IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
FISKER AUTOMOTIVE HOLDINGS, INC., et al.,[1]	)	Case No. 13-13087 (KG)
Debtors.	)	(Jointly Administered)
	)	**Re: Docket Nos. 17, 67, 167, and 364**

FINAL ORDER (I) AUTHORIZING POSTPETITION FINANCING, (II) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE PRIORITY, (III) AUTHORIZING USE OF CASH COLLATERAL, (IV) GRANTING ADEQUATE PROTECTION, (V) MODIFYING THE AUTOMATIC STAY, AND (VI) SCHEDULING A FINAL HEARING PURSUANT TO SECTIONS 105, 361, 362, 363 AND 364 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 2002, 4001, AND 9014

Upon the motion dated November 24, 2013 (the "Motion"), of the above-captioned debtors and debtors in possession (collectively, the "Debtors") in the above-captioned cases (the "Cases") for interim and final orders under Sections 105, 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), Rules 2002, 4001, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 2002-1(b) and 4001-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules") seeking:

(I) authorization for the Debtors to obtain up to the principal amount of $13.1 million of postpetition financing (the "DIP Loans"), on the terms and conditions set forth in the Motion as supplemented thereafter and set forth in this final order (this "Final Order") and that certain

1 The Debtors, together with the last four digits of each Debtor's federal tax identification number, are: Fisker Automotive Holdings, Inc. (9678); and Fisker Automotive, Inc. (9075). For the purpose of these chapter 11 cases, the service address for the Debtors is: 3080 Airway Avenue, Costa Mesa, California 92626.

Binding Commitment and Agreement for DIP Financing and Use of Cash Collateral dated November 22, 2013 (substantially in the form annexed to the Motion as Exhibit B, and as modified herein and as hereafter amended, supplemented or otherwise modified from time to time, the "DIP Agreement")[2], among Fisker Automotive, Inc. (the "Borrower") and Fisker Automotive Holdings, Inc. (the "Guarantor"), and Hybrid Technology, LLC, in its capacity as a post-petition lender to the Debtors (together with its successors and assigns, the "DIP Lender");

(II) authorization for the Debtors to execute and deliver the DIP Agreement and to perform such other and further acts as may be necessary or appropriate in connection therewith;

(III) authorization for the Debtors to grant liens, mortgages, and security interests to the DIP Lender as more fully set forth in the DIP Agreement;

(IV) authorization for the Debtors to (a) use the Cash Collateral pursuant to Section 363 of the Bankruptcy Code, and all other Prepetition Collateral (as defined herein), and (b) provide adequate protection to each of the following prepetition secured creditors: (i) Hybrid Technology, LLC (together with its successors and assigns, "Hybrid"), in its capacity as assignee of the United States Department of Energy of all rights and interests in the Loan Arrangement and Reimbursement Agreement dated as of April 22, 2010 (as amended, supplemented or otherwise modified from time to time, the "DOE Credit Agreement," together with all security, pledge and guaranty agreements and all other documentation executed in connection with any of the foregoing, each as amended, supplemented or otherwise modified, the "DOE Documents"); (ii) Silicon Valley Bank ("SVB"), as lender under the Loan Agreement dated as of July 30, 2010 (the "SVB Credit Agreement," together with all security, pledge and guaranty agreements and all other documentation executed in connection with any of the foregoing, each as amended,

2 Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the DIP Agreement, as applicable.

supplemented or otherwise modified, the "SVB Documents"); and (iii) the Delaware Economic Development Authority ("DEDA," and with Hybrid and SVB, the "Prepetition Lenders"), as lender under the Loan and Security Agreement dated as of December 10, 2010 by and among the Borrower, the Guarantor, and DEDA (the "DEDA Credit Agreement" and, with the DOE Credit Agreement and the SVB Credit Agreement, the "Prepetition Credit Agreements," and together with all mortgage, security, pledge and guaranty agreements and all other documentation executed in connection with any of the foregoing, each as amended, supplemented or otherwise modified, the "DEDA Documents" and with the DOE Documents and the SVB Documents, the "Prepetition Documents");

(V) authorization for the DIP Lender to exercise remedies under the DIP Agreement upon the occurrence and during the continuance of an Event of Default;

(VI) authorization to grant liens to the DIP Lender on the Debtors' claims and causes of action arising under Sections 544, 545, 547, 548, 549 and 550 of the Bankruptcy Code;

(VII) the waiver by the Debtors of any right to seek to surcharge against the DIP Collateral (as defined herein) and the other Prepetition Collateral pursuant to Section 506(c) of the Bankruptcy Code;

(VIII) at an interim hearing (the "Interim Hearing") on the Motion before this Court, pursuant to Bankruptcy Rule 4001, entry of the Interim Order (as defined herein) (a) authorizing the Borrower to borrow and be jointly and severally obligated under the DIP Agreement in an aggregate principal amount not to exceed $1.7 million through the date of this Final Order, (b) authorizing the Guarantor to unconditionally guaranty all of the obligations outstanding under the DIP Agreement, (c) authorizing the Debtors to grant liens, mortgages, and security interests to the DIP Lender as more fully set forth in the DIP Agreement, (d) authorizing the Debtors to

use Cash Collateral, and (e) granting adequate protection to the Prepetition Lenders; and

(IX) to schedule, pursuant to Bankruptcy Rule 4001, a final hearing (the "Final Hearing") for this Court to consider entry of a final order in form and substance reasonably satisfactory to the DIP Lender and the Debtors (the "Final Order") authorizing and approving on a final basis the relief requested in the Motion, including without limitation, for the Debtors on a final basis to utilize and be jointly and severally obligated for all amounts under the DIP Facility, and for the Debtors to continue to use Cash Collateral and the other Prepetition Collateral subject to the terms of the DIP Agreement and the Final Order.

And the Interim Hearing having been held by this Court on November 26, 2013; and upon the record made by the Debtors at the Interim Hearing, including, without limitation, the admission into evidence of the *Declaration of Marc Beilinson in Support of First Day Motions* [Docket No. 3] (the "First Day Declaration"), filed on November 22, 2013 (the "Petition Date"), and the *Declaration of Marc Beilinson in Support of the Motion of The Debtors for Entry of Interim and Final Orders (I) Authorizing Postpetition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Priority, (III) Authorizing Use of Cash Collateral, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Scheduling a Final Hearing Pursuant to Sections 105, 361, 362, 363 And 364 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, And 9014* [Docket No. 34], filed on November 25, 2013; and the Court having entered the *Interim Order (I) Authorizing Postpetition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Priority, (III) Authorizing Use of Cash Collateral, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Scheduling a Final Hearing Pursuant to Sections 105, 361, 362, 363 and 364 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, and 9014* [Docket No. 67]

(the "Interim Order"); and a second interim hearing having been held on December 16, 2013 (the "Second Interim Hearing," and together with the Interim Hearing, the "Interim Hearings"); and the Court having entered the *Second Interim Order (I) Authorizing Postpetition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Priority, (III) Authorizing Use of Cash Collateral, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Scheduling a Final Hearing Pursuant to Sections 105, 361, 362, 363 and 364 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, and 9014* [Docket No. 167] (the "Second Interim Order"); and the Court having entered the *Third Interim Order (I) Authorizing Postpetition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Priority, (III) Authorizing Use of Cash Collateral, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Scheduling a Final Hearing Pursuant to Sections 105, 361, 362, 363 and 364 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, and 9014* [Docket No. 364] (the "Third Interim Order"); and the Court having entered the *Fourth Interim Order (I) Authorizing Postpetition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Priority, (III) Authorizing Use of Cash Collateral, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Scheduling a Final Hearing Pursuant to Sections 105, 361, 362, 363 and 364 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, and 9014* [Docket No.] (the "Fourth Interim Order, and together with the Interim Order, the Second Interim Order, and the Third Interim Order, the "Interim Orders"); and the Final Hearing having been held on January ~~27~~ 24, 2014, and upon the record made by the Debtors at Interim Hearings and at the Final Hearing; and the other evidence submitted or adduced and the arguments of counsel made at the Final Hearing; and all objections to the entry of this Final Order having been overruled, withdrawn or resolved pursuant to the

terms of this Final Order; and after due deliberation and consideration and sufficient cause appearing therefor:

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that:

1. *Jurisdiction.* This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. *Notice.* Notice of the Motion, the Interim Hearings, the Interim Orders, and the Final Hearing was served by the Debtors on (a) the Office of the United States Trustee for the District of Delaware; (b) counsel to PNC Bank, N.A., d/b/a Midland Loan Services, a division of PNC Bank, N.A., as successor by merger to Midland Loan Services, Inc., as collateral agent under that certain Amended and Restated Collateral Agency Agreement dated as of July 30, 2010; (c) the Internal Revenue Service; (d) the United States Department of Energy; (e) Silicon Valley Bank; (f) the Delaware Economic Development Authority; (g) counsel to the United States Department of Energy; (h) counsel to Hybrid Technology, LLC; (i) counsel to Hybrid Tech Holdings, LLC; (j) any party that has requested notice pursuant to Bankruptcy Rule 2002; (k) the cash management banks with whom the Debtors maintain their bank accounts; (l) counsel to the DIP Lender; and (m) all parties who are known, after reasonable inquiry, to have asserted a lien, encumbrance, or claim in the DIP Collateral (collectively, the "Notice Parties"). Notice of the Interim Hearings and the Final Hearing was also served by the Debtors on counsel to the official committee of unsecured creditors appointed in these cases

pursuant to section 1102 of the Bankruptcy Code (the "Committee"). Under the circumstances, the Debtors believe that the notice provided of the Motion, the Interim Hearings, the Interim Orders, and the Final Hearing constitutes the best available notice and that no further notice of the relief sought at the Final Hearing is necessary or required.

3. *Approval of Motion.* The relief requested in the Motion is granted as described herein. Except as otherwise expressly provided in this Final Order, any objection to the entry of this Final Order that has not been withdrawn, waived, resolved or settled, is hereby denied and overruled on the merits.

4. *Debtors' Stipulations.* Without prejudice to the rights of any non-Debtor party-in-interest (but subject to the limitations thereon contained in paragraph 22 hereof), the Debtors admit, stipulate, and agree that:

(a) as of the Petition Date, the Debtors (as set forth in the Prepetition Credit Agreements) were truly and justly indebted to the Prepetition Lenders, without defense, counterclaim or offset of any kind, in the aggregate principal amount of not less than $168,485,144.99 to Hybrid, $6,595,762.89 to SVB, and $19,888,933.12 to DEDA, in respect of loans and other extensions of credit made pursuant to the Prepetition Documents, plus accrued and unpaid interest thereon and all fees accrued thereunder and all other fees and expenses (including fees and expenses of attorneys and advisors) as provided in the Prepetition Documents (the "Prepetition Obligations");

(b) the Prepetition Obligations in the full amount outstanding on the Petition Date constitute the legal, valid and binding obligations of the Debtors, enforceable in accordance with their terms;

(c) the liens, mortgages, and security interests granted by the Debtors to the

Prepetition Lenders to secure the Prepetition Obligations (the "Prepetition Liens") are (i) valid, binding, perfected, enforceable, first priority (subject to permitted exceptions under the Prepetition Credit Agreements) liens on and security interests in the personal and real property of such Debtors constituting "Collateral" under, and as defined in, the Prepetition Credit Agreements (together with the Cash Collateral, the "Prepetition Collateral"), (ii) not subject to objection, defense, contest, avoidance, reduction, disallowance or subordination (whether equitable, contractual or otherwise) of any kind pursuant to the Bankruptcy Code or applicable nonbankruptcy law by any person or entity, unless permitted in the DIP Agreement, and (iii) subject and subordinate only to (A) after giving effect to this Final Order, the Carve-Out (as defined herein), the liens and security interests granted to secure the DIP Obligations (as defined herein) and the Adequate Protection Obligations (as defined herein) and (B) other valid and unavoidable liens perfected prior to the Petition Date (or perfected after the Petition Date to the extent permitted by Section 546(b) of the Bankruptcy Code) which are permitted under the Prepetition Documents to the extent such permitted liens are senior to the liens securing the Prepetition Obligations;

(d) no portion of the Prepetition Obligations and no amounts paid at any time to the Prepetition Lenders on account thereof or with respect thereto shall be subject to objection, defense, counterclaim, claim (as such term is defined in the Bankruptcy Code), offset, contest, avoidance, recharacterization, reduction, disallowance, recharacterization, recovery or subordination pursuant to the Bankruptcy Code or applicable nonbankruptcy law; and

(e) no claims, objections, challenges, counterclaims, causes of action and/or choses in action, defenses or setoff rights of the Debtors exist against any Prepetition Lender and their respective Prepetition Obligations and Prepetition Liens under any contract or tort

(including, without limitation, lender liability) theories of recovery, whether arising at law or in equity, including any recharacterization, subordination, avoidance or other claim arising under or pursuant to Section 105 or Chapter 5 (including, without limitation, Sections 510, 544, 547, 548, 549 or 550) of the Bankruptcy Code or under any other similar provisions of applicable state or federal law, and to the extent any claims, objections, challenges, counterclaims, causes of action and/or choses in action, defense or setoff rights are deemed to have existed as to any of the foregoing, the Debtors hereby forever waive, discharge and release any right they may have to challenge any of the Prepetition Obligations and the Prepetition Liens, and to assert any setoff rights, defenses, claims, objections, challenges, counterclaims, causes of action and/or choses of action whether arising under the Bankruptcy Code or applicable nonbankruptcy law, against the Prepetition Lenders (only in their capacities as such), and as to each of the foregoing, their respective affiliates, subsidiaries, agents, officers, directors, employees, attorneys and advisors, in each case in connection with any matter related to the Prepetition Obligations, the Prepetition Liens, the Prepetition Credit Agreements and the Prepetition Documents or the financing and transactions contemplated thereby, or the Prepetition Collateral.

5. *Findings Regarding the DIP Loans, the Use of Cash Collateral, and the Prepetition Collateral.*

(a) Good cause has been shown for the entry of this Final Order.

(b) The Borrower requires the DIP Loans and the Debtors need to continue to use the Prepetition Collateral, including the Cash Collateral, in order to, among other things, preserve estate value and fund these chapter 11 cases through the sale of their assets.

(c) The Debtors are unable to obtain financing on more favorable terms from sources other than the DIP Lender pursuant to, and for the purposes set forth in, the DIP

Agreement and are unable to obtain adequate unsecured credit allowable under Section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtors are also unable to obtain secured credit allowable under Sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without granting priming liens under Section 364(d)(1) of the Bankruptcy Code and the Superpriority Claim (as defined herein) on the terms and conditions set forth in this Final Order and the DIP Agreement.

(d) The terms of the use of the DIP Loans and the Prepetition Collateral, including the Cash Collateral, pursuant to this Final Order are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration.

(e) The DIP Agreement and the use of the Prepetition Collateral, including the Cash Collateral, have been the subject of good faith negotiations conducted at arm's length among the Debtors and the DIP Lender and all of the obligations and indebtedness arising under or in connection with the DIP Agreement and this Final Order (collectively, the "DIP Obligations") shall be deemed to have been extended by the DIP Lender in "good faith" as such term is used in Section 364(e) of the Bankruptcy Code, and in express reliance upon the protections set forth therein, and shall be entitled to the full protection of Section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified on appeal or otherwise.

(f) Absent the relief set forth in this Final Order, the Debtors and their business operations will be immediately and irreparably harmed. In particular, the Debtors require immediate postpetition financing, and continued use of the Prepetition Collateral, including the Cash Collateral, in order to, among other things, maintain the value of their assets,

pay payroll and employee benefit expenses and preserve the value of the Debtors' estates for the benefit of their creditors and stakeholders. The borrowing of the DIP Loans and the use of the Prepetition Collateral, including the Cash Collateral, in accordance with this Final Order and the DIP Agreement are, therefore, in the best interest of the Debtors.

(g) Except where expressly provided otherwise in this Final Order, nothing herein or in the DIP Agreement modifies or impacts the obligations of the Debtors under the Prepetition Documents.

6. *Authorization of the DIP Loans and the DIP Agreement.*

(a) The Borrower is hereby authorized to borrow and, together with the Guarantor, be jointly and severally obligated under the DIP Agreement in an aggregate principal amount not to exceed $13.1 million, which amount is the sum of (a) the approximately $6.8 million in DIP Loans advanced to the Debtors pursuant to the Interim Orders and (b) a final advance of $6.3 million in DIP Loans (the "Final Advance"), on a final basis, for working capital purposes of the Debtors, interest and fees under the DIP Facility, and the allowed costs and expenses of their Cases, in each case, solely in accordance with the Approved Budget (a copy of which is attached hereto as Exhibit A).

(b) The Final Advance shall be funded by the DIP Lender to the Debtors on a weekly basis in accordance with the DIP Agreement through the Termination Date.

(c) In furtherance of the foregoing and without further approval of this Court, the Debtors are authorized and directed to perform all acts (and to the extent such acts have already occurred, such acts are hereby ratified), including without limitation:

(i) the execution, delivery and performance of the DIP Agreement;

(ii) performing and incurring Adequate Protection Obligations as

provided for in this Final Order and the DIP Agreement; and

(iii) the performance of all other acts required under or in connection with this Final Order and the DIP Agreement.

(d) The DIP Agreement and the obligations thereunder constitute valid and binding obligations of the Debtors, enforceable against the Debtors in accordance with the terms of this Final Order and the DIP Agreement. No obligation, payment, transfer or grant of security by the Debtors under the DIP Agreement or this Final Order shall be voidable, avoidable or recoverable under the Bankruptcy Code or under any applicable nonbankruptcy law (including without limitation, under Sections 502(d) or 548 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law), or subject to any defense, reduction, setoff, recoupment or counterclaim.

7. *Budget*. Attached as Exhibit A hereto and incorporated by reference herein is a revised 12-week budget (which has been approved by the DIP Lender and the Prepetition Lenders) setting forth the Debtors' projected receipts and disbursements for such period (as may be modified in accordance with the DIP Agreement, the "Approved Budget").

(a) The Debtors' use of Cash Collateral shall be consistent with the types of expenses set forth in the Approved Budget and subject to the requirements set forth in the DIP Agreement and in accordance with the permitted variances and other terms contained in this Final Order and the DIP Agreement. The DIP Lender shall have no obligation with respect to the Debtors' use of the Cash Collateral, and shall not be obligated to ensure or monitor the Debtors' compliance with the Approved Budget or to pay (directly or indirectly from the Cash Collateral) any expenses incurred or authorized to be incurred pursuant to the Approved Budget. Any and all Cash Collateral shall be used by the Debtors in accordance with this Final Order, the Approved

Budget, and the DIP Agreement. Except with respect to the funds held in the Professional Fees Account and the Carve-Out, the DIP Lender's and the Prepetition Lenders' consent to the Approved Budget shall not be construed as consent to the use of any Cash Collateral after the occurrence of an Event of Default, regardless of whether the aggregate funds shown on the Approved Budget have been expended.

(b) Notwithstanding anything to the contrary contained herein, and (x) prior to the closing of the sale of substantially all of the Debtors' assets to Hybrid pursuant to that certain Asset Purchase Agreement among the Debtors and Hybrid Tech Holdings, LLC, dated as of November 22, 2013, (the "APA") and (y) so long as the APA has not been terminated pursuant to its terms on account of an Event of Default occurring subsequent to the date hereof (it being acknowledged and agreed that any Event of Default occurring prior to the date hereof shall provide no basis for the DIP Lender to terminate its commitments pursuant to the DIP Agreement or this Final Order), no payment shall be made using Cash Collateral or the proceeds of the DIP Facility to any Professional Person to the extent that it would cause the aggregate amount paid to such Professional Person to exceed the aggregate amount of fees and expenses set forth in the Approved Budget with respect to such Professional Person, it being understood that amounts unpaid as a result of the preceding limitation may be accrued and, subject to this Final Order, paid (i) to the extent provided by the Carve Out, (ii) in any subsequent period to the extent that actual fees and expenses incurred in such subsequent period are less than the fees and expenses in the budget for such subsequent period, or (iii) pursuant to the terms of a chapter 11 plan or with cash that is not Cash Collateral; provided, however, that nothing in this Final Order shall limit any Professional Person's right to request, or the Court's power to authorize, the allowance of fees and expenses pursuant to Sections 330 and 331 of the Bankruptcy Code.

8. *DIP Liens and Superpriority Claims*. Subject to the Carve-Out in all respects, the DIP Obligations shall be:

(a) entitled to superpriority claim status under Section 364(c)(1) of the Bankruptcy Code (the "Superpriority Claim") with priority over all administrative expense claims and unsecured claims now existing or hereafter arising under the Bankruptcy Code, including, without limitation, the pre-petition claims and adequate protection claims of the Pre-Petition Lenders. The superpriority claims of the DIP Lender may be repaid from any cash of the Debtors, including without limitation, Cash Collateral;

(b) secured, pursuant to Section 364(d)(1) of the Bankruptcy Code, by valid, enforceable first priority, fully perfected security interests in and liens upon all of the Debtors' rights in property of the Debtors' estates as of the Petition Date, and all of the Debtors' rights in property acquired post-petition (including, without limitation, estate causes of action under Chapter 5 of the Bankruptcy Code, together with the proceeds thereof and property received thereby (the "Avoidance Actions")), whether now existing or hereafter acquired or arising (collectively, the "DIP Collateral"), subject and subordinate only to those liens that, under applicable law, are senior to, and have not been subordinated to, the liens of the Pre-Petition Lenders under the Prepetition Documents, but only to the extent that such liens are valid, enforceable and nonavoidable liens as of the Petition Date and liens permitted under the DIP Facility (collectively, "Permitted Priority Liens");

(c) secured, pursuant to Section 364(c)(2) of the Bankruptcy Code, by a first priority, perfected lien on all of the Debtors' rights in property of the Debtors' estates as of the Petition Date that, as of the Petition Date, were unencumbered; and

(d) secured, pursuant to Section 364(c)(3) of the Bankruptcy Code, by a second priority, perfected lien on all of the Debtors' assets subject to (x) valid, perfected, and nonavoidable liens in existence on the Petition Date or (y) valid liens in existence on the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, in each case that were or will become subject to a Permitted Priority Lien (the liens described in subparagraphs (b), (c), and (d) herein, the "DIP Liens").

The DIP Collateral shall also include any and all rents, issues, products, offspring, proceeds and profits generated by any item of DIP Collateral, without the necessity of any further action of any kind or nature by the DIP Lender in order to claim or perfect such rents, issues, products,

offspring, proceeds and/or profits.

(d) Liens Senior to Certain Other Liens. The DIP Liens and the Adequate Protection Liens shall not be (i) subject or subordinate to (A) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under Section 551 of the Bankruptcy Code, (B) any liens arising after the Petition Date, or (C) except for the Permitted Priority Liens, any lien of the Debtors securing the Prepetition Obligations or (ii) subordinated to or made *pari passu* with any other lien or security interest under Sections 363 or 364 of the Bankruptcy Code or otherwise.

9. *Remedies After an Event of Default*. Notwithstanding anything to the contrary in the DIP Agreement, the automatic stay under Section 362 of the Bankruptcy Code is vacated and modified to the extent necessary to permit the DIP Lender, immediately upon the occurrence and during the continuance of an Event of Default, to accelerate the DIP Obligations and, thereafter, take all or any of the following actions without further order of or application to the Bankruptcy Court, provided that, in the case of the enforcement of liens or other remedies with respect to collateral pursuant to clause (b) below, the DIP Lender shall provide the Debtors (with a copy to counsel to the Committee the United States Trustee) with five (5) business days' prior written notice during which time any such party must file a pleading seeking an emergency hearing in opposition to the DIP Lender's exercise of its rights and remedies and provided further, that in any hearing following such notice, the only issue that may be raised by the Debtors in opposition to the actions proposed or available to be taken by the DIP Lender shall be whether, in fact, an Event of Default has occurred and is continuing:

(a) declare the principal of and accrued interest on the outstanding borrowings to be immediately due and payable and terminate, as applicable, any further commitments under the

DIP Facility and/or terminate, and terminate the right of the Debtors to use Cash Collateral;

(b) enforce the DIP Lender's liens or pursue other remedies with respect to collateral as the DIP Lender may deem appropriate or necessary; and

(c) charge the default rate of interest under the DIP Facility and take any other action or exercise any other right or remedy (including without limitation, with respect to the liens in favor of the DIP Lender) permitted under applicable law.

10. *Limitations on Charging Expenses Against Collateral.* Except to the extent of the Carve-Out, no expenses of administration of the Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from any collateral securing the DIP Loans or obligations arising under the Prepetition Credit Agreements pursuant to Section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the DIP Lender and the Prepetition Lenders, and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Lender or the Prepetition Lenders.

11. *Limitations under Section 552(b) of the Bankruptcy Code.* The DIP Lender and the Pre-Petition Lenders shall be entitled to all of the rights and benefits of Section 552(b) of the Bankruptcy Code and no expenses of administration of the Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, may be charged against proceeds, product, offspring or profits from any of the collateral under Section 552(b) of the Bankruptcy Code.

12. *Payments Free and Clear.* Any and all payments or proceeds remitted to the DIP Lender or to the Prepetition Lenders pursuant to the provisions of this Final Order or any subsequent order of this Court shall be received free and clear of any claim, charge, assessment

or other liability.

13. *The Cash Collateral.* All cash and cash equivalents of the Debtors, whenever or wherever acquired, and the proceeds of all collateral pledged to the DIP Lender, constitute cash collateral, as contemplated by Section 363 of the Bankruptcy Code ("Cash Collateral").

14. *Adequate Protection.* The Prepetition Lenders are entitled, pursuant to Sections 361, 363(c)(2), 363(e) and 364(d)(1) of the Bankruptcy Code, to adequate protection of their interests in the Prepetition Collateral, including the Cash Collateral, in an amount equal to the aggregate diminution in value of their interests in the Prepetition Collateral, including without limitation, any such diminution on account of (i) depreciation, physical deterioration, use, sale, loss, or decline in market value, (ii) the granting of the DIP Liens, (iii) the Debtors' use of Cash Collateral and other Prepetition Collateral, and (iv) the imposition of the automatic stay, pursuant to Section 362 of the Bankruptcy Code (such diminution in value, the "Adequate Protection Obligations"). Subject in all respects to the Carve-Out and the liens and claims granted to the DIP Lender hereunder, the Pre-Petition Lenders shall receive the following as adequate protection, in each case in accordance with the rights, obligations, and priorities established among the Prepetition Lenders in the Prepetition Documents:

(a) a superpriority claim under Section 507(b) of the Bankruptcy Code, with priority over all administrative expense claims and unsecured claims now existing or after arising (the " (the "507(b) Claim"); and

(b) a second priority, valid, enforceable, fully perfected security interest in and replacement lien on all of the Debtors' assets subject to (x) valid, perfected, and nonavoidable liens in existence on the Petition Date or (y) valid liens in existence on the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code (the "Adequate Protection Liens").

15. *Carve Out.* The claims and liens granted to the Prepetition Lenders and DIP Lender hereunder and pursuant to the DIP Agreement shall each be subject to (i) all fees required

to be paid to the Clerk of the Bankruptcy Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the Carve-Out Trigger Notice); (ii) fees and expenses up to $50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the Carve-Out Trigger Notice); (iii) all accrued but unpaid costs, fees, and expenses (the "Professional Fees") incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the "Debtor Professionals") and the Committee (the "Committee Professionals") appointed in Debtors' Cases pursuant to section 1102 of the Bankruptcy Code (the Debtor Professionals and the Committee Professionals, together, the "Professional Persons") at any time before or on the first business day following delivery by the DIP Lender of a Carve-Out Trigger Notice, whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Trigger Notice in the case of either the Debtors Professionals or the Committee Professionals, to the extent allowed at any time whether allowed by interim order, procedural order, or otherwise; provided that, with respect to the Committee Professionals, obligations benefitting from the Carve Out shall be subject to the limitations set forth at paragraph 23 hereof with respect to the Investigation Budget Cap (as defined herein); and (iv) after the first business day following delivery by the DIP Lender of the Carve-Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise, the payment of Professional Fees of Professional Persons in an aggregate amount not to exceed (x) with respect to Professional Persons retained by the Debtors, $200,000 and (y) with respect to Professional Persons retained by the Committee, $50,000 (the amounts set forth in the foregoing clauses (x) and (y) are collectively referred to as the "Post-Termination Amount"). For purposes of the foregoing, "Carve-Out Trigger Notice" shall mean a written notice delivered by the DIP Lender

to the Debtors and their lead counsel, the United States Trustee for the District of Delaware, and lead counsel to the Creditors Committee, if any, providing notice that the Termination Date has occurred.

16. Promptly after receipt of the Carve-Out Trigger Notice, the DIP Lender shall fund to the Debtors and the Debtors shall transfer to the Professional Fee Account cash in an amount equal to (a) the amount of Professional Fees set forth in the Approved Budget that have not already been funded into the Professional Fee Account, plus (b) the Post Termination Amount; provided that after receipt of a Carve Out Trigger Notice, funds held in the Professional Fee Account shall be earmarked for each professional as applicable pursuant to the Approved Budget.

17. Without limiting the foregoing, following receipt of the Carve Out Trigger Notice, all recoveries on, or proceeds from, the claims and liens granted to the Pre-Petition Lenders under this Final Order and the DIP Lenders' interest in the DIP Collateral shall be transferred by the DIP Lenders into the Professional Fees Account until the balance of cash held in the Professional Fees Account is not less than 100% of the Carve-Out.

18. *Reservation of Rights of Prepetition Lenders.* The Prepetition Lenders have consented to the adequate protection on the terms and conditions set forth herein. Notwithstanding any other provision hereof, the grant of adequate protection to the Prepetition Lenders for the benefit of the Prepetition Lenders pursuant hereto is without prejudice to the right of the Prepetition Lenders to seek modification of the grant of adequate protection provided hereby so as to provide different or additional adequate protection. Except as expressly provided herein, nothing contained in this Final Order (including without limitation, the authorization to use the Cash Collateral) shall impair or modify any rights, claims or defenses available in law or

equity to the Prepetition Lenders. The consent of the Prepetition Lenders to the priming of the Prepetition Liens by the DIP Liens and the Carve-Out (a) is limited to the DIP Loans and the Carve-Out and (b) does not constitute, and shall not be construed as constituting, an acknowledgement or stipulation by the Prepetition Lenders that, absent such consent, their interests in the Prepetition Collateral would be adequately protected pursuant to this Final Order.

19. The Debtor Professionals Account and the Committee Professionals Account (each as defined in the Fourth Interim Order) shall constitute the Professional Fees Account for all purposes for the Debtor Professionals and the Committee Professionals, respectively, including with respect to the transfer of future budgeted Professionals Fees into the Professional Fees Account as provided by the DIP Agreement.

20. Perfection of the DIP Liens and Adequate Protection Liens.

(a) The DIP Lender and the Prepetition Lenders and their respective agents are hereby authorized, but not required, to file or record financing statements, intellectual property filings, mortgages, notices of lien or similar instruments in any jurisdiction, take possession of or control over, or take any other action in order to validate and perfect the DIP Liens and the Adequate Protection Liens granted to them under this Final Order. Whether or not the DIP Lender or the Prepetition Lenders or their respective agents shall, in their respective sole discretion, choose to file such financing statements, intellectual property filings, mortgages, notices of lien or similar instruments, take possession of or control over, or otherwise confirm perfection of the DIP Liens and the Adequate Protection Liens, such DIP Liens and the Adequate Protection Liens shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination as of the date of this Final Order.

(b) A certified copy of this Final Order may, in the discretion of the DIP

Lender and the Prepetition Lenders and their respective agents, as the case may be, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Final Order for filing and recording.

(c) The Debtors shall promptly execute and deliver to the DIP Lender and the Prepetition Lenders or their respective agents, as the case may be, all such agreements, financing statements, instruments and other documents as the DIP Lender or the Prepetition Lenders, as the case may be, may reasonably request to evidence, confirm, validate or perfect the DIP Liens and the Adequate Protection Liens.

21. *Preservation of Rights Granted Under this Final Order.*

(a) No claim or lien (other than the DIP Liens) having a priority senior to or *pari passu* with those granted by this Final Order to the DIP Lender or the Prepetition Lenders shall be granted or allowed while any portion of the DIP Obligations, the Prepetition Obligations and the DIP Liens and the Adequate Protection Obligations remain outstanding, and the Adequate Protection Liens shall not be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under Section 551 of the Bankruptcy Code or subordinated to or made *pari passu* with any other lien or security interest, whether under Section 364(d) of the Bankruptcy Code or otherwise.

(b) Unless all DIP Obligations, Prepetition Obligations and Adequate Protection Obligations shall have been indefeasibly paid in full in cash or otherwise satisfied, in the case of clause (i) below, the Debtors shall not seek, and in the case clause (ii) below, it shall constitute an Event of Default under the DIP Agreement and a termination of the right to use the Cash Collateral if any of the Debtors seeks, or if there is entered, (i) any modification of this

Final Order without the prior written consent of the DIP Lender, as applicable, and no such consent shall be implied by any other action, inaction or acquiescence by the DIP Lender, or (ii) an order converting or dismissing either of the Cases.

(c) If any or all of the provisions of this Final Order are hereafter reversed, modified, vacated or stayed, such reversal, stay, modification or vacatur shall, to the extent provided in Section 364(e) of the Bankruptcy Code, not affect (i) the validity, priority or enforceability of any DIP Obligations, Prepetition Obligations, or the Adequate Protection Obligations incurred prior to the effective date of such reversal, stay, modification or vacatur or (ii) the validity, priority or enforceability of the DIP Liens or the Adequate Protection Liens. Notwithstanding any such reversal, stay, modification or vacatur, any use of the Cash Collateral, any DIP Obligations, or any Adequate Protection Obligations incurred by the Debtors to the DIP Lender or the Prepetition Lenders, as the case may be, prior to the effective date of such reversal, stay, modification or vacatur shall, to the extent provided in Section 364(e) of the Bankruptcy Code, be governed in all respects by the original provisions of this Final Order, and the DIP Lender and the Prepetition Lenders shall be entitled to all of the rights, remedies, privileges and benefits granted in Section 364(e) of the Bankruptcy Code, this Final Order, the DIP Agreement, the Prepetition Documents, the Adequate Protection Obligations and uses of the Cash Collateral.

(d) Except as expressly provided in this Final Order, the order approving the sale of substantially all of the Debtors' assets (the "Sale Order"), or in the DIP Agreement, or as agreed to by the parties, the DIP Liens, the Superpriority Claim, the Adequate Protection Liens, the 507(b) Claim, and all other rights and remedies of the DIP Lender and the Prepetition Lenders granted by this Final Order and the DIP Agreement shall survive, and shall not be modified, impaired or discharged by (i) the entry the Sale Order or the closing of such approved

sale, (ii) the entry of an order converting any of the Cases to cases under Chapter 7 of the Bankruptcy Code, dismissing any of the Cases, or (iii) the entry of an order confirming a plan of reorganization or liquidation in any of the Cases. The terms and provisions of this Final Order and the DIP Agreement shall continue in the Cases, in any successor cases if the Cases cease to be jointly administered, or in any superseding Chapter 7 cases under the Bankruptcy Code, and the DIP Liens, the Adequate Protection Liens, the DIP Obligations, the Adequate Protection Obligations, the Superpriority Claim, the Section 507(b) Claim, the other administrative claims granted pursuant to this Final Order, and all other rights and remedies of the DIP Lender and the Prepetition Lenders granted by this Final Order and the DIP Agreement shall continue in full force and effect until all DIP Obligations are indefeasibly paid in full in cash and all Adequate Protection Obligations are indefeasibly paid in full in cash or otherwise satisfied.

22. *Effect of Stipulations on Third Parties.* The stipulations and admissions contained in this Final Order, including without limitation, in paragraph 4 of this Final Order, shall be binding upon the Debtors under all circumstances. Notwithstanding anything to the contrary in the DIP Agreement, the stipulations and admissions contained in this Final Order, including without limitation, in paragraph 4 of this Final Order, shall be binding upon all parties in interest, including, without limitation, the Committee, under all circumstances and for all purposes, unless (a)(I) any party in interest with standing to do so has commenced a timely filed adversary proceeding or contested matter (brought pursuant to Rule 3007(a) of the Federal Rules of Bankruptcy Procedure) or (II) solely with respect to the Claims and Defenses (as defined herein) asserted by the Committee (and no other party) set forth by the *Motion for Leave Motion of the Official Committee of Unsecured Creditors for Entry of an Order Pursuant to Bankruptcy Code §§ 1103(c) and 1109(b) Granting Leave, Standing and Authority to Commence, Prosecute and, if*

Appropriate, Settle Certain Causes of Action on Behalf of the Debtors Estates (the "Standing Motion") filed on December 30, 2013 [Docket No. 267] and as further described in that certain adversary complaint attached as Exhibit A thereto (the "UCC Complaint") in each case by December 30, 2013 (the "Investigation Deadline") (it being understood and agreed that the Claims and Defenses set forth in the Standing Motion and the UCC Complaint were duly filed prior to the Investigation Deadline), and in each case (i) on account of the validity, enforceability, priority or extent of the Debtors' Prepetition Obligations or the Prepetition Liens against the Debtors, or (ii) otherwise asserting or prosecuting any Avoidance Actions or any other claims, counterclaims or causes of action, objections, contests or defenses (collectively, the "Claims and Defenses") against any of the Prepetition Lenders or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors in connection with any matter related to the Debtors' Prepetition Obligations, the Prepetition Liens against the Debtors or the Prepetition Collateral of the Debtors, and (b) an order is entered and becomes final in favor of the plaintiff sustaining any such challenge or claim in any such timely filed adversary proceeding or contested matter; provided that, as to the Debtors all such Claims and Defenses are hereby irrevocably waived and relinquished as of the Petition Date. If no such adversary proceeding or contested matter is timely filed in respect of the Debtors' Prepetition Obligations or the Prepetition Liens against the Debtors (x) the Prepetition Obligations shall constitute allowed claims, not subject to counterclaim, setoff, subordination, recharacterization, defense or avoidance, for all purposes in the Cases and any subsequent Chapter 7 case, (y) the Prepetition Liens shall be deemed to have been, as of the Petition Date, and to be, legal, valid, binding, perfected and of the priority specified in paragraph 4, not subject to defense, counterclaim, recharacterization, subordination or avoidance and (z) the Prepetition Obligations,

the Prepetition Lenders, and the Prepetition Liens shall not be subject to any other or further challenge by any party-in-interest (including the Committee), any estate representative, or a Chapter 7 or 11 trustee appointed or elected for any of the Debtors). If any such adversary proceeding or contested matter is timely filed, the stipulations and admissions contained in paragraph 4 of this Final Order shall, at the conclusion of such adversary proceeding or contested matter, be binding and preclusive (as provided in the second sentence of this paragraph) on all parties-in-interest (including the Committee), except as to any such findings and admissions that were expressly and successfully challenged in such adversary proceeding or contested matter. Notwithstanding anything to the contrary in this paragraph, if the Cases are converted to cases under Chapter 7 of the Bankruptcy Code prior to the Investigation Deadline, the Chapter 7 trustee may, within 60 days from the date of his or her appointment, and subject to the terms of this paragraph 22, challenge the Debtors' Prepetition Obligations and the Prepetition Liens against the Debtors or assert or prosecute Claims or Defenses as if such Chapter 7 trustee were the Committee.

23. *Limitation on Use of the DIP Loans, the DIP Collateral, Cash Collateral and Prepetition Collateral.* The Debtors shall use the DIP Loans and the Prepetition Collateral, including the Cash Collateral, solely as provided in this Final Order, the Approved Budget and the DIP Agreement. Except as expressly set forth herein, neither the DIP Loans, the DIP Collateral, the Prepetition Collateral, including the Cash Collateral, nor the Carve-Out may be used to (a) object, contest or raise any defense to, the validity, perfection, priority, extent or enforceability of any amount due under the DIP Agreement, the Prepetition Documents, or the liens or claims granted under this Final Order, the DIP Agreement, or Prepetition Documents, (b) assert any Claims and Defenses or any other causes of action against the DIP Lender, the Prepetition Lenders or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors, (c) prevent, hinder or otherwise delay the DIP Lender's or the Prepetition Lenders' assertion, enforcement or realization on the Prepetition Collateral or the DIP Collateral in accordance with the DIP Agreement, the Prepetition Documents or this Final Order, or (d) seek to modify any of the rights granted to the DIP Lender or the Prepetition Lenders hereunder or under the DIP Agreement or the Prepetition Documents, in the case of each of the foregoing clauses (a) through (d), without such party's prior written consent, or (e) pay any amount on account of any claims arising prior to the Petition Date unless such payments are (i) approved by an order of this Court and (ii) permitted under the DIP Agreement and the Approved Budget; provided that, notwithstanding anything to the contrary herein, no more than an aggregate of $30,000 of the DIP Loans or Prepetition Collateral may be used by the Committee to investigate the validity, enforceability or priority of the Debtors' Prepetition Obligations or the Prepetition Liens against the Debtors, or investigate any Claims and Defenses or other causes action against the Prepetition Lenders related to the Debtors' Prepetition

Obligations or the Prepetition Liens against the Debtors (the "Investigation Budget Cap").

24. *Insurance*. To the extent the Prepetition Lenders, or any of them, is listed as loss payee under the Debtors' insurance policies, the DIP Lender is also deemed to be the loss payee under the Debtors' insurance policies and shall act in that capacity and subject to the terms of the DIP Agreement and the Carve-Out, distribute any proceeds recovered or received in respect of any such insurance policies, first, to the payment in full of the DIP Obligations, and second, to the payment of the Prepetition Obligations

25. *Order Governs*. Except as specifically amended, supplemented or otherwise modified by this Final Order, in the event of any inconsistency between the provisions of this Final Order, the Interim Orders, and/or the DIP Agreement, the provisions of this Final Order shall govern. Notwithstanding the provisions of this Final Order and the DIP Agreement, nothing herein or therein shall be deemed to amend, modify or reduce the Prepetition Obligations owed by the Debtors in the full amount outstanding as of the Petition Date.

26. *Binding Effect; Successors and Assigns*. The DIP Agreement and the provisions of this Final Order, including all findings herein, shall be binding upon all parties-in-interest in the Cases, including without limitation, the DIP Lender, the Prepetition Lenders and the Debtors and their respective successors and assigns (including any Chapter 7 or Chapter 11 trustee hereinafter appointed or elected for any of the Debtors, an examiner with expanded powers appointed pursuant to Section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Lender, the Prepetition Lenders and the Debtors and their respective successors and assigns; provided that, except to the extent expressly set forth in this Final Order, the DIP Lender and the Prepetition Lenders shall have no obligation

to permit the use of the DIP Loans or the Cash Collateral, as applicable, or extend any financing to any Chapter 7 trustee or similar responsible person appointed for the estates of the Debtors.

27. *Limitation of Liability*. In determining to make any loan under the DIP Agreement, permitting the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Final Order, the DIP Agreement or the Prepetition Documents, neither the DIP Lender nor the Prepetition Lenders shall be deemed solely by reason thereof to be in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 et seq. as amended, or any similar federal or state statute). Furthermore, nothing in this Final Order, the DIP Agreement or the Prepetition Documents shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Lender or the Prepetition Lenders of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors.

28. Notwithstanding anything to the contrary in this Final Order, the DIP Agreement or otherwise, the Prepetition Collateral shall in no event include more than 65 percent of the equity interests issued by any Foreign Subsidiary of the Borrower or Guarantor. The term "Foreign Subsidiary" shall mean any subsidiary of the Borrower or Guarantor organized under the laws of any jurisdiction (other than a state of the United States or the District of Columbia).

29. Solely for purposes of this Final Order:

A. Sale Process Covenants (ii) and (iii) under the DIP Agreement shall each be modified to provide that the time periods set forth therein shall be through and including February 28, 2014.

B. Event of Default (ii) under the DIP Agreement shall be modified to provide that the time period set forth therein shall be through and including February 28, 2014.

C. Event of Default (viii) under the DIP Agreement shall be modified, solely as it pertains to Section 9.2(i) of the APA, to provide that the time period set forth in Section 9.2(i) of the APA shall be through and including February 28, 2014; provided that the modification to Section 9.2(i) of the APA set forth herein shall only apply for purposes of determining whether an Event of Default has occurred pursuant to the DIP Agreement.

30. The limited modifications to the Events of Default provided by this Final Order shall be without prejudice to the Purchaser's rights to terminate the APA pursuant to Sections 9.2(b), 9.2(d), 9.2(*i*) or 9.2(g) thereof; provided that any such termination by the Purchaser shall not constitute an Event of Default under the DIP Agreement or this Final Order prior to February 28, 2014.

31. *Preservation of Liens*. Notwithstanding any waiver of DIP Facility Claims arising pursuant to: (a) consummation of the transactions contemplated by the *Motion of the Debtors for the Entry of: (I) An Order (A) Approving Form and Manner of Notices and (B) Scheduling a Sale Hearing and Establishing Dates and Deadlines Related Thereto; and (II) An Order (A) Authorizing the Sale of Substantially all of the Debtors' Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests, (B) Granting the Purchaser the Protections Afforded to a Good Faith Purchaser, and (C) Granting Related Relief* [Docket No. 13] or any comparable transaction; (b) the *Debtors' First Amended Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code* dated as of December 10, 2013 [Docket No. 284] (as the same may have be amended from time to time in accordance with its terms, the "Plan"), including Article II.B thereof, or any other plan confirmed in these chapter 11 cases; or (c) any

order confirming the Plan or any other chapter 11 plan to the contrary; the DIP Liens shall remain in full force and effect and shall be senior to all other claims otherwise junior to the Carve-Out until all obligations benefitting from the Carve-Out have been paid in full.

32. *Effectiveness.* This Final Order shall constitute findings of fact and conclusions of law and shall take effect immediately upon entry hereof, and there shall be no stay of effectiveness of this Final Order.

33. *Final Hearing Notice.* The Debtors shall promptly mail copies of this Final Order to the Notice Parties and to any other party that has filed a request for notices with this Court and to the counsel to the Committee.

Dated: Jan. 24, 2014
Wilmington, Delaware

The Honorable Kevin Gross
Chief United States Bankruptcy Judge

EXHIBIT A

Approved Budget

Fisker Automotive

Cash Flow Projection - DIP Budget - Weeks 1-7 Actual - New Follow on Weeks 1-8

(in USD)

	POST PETITION													
Week Number:	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Sub-Total Thru Week 7	Week 1	Week 2	Week 3	Week 4 Auction	Week 5	Week 8 Closing	Sub-Total Weeks 1-8 POST PETITION
Key Dates:															
Week Beginning:	11/25/2013	12/2/2013	12/9/2013	12/16/2013	12/23/2013	12/30/2013	1/6/2014		1/13/2014	1/20/2014	1/27/2014	2/3/2014	2/10/2014	2/17/2014	
Actual / Forecast:	*Actual*	*Actual*	*Actual*	*Actual*	*Actual*	*Actual*	*Re-Forecast*		*Actual*	*Forecast*	*Forecast*	*Forecast*	*Forecast*	*Forecast*	
Cash Receipts															
Trade receipts	41,559	14,698	1,577	8,735	2,066	4,754		73,389							-
Funding request	392,400	1,400,000	527,828	450,000		950,000	425,000	4,145,228	$ 366,343	2,242,500	747,000	2,713,500	947,000	1,850,000	8,866,343
Total Cash Receipts	$ 433,959	$ 1,414,698	$ 529,405	$ 458,735	$ 2,066	$ 954,754	$ 425,000	$ 4,218,617	$ 366,343	$ 2,242,500	$ 747,000	$ 2,713,500	$ 947,000	$ 1,850,000	$ 8,866,343
Operating Disbursements:															
Payroll															
FA team	66,540	64,617	65,789	132,536		64,552	67,000	461,034	72,000	73,000	73,000	73,000	73,000	73,000	437,000
Benefits				29,887		29,919		59,806		60,000		-		60,000	120,000
EU consultants	7,869	7,897	7,897	7,892		6,969	7,898	46,422	8,000	8,000	8,000	8,000	8,000	8,000	48,000
Outside services	6,000	6,625	6,625	3,125	4,500	6,625	5,000	38,500	5,000	5,000	5,000	5,000	5,000	5,000	30,000
Total Payroll	80,409	79,139	80,311	173,440	4,500	108,065	79,898	606,762	85,000	146,000	86,000	86,000	86,000	146,000	$ 635,000
Delaware related															
Utilities	37	-	1,805	150,759	-	-	167,500	320,101	150,407	-	8,000	155,000	-	235,500	$ 548,907
Populous	5,880	8,007		7,722	6,950	10,439	8,500	47,498	8,500	8,500	8,500	8,500	8,500	8,500	51,000
Environmental reporting & testing	-	-	1,891	1,780	-	-	38,170	41,841	-	2,500	-	2,000	-	43,000	47,500
Miscellaneous expenses	787	1,295	1,830	2,875	-	-	5,600	12,387	6,000	55,750	15,600	5,000	5,000	19,100	106,450
Delaware related	6,704	9,302	5,526	163,136	6,950	10,439	219,770	421,827	164,907	66,750	32,100	170,500	13,500	306,100	753,857
Anaheim related															
Rent - Thru April 2014		178,205						178,205		72,500					72,500
Moving expenses			41,125	96,011	3,000	59,864	100,000	300,000							
Utilities	-	160,000	25,969	-	-	17,088	5,200	208,257	22,538	40,000	17,000	15,000	-	16,500	111,038
IT services	-	44,731	14,929	-	-	59,660	5,000	124,320	-	5,000	-	60,000	-	32,500	97,500
Insurance	-	-	-	-	-	87,805	-	87,805	-	-	-	1,282,500	-	-	1,282,500
Foley & Lardner	7,100	8,250	350	13,500				29,200	10,000				90,000		100,000
Miscellaneous expenses	7,200	9,807	11,799	6,511	-	2,874	19,000	57,191	5,000	72,000	31,000	36,000	81,000	33,500	258,500
Total Anaheim related	14,300	400,993	94,172	116,022	3,000	227,291	129,200	984,978	37,538	189,500	48,000	1,393,500	171,000	82,500	1,922,038
FAPS (New Jersey)		19,925				19,925		39,850				20,000		10,000	30,000
Temes (Michigan)		18,405				18,405		36,810				18,500		9,250	27,750
Turku			86,701				99,257	185,958				100,000		50,000	150,000
Wilhelmson (Zeebrugge and Bremerhaven)	-	-	-	-	-	39,538	-	39,538	-	-	18,000	-	-	18,000	36,000
Total Operating Disbursements	101,413	527,764	266,710	452,598	14,450	423,663	528,125	2,314,723	287,445	402,250	184,100	1,788,500	270,500	621,850	3,554,645
Net Cash Flow - Excl. Restructuring	332,546	886,934	262,695	6,137	(12,384)	531,091	(103,125)	1,903,895	78,898	1,840,250	562,900	925,000	676,500	1,228,150	5,311,698
Restructuring Expenses															
Professional Fees															
CRO fee / bonus	110,000			150,000				260,000		150,000		150,000	75,000	750,000	1,125,000
Independent board position			40,000					40,000				40,000			40,000
Claims agent							50,000	50,000		25,000		25,000		25,000	75,000
Investment Banker										150,000		150,000			300,000
Debtor's counsel		500,000	150,000	135,000	135,000	85,000	85,000	1,090,000	85,000	515,000	300,000	300,000	350,000	360,000	1,910,000
UCC counsel/advisors							250,000	250,000		750,000	250,000	250,000	250,000		1,500,000
Bidder Expenses Reimbursement										250,000					250,000
Public relations						12,780		12,780				10,000		15,000	25,000
Creditor distributions								-							-
Wind-down budget								-							-
Other restructuring exp (incl Trustee)			33,939	9,124			106,937	150,000			13,000			75,000	88,000
Total Restructuring Disbursements	110,000	500,000	223,939	294,124	135,000	97,780	491,937	1,852,780	85,000	1,840,000	563,000	925,000	675,000	1,225,000	5,313,000
Net Cash Flow	$ 222,546	$ 386,934	$ 38,756	$ (287,987)	$ (147,384)	$ 433,311	$ (595,062)	$ 51,115	$ (6,102)	$ 250	$ (100)	$ -	$ 1,500	$ 3,150	$ (1,302)
Beginning Cash	$ 27,698	$ 250,244	$ 637,178	$ 675,934	$ 387,947	$ 240,563	$ 673,874	$ 27,698	$ 78,812	$ 72,710	$ 72,960	$ 72,860	$ 72,860	$ 74,360	$ 78,812
Subtotal: Cash Receipts	433,959	1,414,698	529,405	458,735	2,066	954,754	425,000	4,218,617	366,343	2,242,500	747,000	2,713,500	947,000	1,850,000	8,866,343
Subtotal: Operating Disbursements	(101,413)	(527,764)	(266,710)	(452,598)	(14,450)	(423,663)	(528,125)	(2,314,723)	(287,445)	(402,250)	(184,100)	(1,788,500)	(270,500)	(621,850)	(3,554,645)
Subtotal: Restructuring Expenses	(110,000)	(500,000)	(223,939)	(294,124)	(135,000)	(97,780)	(491,937)	(1,852,780)	(85,000)	(1,840,000)	(563,000)	(925,000)	(675,000)	(1,225,000)	(5,313,000)
Ending Cash	$ 250,244	$ 637,178	$ 675,934	$ 387,947	$ 240,563	$ 673,874	$ 78,812	$ 78,812	$ 72,710	$ 72,960	$ 72,860	$ 72,860	$ 74,360	$ 77,510	$ 77,510
Beginning DIP Principal Loan Balance	$ -	$ 392,400	$ 1,792,400	$ 2,320,228	$ 2,770,228	$ 2,770,228	$ 3,720,228	$ -	$ -	$ 366,343	$ 2,608,843	$ 3,355,843	$ 6,069,343	$ 7,016,343	$ -
DIP Borrowings	392,400	1,400,000	527,828	450,000	-	950,000	425,000	4,145,228	366,343	2,242,500	747,000	2,713,500	947,000	1,850,000	8,866,343
Ending DIP Principal Loan Balance	$ 392,400	$ 1,792,400	$ 2,320,228	$ 2,770,228	$ 2,770,228	$ 3,720,228	$ 4,145,228	$ 4,145,228	$ 366,343	$ 2,608,843	$ 3,355,843	$ 6,069,343	$ 7,016,343	$ 8,866,343	$ 8,866,343