtors and the Answering Term Lenders, (b) made in the ordinary course of business or financial affairs of the Debtors and the Answering Term Lenders, and/or (c) made according to ordinary business terms.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Any injury or damages to the Trust should be reduced to the extent that the culpable conduct of others caused or contributed to any injury or damages that the Trust may have sustained.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

The Answering Term Lenders hereby assert all defenses available under federal law and under any applicable state law. Additional facts may be revealed in discovery or otherwise that support additional defenses presently available, but unknown, to the Answering Term Lenders. The Answering Term Lenders therefore reserve their right to assert additional defenses in the event discovery or investigation reveals additional defenses or such additional defenses become apparent at trial.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

The Answering Term Lenders hereby adopt and incorporate by reference any and all

other defenses asserted or to be asserted by any other defendants named in the Amended Complaint to the extent that such defenses are available to the Answering Term Lenders.

WHEREFORE, the Answering Term Lenders respectfully request that judgment be entered in their favor as follows:

- A. Dismissing with prejudice Plaintiff's Amended Complaint in its entirety and on the merits;
- B. Awarding the Answering Term Lenders their costs of defending this action, including reasonable attorneys' fees, costs and disbursements; and
- C. Awarding the Answering Term Lenders such other and further relief as this Court may deem just and proper.

Dated: New York, New York
July 27, 2016

Respectfully submitted,

KASOWITZ, BENSON, TORRES
& FRIEDMAN LLP

/s/ Andrew K. Glenn

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*Counsel for the Ad Hoc Supplemental Group of
Answering Term Lenders Listed in Appendix A*

Appendix A

Fire and Police Employees' Retirement System of the City of Baltimore
BBT Fund, L.P.
SRI Fund, L.P.
BBT Master Fund, L.P. (f/k/a Cap Fund, L.P.)
BlackRock Corporate High Yield Fund, Inc.
BlackRock Debt Strategies Fund, Inc.
BlackRock Floating Rate Income Strategies Fund, Inc.
BlackRock Funds II - High Yield Bond Portfolio
BlackRock Global Investment Series: Income Strategies Portfolio
BlackRock Fixed Income Portable Alpha (Offshore) Fund
BlackRock Senior Income Series II
BlackRock Senior Income Series IV
R3 Capital Partners Master, L.P.
The Galaxite Master Unit Trust
BlackRock High Yield Bond Portfolio, a series of BlackRock Funds II
High Yield Bond Portfolio
Delaware Diversified Income Fund, a series of Delaware Group Adviser Funds
Delaware Enhanced Global Dividend and Income Fund
Delaware Extended Duration Bond Fund, a series of Delaware Group Income Funds
Delaware Dividend Income Fund, a series of Delaware Group Equity Funds V
Delaware Core Plus Bond Fund, a series of Delaware Group Government Fund
Delaware Corporate Bond Fund, a series of Delaware Group Income Funds
Delaware High-Yield Opportunities Fund, a series of Delaware Group Income Funds
Delaware Investments Dividend and Income Fund, Inc.
The High-Yield Bond Portfolio, a series of Delaware Pooled Trust
Delaware VIP Diversified Income Series, a series of Delaware VIP Trust
Delaware VIP High Yield Series, a series of Delaware VIP Trust
The Core Plus Fixed Income Portfolio, a series of Delaware Pooled Trust
Optimum Fixed Income Fund, a series of Optimum Fund Trust
Drawbridge Special Opportunities Fund Ltd.
Drawbridge Special Opportunities Fund LP
Fortress Credit Investments I Ltd.
Fortress Credit Investments II Ltd.
Guggenheim Portfolio X, LLC
The Lincoln National Life Insurance Company Separate Account 12
The Lincoln National Life Insurance Company Separate Account 20
LVIP Delaware Bond Fund, a series of Lincoln Variable Insurance Products Trust LVIP
Delaware Foundation® Conservative Allocation Fund, a series of Lincoln Variable Insurance
Products Trust (and the successor to LVIP Delaware Managed Fund as of June 15, 2009).
Golden Knight II CLO, Ltd.
Lord Abbett Investment Trust – Lord Abbett High Yield Fund
Lord Abbett Investment Trust – Lord Abbett Floating Rate Fund

Teachers' Retirement System of Oklahoma
Houston Police Officers' Pension System
Mason Capital, L.P.
Mason Capital, Ltd.
Neuberger Berman High Income Bond Fund
Neuberger Berman High Yield Strategies Fund Inc.
MacKay New York Life Insurance Company (Guaranteed Products)
New York Life Insurance Company Guaranteed Products
New York Life Insurance Company (Guaranteed Products)
New York Life Insurance Company GP - Portable Alpha
MacKay Shields Core Plus Alpha Fund Ltd.
New York Life Insurance Company
North Dakota State Investment Board
Fairway Loan Funding Company
PIMCO Income Strategy Fund
PIMCO Income Strategy Fund II
Red River HYPi, L.P.
PIMCO Cayman Trust: PIMCO Cayman Bank Loan Fund
StocksPLUS, L.P. Fund B
PIMCO Funds: PIMCO Total Return Fund
PIMCO Funds: Private Account Portfolio Series High Yield Portfolio
PIMCO Funds: Global Investors Series plc, Global Investment Grade Credit Fund
Portola CLO, Ltd.
Mayport CLO, Ltd.
Taconic Capital Partners 1.5 L.P.
Taconic Market Dislocation Fund II L.P.
Taconic Market Dislocation Master Fund II L.P.
Taconic Opportunity Fund L.P.
Virginia Retirement System