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*Attorneys for the TLI Defendants
identified on Schedule A annexed hereto*

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

In re:	Chapter 11
MOTOR LIQUIDATION COMPANY, <i>et al.</i> ,	Case No. 09-50026 (MG)
Debtors.	(Jointly Administered)
MOTOR LIQUIDATION COMPANY AVOIDANCE ACTION TRUST, by and through the Wilmington Trust Company, solely in its capacity as Trust Administrator and Trustee,	Adversary Proceeding
Plaintiff,	Case No. 09-00504 (MG)
vs.	
JP MORGAN CHASE BANK, N.A., individually and as Administrative Agent for various lenders party to the Term Loan Agreement described herein, <i>et al.</i> ,	
Defendants.	

**ANSWER OF CERTAIN TLI DEFENDANTS
TO AMENDED COMPLAINT**

The Term Loan Investor Defendants identified on Schedule A annexed hereto (the “TLI Defendants”), by their undersigned attorneys, Hahn & Hessen LLP, hereby answer the

Amended Complaint dated May 20, 2015 (the “Amended Complaint”)¹ of Plaintiff Motors Liquidation Company Avoidance Action Trust, by and through the Wilmington Trust Company, solely in its capacity as the trust administrator and trustee (the “Plaintiff” or “AAT”).

AS TO THE ALLEGED JURISDICTION AND VENUE

1. The allegations set forth in Paragraph 1 of the Amended Complaint constitute legal conclusions as to which no response is required.

2. The allegations set forth 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 TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2 of the Amended Complaint.

3. The allegations set forth 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 TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3 of the Amended Complaint.

4. The allegations set forth in Paragraph 4 of the Amended Complaint do not contain any allegations against the TLI Defendants, and as such no response is required. To the extent a response is required, in accordance with Local Bankruptcy Rule 7012-1, the TLI Defendants 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.

¹ Capitalized terms not defined herein shall have the meanings ascribed to them in the Amended Complaint.

5. The allegations set forth 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 TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 5 of the Amended Complaint.

AS TO THE ALLEGED PARTIES

6. Admit the allegations set forth in Paragraph 6 of the Amended Complaint.

7. Admit the allegations set forth in Paragraph 7 of the Amended Complaint.

8. The allegations set forth 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 TLI Defendants deny the allegations set forth in Paragraph 8 of the Amended Complaint and refer to the documents referenced therein for a complete and accurate statement of their contents.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 9 of the Amended Complaint.

10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 10 of the Amended Complaint.

11. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 11 of the Amended Complaint.

12. The allegations set forth 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 TLI Defendants deny the allegations set forth in Paragraph 12 of the Amended Complaint, and refer to the Confirmation Order for a full and accurate recitation of its terms.

13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 13 of the Amended Complaint.

14. The allegations set forth 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 TLI Defendants deny the allegations set forth in Paragraph 14 of the Amended Complaint, and refer to the DIP Order, the Confirmation Order, the Plan and the Trust Agreement for a full and accurate recitation of the terms set forth therein.

15. – 568. The allegations set forth in Paragraphs 15 through 568 constitute legal conclusions as to which no response is required. To the extent a response is required and to the extent that Paragraphs 15 through 568 include the TLI Defendants set forth on Exhibit A, the TLI Defendants deny the allegations set forth in Paragraphs 15 through 568 of the Amended Complaint, except admit that certain of the TLI Defendants received funds from JPMorgan in good faith in accordance with the terms of the Term Loan Agreement.

569. The allegations set forth 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 TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 569 of the Amended Complaint.

570. The allegations set forth in Paragraph 570 of the Amended Complaint constitute legal conclusions as to which no response is required.

571. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 571 of the Amended Complaint, except admit that General Motors Corporation (“General Motors”), Saturn Corporation, and JPMorgan,

as Administrative Agent, among others, entered into the Term Loan Agreement and refer to the Term Loan Agreement for the terms set forth therein.

572. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 572 of the Amended Complaint, and refer to the Term Loan Agreement for a full and accurate recitation of the terms set forth therein.

573. Deny the allegations set forth in Paragraph 573 of the Amended Complaint, except admit upon information and belief that there was an outstanding balance under the Term Loan Agreement as of the Petition Date.

574. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth 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”) [D.I. 574], and refer to the DIP Motion for the terms set forth therein.

575. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 575 of the Amended Complaint, and refer to the DIP Motion for a full and accurate recitation of the terms set forth therein.

576. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 576 of the Amended Complaint.

577. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 577 of the Amended Complaint, and refer to the DIP Order for a full and accurate recitation of the terms set forth therein.

578. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth 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 a full and accurate recitation of the terms set forth therein.

579. The allegations set forth 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 TLI Defendants deny the allegations set forth in Paragraph 579 of the Amended Complaint and refer to the DIP Order for a full and accurate recitation of the terms set forth therein.

580. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 580.

581. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth 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 a full and accurate recitation of the terms set forth therein.

582. Deny the allegations set forth 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 refer to the October 2008 Amendment for the terms set forth therein.

583. The allegations set forth 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 TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 583 of the Amended Complaint.

584. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth 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. D.I. 71], a *Judgment* (the “Judgment”) [Adv. Pro. D.I. 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. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth 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. Repeat and re-allege their responses to Paragraphs 1 through 585 of the Amended Complaint as if fully set forth herein.

587. The allegations set forth 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 TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 587 of the Amended Complaint.

588. The TLI Defendants deny the allegations set forth in Paragraph 588 of the Amended Complaint.

589. The TLI Defendants deny the allegations set forth in Paragraph 589 of the Amended Complaint.

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

590. Repeat and re-allege their responses to Paragraphs 1 through 589 of the Amended Complaint as if fully set forth herein.

591. Deny the allegations set forth in Paragraph 591 of the Amended Complaint.

592. The allegations set forth in Paragraph 592 of the Amended Complaint constitute legal conclusions as to which no response is required.

593. Deny the allegations set forth in Paragraph 593 of the Amended Complaint, and refer to the DIP Order for a full and accurate recitation of the terms set forth therein.

594. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 594 of the Amended Complaint.

595. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 595 of the Amended Complaint.

596. Deny the allegations set forth in Paragraph 596 of the Amended Complaint.

597. Deny the allegations set forth in Paragraph 597 of the Amended Complaint, and refer to the DIP Order for a full and accurate recitation of the terms set forth therein.

598. Deny the allegations set forth in Paragraph 598 of the Amended Complaint.

599. Deny the allegations set forth in Paragraph 599 of the Amended Complaint.

600. Deny the allegations set forth in Paragraph 600 of the Amended Complaint.

601. Deny the allegations set forth 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 set forth 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 TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 602 of the Amended Complaint.

603. Deny the allegations set forth in Paragraph 603 of the Amended Complaint.

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

604. Repeat and re-allege their responses to Paragraphs 1 through 603 of the Amended Complaint as if fully set forth herein.

605. Deny the allegations set forth in Paragraph 605 of the Amended Complaint.

606. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 606 of the Amended Complaint.

607. The allegations set forth in Paragraph 607 of the Amended Complaint constitute legal conclusions as to which no responsive pleading is required. To the extent a

response is required, the TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 607 of the Amended Complaint.

608. The allegations set forth in Paragraph 608 of the Amended Complaint constitute legal conclusions as to which no responsive pleading is required. To the extent a response is required, the TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 608 of the Amended Complaint.

609. The allegations set forth in Paragraph 609 of the Amended Complaint constitute legal conclusions as to which no responsive pleading is required. To the extent a response is required, the TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 609 of the Amended Complaint.

610. The allegations set forth in Paragraph 610 of the Amended Complaint constitute legal conclusions as to which no responsive pleading is required. To the extent a response is required, the TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 610 of the Amended Complaint.

611. The allegations set forth in Paragraph 611 of the Amended Complaint constitute legal conclusions as to which no responsive pleading is required. To the extent a response is required, the TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 611 of the Amended Complaint.

612. Deny the allegations set forth in Paragraph 612 of the Amended Complaint.

613. Deny the allegations set forth in Paragraph 613 of the Amended Complaint.

614. The allegations set forth in Paragraph 614 of the Amended Complaint constitute legal conclusions as to which no responsive pleading is required. To the extent a response is required, the TLI Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 614 of the Amended Complaint.

615. Deny the allegations set forth in Paragraph 615 of the Amended Complaint.

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

616. Repeats and re-allege their responses to Paragraphs 1 through 615 of the Amended Complaint as if fully set forth herein.

617. Deny the allegations set forth in Paragraph 617 of the Amended Complaint.

618. Deny the allegations set forth in Paragraph 618 of the Amended Complaint.

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

AFFIRMATIVE DEFENSE

In asserting the following additional defenses to Plaintiff's claims, the TLI Defendants do not concede that the assertion of such defenses imposes any burden of proof or persuasion on the TLI Defendants with respect thereto. Furthermore, the TLI Defendants 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 TLI Defendants assert that the claims alleged in the Amended Complaint against the TLI Defendants are barred, in whole or in part, because:

AS A FIRST AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The Amended Complaint fails to state a claim against the TLI Defendants upon which relief may be granted.

AS A SECOND AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

Plaintiff is estopped from alleging that the security interest of JPMorgan, as Administrative Agent, was 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.

AS A THIRD AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

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

**AS A FOURTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

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

**AS A FIFTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

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.

**AS A SIXTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

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

**AS A SEVENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

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 TLI Defendants, when it permitted the Debtors to file the October 2008 Amendment.

**AS AN EIGHTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

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

**AS A NINTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

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

**AS A TENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

The TLI Defendants were a secured party and had on the Petition Date a perfected security interest 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.

**AS AN ELEVENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

At the time any of the purported transfers referenced in the Amended Complaint were allegedly made by the Debtors, the TLI Defendants were perfected secured creditors thereby excepting all of the alleged transfers from avoidance as preferential transfers pursuant to Bankruptcy Code section 547(b)(5).

**AS A TWELFTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

Pursuant to Bankruptcy Code section 547(c)(2), the alleged transfers sought from the TLI Defendants 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 TLI Defendants, (b) made in the ordinary course of business or financial affairs of the Debtors and the TLI Defendants, and (c) made according to ordinary business terms.

AS A THIRTEENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The claims asserted in the Amended Complaint against the TLI Defendants are barred by the doctrine of earmarking.

AS A FOURTEENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The claims asserted in the Amended Complaint against the TLI Defendants are barred by the doctrines of recoupment and/or set-off.

AS A FIFTEENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The claims asserted in the Amended Complaint against the TLI Defendants are barred, in whole or in part, by applicable statutes of limitations.

AS A SIXTEENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The claims asserted in the Amended Complaint against the TLI Defendants are barred to the extent that the TLI Defendants were mere conduits with respect to any of the alleged transfers.

AS A SEVENTEENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

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.

**AS A EIGHTEENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

The claims asserted in the Amended Complaint are barred by Sections 550(a)(2) and 550(b)(1) of the Bankruptcy Code. Under those sections of the Bankruptcy Code, the Trustee may not recover from an immediate or mediate transferee of the initial transferee who takes for value, in good faith, and without knowledge of the voidability of the transfer avoided. The TLI Defendants are immediate or mediate transferees of the initial transferee and the TLI Defendants took for value, in good faith, and without knowledge of the voidability of the transfer avoided.

**AS A NINETEENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

The TLI Defendants were not properly served with the summons and complaint, nor served with the summons and complaint within the period of time prescribed by law, and the Trustee's claims against the TLI Defendants should therefore be dismissed for insufficient service of process.

**AS A TWENTIETH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

The claims asserted in the Amended Complaint are barred, in whole or in part, by the single satisfaction rule set forth in Section 550(d) of the Bankruptcy Code.

**AS AN TWENTY-FIRST AFFIRMATIVE DEFENSE TO THE CAUSES OF
ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS
ALLEGE:**

The claims asserted in the Amended Complaint against the TLI Defendants are barred by the doctrines of laches and equitable estoppel.

AS A TWENTY-SECOND AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The Plaintiff is estopped from bringing the claims asserted in the Amended Complaint against the TLI Defendants.

AS A TWENTY-THIRD AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The claims asserted in the Amended Complaint against the TLI Defendants are barred by the doctrine of mistake.

AS A TWENTY-FOURTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

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

AS A TWENTY-FIFTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

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

AS A TWENTY-SIXTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

Pursuant to the Term Loan Agreement, the Debtors agreed to hold harmless and indemnify each Term Lender to the full extent of any losses, expenses, claims, or proceedings related to or arising out of the Term Loan Agreement. The TLI Defendants hereby invoke all of its contractual and common law indemnity rights, and hereby provides notice to the Plaintiff and the Debtors thereof.

**AS A TWENTY-SEVENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF
ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS
ALLEGE:**

The claims asserted in the Amended Complaint against the TLI Defendants to avoid transfers under 11 U.S.C. § 549 are barred insofar as such transfers were not of property of the Debtors' estates.

**AS A TWENTY-EIGHTH AFFIRMATIVE DEFENSE TO THE CAUSES OF
ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS
ALLEGE:**

The TLI Defendants are not subject to the Bankruptcy Court's jurisdiction. The claims asserted against the TLI Defendants in the Amended Complaint should accordingly be dismissed.

**AS A TWENTY-NINTH AFFIRMATIVE DEFENSE TO THE CAUSES OF
ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS
ALLEGE:**

The Plaintiff has not met its burden to overcome the presumption that the Bankruptcy Code's avoidance provisions should not be applied extraterritorially. The claims asserted in the Amended Complaint against the TLI Defendants are barred to the extent that they require the Bankruptcy Court to apply sections of the Bankruptcy Code extraterritorially.

**AS A THIRTIETH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

The claims asserted in the Amended Complaint against the TLI Defendants are barred to the extent that extraterritorial application of the Bankruptcy Code is precluded by concerns of international comity.

**AS A THIRTY-FIRST AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

The Court lacks jurisdiction over the final adjudication of the claims asserted in the Amended Complaint since the TLI Defendants do not consent to the entry of a final order and judgment by the Bankruptcy Court. The TLI Defendants hereby demand, pursuant to Rule 38 of the Federal Rules of Civil Procedure and Rule 9015 of the Federal Rules of Bankruptcy Procedure, a trial by jury of all issues raised in the above-captioned adversary proceeding.

AS A THIRTY-SECOND AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

Even if the Plaintiff is entitled to the return of some or all of the transfers, it is not entitled to interest from the date of each alleged transfer.

AS A THIRTY-THIRD AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

At the time any of the purported preferential transfers referenced in the Amended Complaint were allegedly made by the Debtors, the TLI Defendants did not receive more than they would have received had the Debtors' bankruptcy cases been cases under chapter 7 of the Bankruptcy Code, had such transfers not been made, and had the TLI Defendants received payment therein to the extent provided in the provisions of the Bankruptcy Code.

AS A THIRTY-FOURTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

Plaintiff's claims are barred due to a lack of due process to the extent that the TLI Defendants had no knowledge of the pending adversary proceeding until approximately six years after the adversary proceeding was filed, which has prejudiced those TLI Defendants from defending this action. The prior orders of the Bankruptcy Court

extending the time for service of the summons should be vacated for the reasons set forth above.

AS A THIRTY-FIFTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The claims asserted in the Amended Complaint against the TLI Defendants are barred by the doctrines of mistake, restitution, and unjust enrichment.

AS A THIRTY-SIXTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The Plaintiff's Third Claim for Relief is barred because the allegedly preferential transfers are protected from avoidance by the "safe harbor" provisions of section 546(e) of the Bankruptcy Code.

AS A THIRTY-SEVENTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

Except claims "with respect only to the perfection of first priority liens of the Prepetition Senior Facilities Secured Parties," all claims have been released pursuant to the DIP Order.

AS A THIRTY-EIGHTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The TLI Defendants assert as an affirmative defense that to the extent that any prepetition transfers at issue are held by this Court to meet the requirements of 11 U.S.C. § 547(b), all such transfers may nevertheless not be avoided as preferences pursuant to 11 U.S.C. § 547(c)(1).

AS A THIRTY-NINTH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:

The TLI Defendants assert as an affirmative defense that to the extent that any prepetition transfers at issue are held by this Court to meet the requirements of 11 U.S.C. § 547(b), all such transfers may nevertheless not be avoided as preferences pursuant to 11 U.S.C. § 547(c)(4).

**AS A FOURTIETH AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

The TLI Defendants 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 TLI Defendants.

**AS A FORTY-FIRST AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION
ALLEGED BY PLAINTIFF HEREIN, THE TLI DEFENDANTS ALLEGE:**

The TLI Defendants 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 TLI Defendants. The TLI Defendants 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.

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WHEREFORE, the TLI Defendants respectfully request that judgment be entered in their favor as follows:

- A. Dismissing with prejudice and on the merits all claims against the TLI Defendants in Plaintiff's Amended Complaint;
- B. Awarding the TLI Defendants their costs of defending this action, including reasonable attorneys' fees, costs and disbursements; and
- C. Awarding to the TLI Defendants such other and further relief as this Court may deem just and proper.

Dated: New York, New York
July 27, 2016

Respectfully submitted,

HAHN & HESSEN LLP

By: /s/ Mark T. Power
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*Attorneys for the TLI Defendants
identified on Schedule A annexed hereto*

Appendix A¹

Arch Reinsurance Ltd.
Bill & Melinda Gates Foundation Trust
Board of Fire and Police Pension Commissioners of the City of Los Angeles
Board of Pensions of the Presbyterian Church (U.S.A.)
Building Trades United Pension Trust Fund
Carpenters Pension Fund of Illinois
Caterpillar Inc. Master Retirement Trust
City of Milwaukee Employees' Retirement System
Coca-Cola Company Retirement & Master Trust
Columbus Unconstrained Bond Fund (formerly Reams Unconstrained Bond Fund)
Connecticut General Life Insurance Company In Respect of Its Separate Account 4828CP
Cummins Inc. and Affiliates Collective Investment Trust
DDJ High Yield Fund
Debello Investors LLC
Eighth District Electrical Pension Fund
Emerson Electric Co. Retirement Master Trust
Employees' Retirement System of Baltimore County
GoldenTree Loan Opportunities III, Ltd.
GoldenTree Loan Opportunities IV, Ltd.
Halliburton Company Employee Benefit Master Trust
Health Care Foundation of Greater Kansas City
ILWU/PMA Pension Plan Trust
Indiana Public Retirement System
Indiana State Police Pension Trust
Indiana University
Inter-Local Pension Fund of the Graphic Communications Conference of the International Brotherhood of Teamsters
J.C. Penney Corporation, Inc. Pension Plan Trust
Kraft Heinz Foods Company ² & Kraft Foods Master Retirement Trust
Kynikos Opportunity Fund II, L.P.
Kynikos Opportunity Fund International Limited
Kynikos Opportunity Fund, L.P.

¹ Hahn & Hessen LLP ("H&H") has also appeared on behalf of Nonparties Oak Hill Credit Partners II Ltd., Oak Hill Credit Partners III Ltd. and Oak Hill Credit Partners IV Ltd., which entities have been dissolved. To the extent these entities are determined not to be dissolved or otherwise remain party to this adversary proceeding, H&H has also appeared on their behalf and such parties hereby adopt this Answer.

² Based upon their records, neither Kraft Heinz Food Company nor Kraft Foods Global, Inc. received any of the transfers referenced in the Amended Complaint and thus reserve all of their rights with respect thereto.

Master Trust for Certain Tax Qualified Bechtel Retirement Plans ³
Master Trust Pursuant to the Retirement Plans of APL Limited & Subsidiaries
Mather Foundation
Montana Board of Investments
Municipal Employees' Retirement System of Michigan
New Orleans Carpenters Pension Plan <i>f/k/a Louisiana Carpenters Regional Council Pension Plan</i>
Oak Hill Credit Opportunities Financing Ltd.
Oak Hill Credit Opportunities Master Fund, Ltd.
Oak Hill Credit Partners V Ltd.
OHA Capital Solution Financing (Offshore), Ltd.
OHA Capital Solution Financing (Onshore), Ltd.
OHA Park Avenue CLO I Ltd.
OHSF Financing Ltd.
OHSF II Financing Ltd.
Purdue University
Raytheon Master Pension Trust, with respect to accounts Logan Floating Rate Portfolio, WAMCO 3131, and Logan Mid Grade Portfolio.
Prudential Retirement Insurance & Annuity Company, on behalf of Separate Account SA-18
Retirement Board of the Park Employees' and Retirement Board Employees' Annuity and Benefit Fund of Chicago
Santa Barbara County Employees' Retirement System
Scout Core Plus Bond Fund (formerly Frontegra Columbus Core Plus Bond Fund)
Seattle City Employees' Retirement System
Shinnecock CLO II, Ltd.
Sonoma County Employees' Retirement Association
State of Indiana Major Moves Construction Fund
Stichting Bewaarder Syntrus Achmea Global High Yield Pool <i>f/k/a Stichting Bewaarder Interpolis Pensioenen Global High Yield Pool</i>
Stichting Pensioenfondsvan Hoogovens
Stichting Pensioenfondsvan Metaal en Techniek
Stichting Pensioenfondsvan de Metalektro <i>f/k/a Stichting Bedrijfstakpensioenfondsvan Voor De Metalektro</i>
Stichting Pensionfondsvan Me
St. Luke's Health System Corporation, as successor to St. Luke's Episcopal Health System Foundation

³ In 2009, the Master Trust held the assets of the Bechtel Trust & Thrift Plan and the Becon Trust & Thrift Plan.

Taxable Fixed Income Managers: Portfolio 1 [Series] <i>f/k/a Goldman Sachs GMS Core Plus Fixed Income Portfolio</i>
The Children's Hospital of Philadelphia Foundation
The Duchossois Group Inc. Pension Trust
The Rotary Foundation
Twin Lake Total Return Partners LP <i>f/k/a Talon Total Return Partners LP</i>
Twin Lake Total Return Partners QP LP <i>f/k/a Talon Total Return QP Partners LP</i>
University of Kentucky
Ventura County Employees' Retirement Association
Vulcan Ventures, Inc.
Wexford Catalyst Investors LLC
Wexford Spectrum Investors LLC