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

-----X
In re : Chapter 11
Chrysler LLC, *et al.*, : Case No. 09-50002 (AJG)
Debtors. : (Jointly Administered)
-----X

**MOTION OF DEBTORS AND DEBTORS
IN POSSESSION, PURSUANT TO SECTIONS 105(a), 363,
507(a)(4), 507(a)(5) AND 541(d) OF THE BANKRUPTCY CODE, FOR AN ORDER
AUTHORIZING THEM TO PAY: (A) PREPETITION REGULAR EMPLOYEE
WAGES, SALARIES AND RELATED ITEMS; (B) PREPETITION REGULAR
EMPLOYEE BUSINESS EXPENSES; (C) PREPETITION CONTRIBUTIONS TO,
AND BENEFITS UNDER, EMPLOYEE BENEFIT PLANS; (D) PREPETITION
REGULAR EMPLOYEE PAYROLL DEDUCTIONS AND WITHHOLDINGS;
(E) PREPETITION ADDITIONAL WORKFORCE COSTS; AND (F) ALL COSTS AND
EXPENSES INCIDENT TO THE FOREGOING PAYMENTS AND CONTRIBUTIONS**

TO THE HONORABLE
UNITED STATES BANKRUPTCY JUDGE:

Chrysler LLC ("Chrysler") and 24 of its domestic direct and indirect subsidiaries, as debtors and debtors in possession (collectively with Chrysler, the "Debtors"), respectfully represent as follows:

Background

1. On the date hereof (the "Petition Date"), the Debtors commenced their reorganization cases by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). By a motion filed on the Petition Date, the Debtors have requested that their chapter 11 cases be consolidated for procedural purposes only and administered jointly.

2. The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtors and their nondebtor direct and indirect subsidiaries (collectively, the "Chrysler Companies") comprise one of the world's largest manufacturers and distributors of automobiles and other vehicles, together with related parts and accessories. On the Petition Date, the Chrysler Companies employed approximately 55,000 hourly and salaried employees worldwide, 70% of whom were based in the United States. In addition, as of the Petition Date, the Debtors made payments for health care and related benefits to more than 105,000 retirees.

4. Chrysler's ultimate parent company, Chrysler Holding LLC ("Chrysler Parent"), also owns a financing company, nondebtor Chrysler Financial Services Americas LLC ("Chrysler Financial"), that operates under a governance structure separate from Chrysler, with

its own board and management. Historically, Chrysler Financial has provided financing to both Chrysler's dealers and consumers.

5. For the twelve months ended December 31, 2008, the Chrysler Companies recorded revenue of more than \$48.4 billion and had assets of approximately \$39.3 billion and liabilities totaling \$55.2 billion.

6. A more detailed explanation of Chrysler's businesses and operations, and the events leading to the commencement of these cases, can be found in the Affidavit of Ronald E. Kolka, which was filed contemporaneously herewith and is incorporated herein by reference.

Overview of These Cases

7. The significance of this chapter 11 filing to Chrysler and to the United States economy is difficult to overstate. In connection with the filing, Chrysler is seeking approval from this Court to consummate the only sale transaction that preserves some portion of its business as a going concern and averts a liquidation of historic proportions. If the proposed transaction, designed to effect an alliance with Italian automobile manufacturer Fiat S.p.A. ("Fiat"), is rejected and Chrysler liquidates, it will mean the end of an iconic, 83-year-old American car company whose name has been synonymous with innovative engineering, from the Slant-Six and HEMI engines, to power windows, power brakes and power steering, to the minivan. A liquidation would also have impacts on the nation's economy and Chrysler's stakeholders that are grim:

- 38,500 hourly and salaried Chrysler workers in the U.S. will lose their jobs;
- Chrysler's workers and retirees and their surviving spouses will lose over \$9.8 billion of health care and other benefits and \$2 billion in annual pension payments;

- All 23 of Chrysler's manufacturing plants and facilities and 15 parts depots in the United States will shut down (as well as 18 additional plants and parts depots worldwide);
- Approximately 3,200 Chrysler dealers will be put out of business and the over 140,000 employees of those dealerships will lose their jobs;
- Over \$5.7 billion in outstanding auto parts and service supplier invoices will not be paid to Chrysler's suppliers and new business will be cancelled, forcing hundreds of suppliers out of business and the loss of hundreds of thousands of additional jobs;
- Over 31 million Chrysler, Jeep and Dodge owners would lose significant value in their cars and trucks, particularly due to questions about the ongoing availability of warranties and replacement parts and services;
- Local, state and federal governments will lose tens of billions of dollars in tax revenues, according to a research memorandum published by the Center for Automotive Research in November 2008;¹
- Over \$100 billion in annual sales will disappear from local economies; and
- Chrysler's first lien secured creditors will receive net present value recoveries of less than 38 cents on the dollar and possibly as little as 9 cents; the U.S. government, another secured creditor, will receive less than that; and Chrysler's unsecured creditors will receive nothing.

8. The economic and market conditions that led to the commencement of Chrysler's chapter 11 cases and the need for the proposed sale transaction are well known, but sobering nonetheless. The automotive market meltdown, the worst in at least 26 years,² disrupted Chrysler's substantial progress in implementing a long-term plan to reduce costs and transform its businesses for the next generation of cars. With sales plummeting and credit markets frozen, Chrysler undertook an intense effort to address the challenges it faced. After months of hard work and dedication by Chrysler's management, employees and advisors,

¹ Daniel Cole, *et al.*, Center for Automotive Research Memorandum, *The Impact on the U.S. Economy of a Major Contraction of the Detroit Three Automakers*, at <http://www.cargroup.org> (Nov 4, 2008).

² Chris Isidore, *Auto Sales Are Worst in 26 Years. January Sales Tumble More Than Expected at GM, Ford and Toyota as Rental Car Companies Slash Purchases*, CNNMoney.com, Feb. 3, 2009 (4:22 p.m., ET).

working with all key stakeholders and with the support of the U.S. government, the Debtors have commenced these cases to implement a prompt sale to preserve the going concern value of their businesses and return these businesses to viability under new ownership.

9. The proposed sale transaction would create the sixth-largest global automaker by volume unit, increasing competitiveness with other Original Equipment Manufacturers ("OEMs") and creating billions of dollars in synergies. This transaction is the result of thousands of hours of negotiations among multiple parties. The transaction is being financially backed by the United States Department of the Treasury (the "U.S. Treasury") and Export Development Canada, an affiliate of the Canadian government, which together will provide the new alliance with approximately \$6 billion of taxpayer money to start up and maintain operations. In addition to this unprecedented government support, virtually all of the major constituencies that would be affected by a Chrysler liquidation have recognized how devastating it would be and have made important concessions in support of the proposed alliance:

- The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (the "UAW") has agreed to wage and benefit reductions in the context of a sale to the new company, which would receive the benefit of a new collective bargaining agreement eliminating certain severance benefits, and would be a party to an agreement with the UAW containing restructured retiree health care benefits;
- Chrysler's dealers have agreed to reduce their dealer and service contract margins;
- Chrysler's already financially troubled suppliers have agreed to a further 3% price reduction and other measures that will save millions of dollars;
- Chrysler's largest secured creditors, JPMorgan Chase, Goldman Sachs, Morgan Stanley and Citigroup, have agreed to the transaction that would substantially compromise their first lien debt, comprising 70% of the \$6.9 billion total outstanding, for an estimated recovery of approximately 28 cents on the dollar; and

- Chrysler Parent's minority shareholder, Daimler AG ("Daimler"), has agreed as part of a settlement with Chrysler to (a) forgive \$1.5 billion of second lien debt, at the same time that \$500 million of second lien debt is forgiven by majority shareholder Cerberus Capital Management L.P. ("Cerberus"); and (b) assist in funding Chrysler's pension plans.

Representatives of these constituencies have devoted the past six months to reaching these agreements.

10. These efforts culminated on April 30, 2009, when Chrysler, Fiat and New Chrysler (as defined below) entered into a Master Transaction Agreement (collectively with other ancillary and supporting documents, the "Purchase Agreement"). Pursuant to the Purchase Agreement, among other things: (a) Chrysler will transfer the majority of its operating assets to New CarCo Acquisition LLC ("New Chrysler"), a newly established Delaware limited liability company that currently is an indirect wholly-owned subsidiary of Fiat; and (b) in exchange for those assets, New Chrysler will assume certain liabilities of Chrysler and pay to Chrysler \$2 billion in cash (collectively with the other transactions contemplated by the Purchase Agreement, the "Fiat Transaction").

11. With the support of the U.S. government, Fiat, the UAW, dealers, suppliers and other stakeholders, the Debtors commenced these cases to implement an expeditious sale process to implement the Fiat Transaction, or a similar transaction with a competing bidder, designed to maximize the value of the Debtors' operations and businesses for the benefit of their stakeholders. Pending the proposed sale, the Debtors will idle most operations as they conserve their resources, while at the same time ensuring that (a) the facilities are prepared to resume normal production schedules quickly upon the completion of a sale and (b) consumers are not impacted by the filing.

12. Time is of the essence. Given the continuing stress on all aspects of the automotive industry and the idling of the Debtors' manufacturing facilities, key relationships with suppliers, dealers and other business partners simply cannot be preserved if the sale process is not concluded quickly. Absent a prompt sale, approved and consummated in the coming weeks, the value of the Debtors' assets will rapidly decline and the ability to achieve a going concern sale will be irretrievably lost. By contrast, the proposed sale transaction, if it can be promptly consummated, will maximize the value available for stakeholders, will save hundreds of thousands of jobs and will strengthen the U.S. automotive sector and the economy generally.

Jurisdiction

13. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

14. Pursuant to sections 105(a), 363, 507(a)(4), 507(a)(5) and 541(d) of the Bankruptcy Code, the Debtors hereby seek the entry of an order: (a) authorizing the Debtors, in accordance with their stated policies (as such policies may be modified from time to time) and in the Debtors' sole discretion, to pay: (i) certain prepetition wages, salaries, overtime pay, incentive pay, contractual compensation, sick pay, vacation pay, holiday pay and other accrued compensation (collectively, the "Prepetition Compensation") to Regular Employees (as such term is defined below); (ii) prepetition business expenses, including travel, lodging, moving and other relocation expenses and other reimbursable business expenses (collectively,

the "Prepetition Business Expenses")³ to Regular Employees; (iii) prepetition contributions to, and benefits under, the Regular Employees' benefit plans; (iv) prepetition payroll deductions and prepetition withholdings with respect to Regular Employees; (v) certain prepetition Additional Workforce Costs (as such term is defined below); and (vi) all costs and expenses incident to the foregoing payments and contributions (including payroll-related taxes and processing costs); and (b) granting certain related relief.

15. After the Petition Date, the Debtors will idle their operations in an effort to conserve cash while they pursue the Fiat Transaction or other similar sale transaction (a "Sale Transaction") in an effort to preserve the value of their estates for the benefit of their shareholders. The Debtors are taking the steps necessary to ensure their facilities will be prepared to restart quickly in connection with the consummation of the Sale Transaction. In the interim the Debtors also intend to place the majority of their unionized workforce on lay-off status with benefits under the Debtors' collectively bargained supplemental unemployment benefits plan that coordinates with state system benefits.

16. Completing a Sale Transaction quickly is essential to preserve going concern value for the benefit of stakeholders. To achieve this goal and complete a successful chapter 11 process, the Debtors require the ongoing dedication, support, knowledge, loyalty and cooperation of their workforce. The Debtors' employees will be instrumental to this process as they (a) assist in the operation of parts depots to ensure an uninterrupted supply of service parts to customers, (b) maintain and secure facilities and (c) preserve the value of operating assets pending the sale. Administrative employees must take on the additional burdens of assisting in the administration of the chapter 11 process and preparing for the proposed sale. Further, the

³ The Prepetition Business Expenses include the business and travel expenses incurred on eligible Regular Employees' corporate credit cards in accordance with the Debtors' corporate policy.

Debtors will look to the employees on lay-off to assist in the critical task of restarting operations to consummate a Sale Transaction. Under these circumstances, honoring the immediate obligations to the Debtors' workforce is essential.

Facts Relevant to This Motion

Regular Employees

17. As of the Petition Date, the Debtors employed approximately 38,500 hourly and salaried employees, including approximately 30,800 union employees,⁴ in the United States, as well as approximately 70 employees currently living overseas (collectively, the "Regular Employees"). The Regular Employees perform a variety of critical functions for the Debtors' businesses, including manufacturing, procurement and supply, sales, marketing, accounting, administration, budgeting and planning, environmental health and safety, finance, human resources and communication, legal, product research and development, training and compliance. The Regular Employees' skills and their specialized knowledge and understanding of the Debtors' infrastructure, assets and operations, as well as their relationships with dealers, vendors and other third parties, are essential to the administration of these cases, the preservation of the Debtors' businesses and the Debtors' ability to consummate a Sale Transaction on a going concern basis that maximizes value available for stakeholders. The Debtors estimate that, as of the Petition Date, approximately \$14.5 million in Prepetition Compensation was owed to the Regular Employees.

⁴ Approximately 3,200 of the union employees currently are on "layoff" status, *i.e.*, they are not currently working for Debtors but have recall rights that would protect their seniority status. These employees may be receiving supplemental unemployment benefits along with healthcare benefits from the Debtors, as required under the applicable collective bargaining agreements.

Additional Workforce

18. In addition to the Regular Employees, the Debtors also rely on a limited number of other individuals to provide essential employee services (collectively, the "Additional Workforce").⁵ The Additional Workforce consists of approximately 2,300 contract workers, who are employed by various service providers specializing in providing skilled employees on an as-needed basis (the "Third-Party Employers"). The Additional Workforce provides services to both the Debtors' manufacturing facilities and various administrative departments, and includes engineers, systems specialists and security guards who are on site full-time, as well as a limited number of accountants and attorneys, among others. The Additional Workforce generally is paid based on the hours of service provided. The Debtors employ these additional workers on both short- and long-term basis to provide the Debtors with the flexibility to decrease or increase their workforce to meet marketplace demand on a cost-effective basis.

19. Many members of the Additional Workforces have worked for the Debtors for an extended period of time and, as a result, are intimately familiar with the Debtors' businesses, assets and facilities. In particular, the engineers and systems specialists have specialized knowledge of the Debtors' operations that cannot be easily replaced and is necessary to preserve the value of the Debtors' facilities and pending consummation of a Sale Transaction. Further security personnel are particularly important under the circumstances to help preserve and protect the Debtors' assets, and the value of the estates, during the idling period.

Consequently, the Additional Workforce, like the Regular Employees, is essential to the Debtors'

⁵ For approximately the last 20 years, the Debtors have maintained a policy to limit the number of individuals under special services agreements performing essential employee functions (collectively, the "Independent Contractors") and instead hire the Additional Workforce. A very limited number of Independent Contractors are employed through direct contractual arrangements with these individuals or their personal businesses. The Debtors believe that, as of the Petition Date, no amounts were owed to the Independent Contractors.

efforts to preserve their business assets while the Debtors pursue approval and consummation of a Sale Transaction that maximizes value available to stakeholders.

20. The Debtors believe that, if they are not permitted to pay the Third-Party Employers on account of the Additional Workforce (the "Additional Workforce Costs"), the Third-Party Employers will: (a) withdraw the Additional Workforce; and (b) refuse to provide the Debtors with replacement employees, to the direct detriment of the Debtors' efforts to implement a Sale Transaction, preserve their business assets and administer these cases. Although the Debtors or the purchaser potentially could replace the Additional Workforce over a period of time, the Debtors believe that the abrupt departure of the Additional Workforce would further disrupt key functions needed by the Debtors to maintain their facilities in working order and effectively consummate a prompt Sale Transaction. The Debtors estimate that the Additional Workforce Costs owing to the Third-Party Employers as of the Petition Date total approximately \$32.1 million.⁶

Prepetition Compensation, Business Expenses and Related Claims

21. As of the Petition Date, many of the Regular Employees were owed or had accrued various sums for Prepetition Compensation and Prepetition Business Expenses. In addition, as of the Petition Date, the Debtors had obligations for prepetition deductions from Regular Employees' paychecks used to make payments on behalf of the Regular Employees for or with respect to, among others: (a) benefit plans, charitable contributions, loan repayments, flexible spending and dependent care accounts, retiree health care accounts, garnishments or support payments, pension plans, a supplemental life insurance plan, union dues, vehicle lease

⁶ The Debtors pay the Additional Workforce on 60-day payment terms; hence, the outstanding prepetition amount of \$32.1 million represents an average monthly amount per Additional Workforce member of approximately \$6,978.

payments, contributions for the health activity center⁷ and other similar programs on account of which the Debtors deduct a sum of money from a Regular Employee's paycheck and pay that amount to a third party (collectively, "Deductions"); and (b) withholdings from Regular Employees' paychecks on account of various federal, state and local income, FICA, Medicare and other taxes (collectively, "Withholdings") for remittance to the appropriate federal, state or local taxing authority (the "Taxing Authorities").

22. Prepetition Compensation, Prepetition Business Expenses, Deductions and Withholdings were due and owing as of the Petition Date because, among other things:

- a. the Debtors filed their chapter 11 petitions in the midst of certain of their regular and customary payroll periods, as well as in the midst of their regular reimbursement cycle for Regular Employee business expenses;
- b. certain checks issued to the Regular Employees prior to the Petition Date (including expense reimbursement checks) have not yet been presented for payment or have not yet cleared the banking system and, accordingly, were not honored and paid as of the Petition Date;
- c. certain Regular Employees have not yet been paid portions of their salaries, contractual compensation and wages for services previously rendered to the Debtors or have not yet been reimbursed for business expenses previously advanced on behalf of the Debtors; and
- d. certain other forms of compensation (including sick pay, vacation pay and holiday pay and self-insured medical benefits and other welfare expenses) related to prepetition services have not yet been paid to, or for the benefit of, the Regular Employees because such amounts, although accrued in whole or in part prior to the Petition Date, were not payable at such time, but rather will become payable in the future in the ordinary course of the Debtors' businesses.

23. The Debtors seek authority to pay (a) Prepetition Compensation, (b) Prepetition Business Expenses, (c) Deductions and (d) Withholdings attributable to the period

⁷ The health activity center is an on-site gymnasium and work-out facility offering a variety of physical fitness activities, the cost of which is funded by Deductions from the paychecks from those Regular Employees who elect to participate.

prior to the Petition Date to or for the benefit of Regular Employees providing services postpetition, or as otherwise provided herein. The Debtors estimate that, as of the Petition Date, approximately \$14.5 million⁸ in Prepetition Compensation, approximately \$2.2 million in Prepetition Business Expenses⁹ and approximately \$11 million in Deductions had accrued but remained unpaid. In addition, the Debtors estimate that the amount of Withholdings attributable to prepetition compensation earned by the Regular Employees, but not yet remitted to the applicable Taxing Authorities, is approximately \$9.4 million in the aggregate.

Prepetition Employee Benefits¹⁰

24. The Debtors maintain a number of employee benefit programs, including but not limited to: (a) health, dental, vision, prescription drug, life and disability insurance; (b) cafeteria programs; (c) ordinary course severance programs for hourly and salaried Regular Employees (collectively, the "Ordinary Course Severance Programs");¹¹ (d) defined benefit

⁸ This amount does not include \$86 million of after-tax earned and accrued vacation, including earned and accrued pay in lieu of vacation for the fiscal year ending April 30, 2009 that the Debtors anticipate paying to their unionized Regular Employees pursuant to the applicable collective bargaining agreements ("CBAs") after the Petition Date. In addition, in accordance with their CBAs, the Debtors owe vacation payments of approximately \$14 million to former employees.

⁹ A table setting forth the estimated amounts of the principal categories of Prepetition Compensation and Prepetition Business Expenses is attached hereto as Exhibit A and incorporated herein by reference.

¹⁰ Approximately 170 salaried employees are hired by the Debtors on a "salary only" basis and do not receive any benefits from the Debtors.

¹¹ By this Motion, the Debtors are not seeking authority to make: (a) any severance payments to any individuals whose employment with the Debtors was terminated prior to the Petition Date, except as may be required under the Debtors' CBAs or by section 1113 of the Bankruptcy Code; or (b) any postpetition severance payments not permitted under section 503(c) of the Bankruptcy Code.

The separation benefits payable under the Ordinary Course Severance Programs vary based on length of service and any benefit payable under the applicable state unemployment program. The terms of the Ordinary Course Severance Programs for union Regular Employees, as well as the terms of other wages, benefits and conditions of employment for union Regular Employees, are determined by the terms of each applicable union's collective bargaining agreement with the Debtors. As noted above, the Debtors are parties to approximately 39 national and local CBAs. The separation benefits portions of such agreements generally provide for payments and benefits based upon each applicable Regular Employee's length of service. Prior to the Petition Date, since January 1, 2009, approximately 1,957 unionized employees accepted the termination of their employment pursuant to, respectively, the Voluntary Termination of Employment Program ("VTEP") and the Incentive Program for Retirement ("IPR") provided under the

(Continued . . .)

pension plans for certain of their Regular Employees; (e) vehicle allowance programs, including product evaluation programs for certain categories of employees; (f) housing assistance for overseas employees; and (g) other similar programs (collectively, the "Benefit Programs"). The contributions to or benefits paid under the various Benefit Programs are referred to herein collectively as the "Benefits."¹²

25. As of the Petition Date, certain Benefits were owed to the Regular Employees but remained unpaid because certain obligations under the Benefit Programs accrued either in whole or in part prior to the Petition Date, but will not become payable in the ordinary course of the Debtors' businesses until a later date.

26. Except as specifically set forth herein, the Debtors seek authority to pay prepetition Benefits to or with respect to the Regular Employees that, as of the Petition Date, had accrued but remained unpaid. The Benefits that the Debtors seek authority to pay include those owing under the following types of Benefit Programs:

(. . . continued)

Debtors' CBAs. Approximately 1,700 additional unionized employees will terminate their employment with the Debtors after the Petition Date pursuant to the terms of the VTEP and the IPR. Unionized employees who accept the terms of the VTEP and the IPR receive: (i) a cash payment of between \$50,000 and \$75,000; (ii) a car voucher in a net amount of \$25,000; (iii) an average payment of \$15,000 to compensate for taxes accrued in connection with the car voucher; and (iv) in certain states, certain job and training assistance (collectively, the "VTEP Benefits"). Certain former employees who have terminated their employment under the VTEP or the IPR have not yet received certain VTEP Benefits in the amount of approximately \$53.6 million, not including car vouchers. Contemporaneously herewith, the Debtors have filed a motion for authority to honor their customer programs, including car vouchers provided to former employees prior to the Petition Date.

The Debtors also maintain the following four supplemental executive retirement programs (collectively, the "SERPs"): (a) Chrysler LLC Salaried Employees' Income Deferral Plan; (b) Chrysler LLC Executive Employees' Managed Retirement Plan; (c) Chrysler LLC Executive Employees' Supplemental Savings Plan; and (d) Chrysler LLC Supplemental Executive Retirement Plan. The SERPs are funded in four "rabbi trusts," that hold a total amount of approximately \$1.9 million as of the Petition Date. By this Motion, the Debtors are not seeking any relief with respect to the SERPs.

¹² In addition, the Debtors provide the Regular Employees with statutorily-mandated benefits such as military duty leave, jury duty leave and family medical leave.

- a. Self-Insured Plans. The Debtors maintain self-insured plans that provide general health,¹³ dental, prescription drug, vision and short and long-term disability insurance (collectively, the "Self-Insured Plans"). Under the Self-Insured Plans, the Debtors assume liability for and initially pay certain Benefits, rather than paying premiums for independent insurance coverage. Various third parties serve as claims agents for, and process and pay, the medical, dental and long-term disability claims (collectively, the "Self-Insured Claims") presented by covered Regular Employees. The Debtors anticipate that various claims that accrued under the Self-Insured Plans prior to the Petition Date will continue to be submitted postpetition. Based on the historical levels of claims, the Debtors estimate that, as of the Petition Date, approximately \$115.1 million in prepetition claims under the Self-Insured Plans will be submitted by Regular Employees postpetition.¹⁴
- b. Third-Party Insured Plans. The Debtors also maintain certain insured benefit plans under which the Debtors, the Regular Employees or both contribute to the payment of premiums for insurance or other coverage provided by third parties (collectively, the "Insured Plans"). The Insured Plans include: (i) health maintenance organizations; (ii) group accident insurance; (iii) group life insurance and dependent group life insurance; (iv) short-term disability; and (v) dental insurance. Based on the Debtors' payment of premiums for the Insured Plan for the month of April 2009, the Debtors estimate that there are no accrued but unpaid premium contributions on account of the Regular Employees as of the Petition Date.
- c. Company-Sponsored Benefit Programs. The Debtors also maintain certain other Benefit Programs under which the Debtors, the Regular Employees or both contribute to the Benefits provided to the Regular Employees (collectively, the "Noninsured Programs"). The Noninsured Programs include, among others: (i) flexible spending accounts, which permit the payment of health care costs and dependent care costs on a pre-tax basis; (ii) vehicle allowance and vehicle leasing programs; (iii) product evaluation

¹³ The Chrysler LLC Health Care Benefits Plan and the Chrysler LLC Healthcare Benefits Program are self-funded health care plans that cover approximately 313,000 individuals and beneficiaries including hourly and salaried Regular Employees and certain retirees (including hourly retirees and salaried retirees up to age 65). Salaried employees and retirees contribute a portion of the premium for this plan. The contributory portion is based on the amount of the employee's compensation.

¹⁴ Claims are submitted electronically under the Self-Insured Plans; however, there is a period of time between receipt of such claims by the claims administrator and posting of such claims as an incurred but not reimbursed claim on the Debtors' books and records.

programs; (iv) the Ordinary Course Severance Programs; (v) housing assistance for overseas employees; (vi) legal assistance plan; and (vii) cafeteria plans.¹⁵ Based on the historical levels of participation in the Noninsured Programs, the Debtors estimate that their accrued but unpaid obligations under the Noninsured Programs on account of the Regular Employees, as of the Petition Date, were approximately \$0.5 million.¹⁶

Processing Costs

27. The Debtors incur costs incident to Prepetition Compensation and Deductions, such as processing costs and the employer portion of payroll-related taxes, as well as accrued but unpaid prepetition charges for administration of the Benefit Programs (collectively, the "Prepetition Processing Costs"). The Debtors estimate that the aggregate amount of Prepetition Processing Costs accrued but unpaid, as of the Petition Date, was approximately \$6.8 million. Payment of the Prepetition Processing Costs is justified because the failure to pay any such amounts might disrupt services of third-party providers with respect to Prepetition Compensation, Deductions and Benefits. By paying the Prepetition Processing Costs, the Debtors may avoid even temporary disruptions of such services and thereby ensure that the Regular Employees obtain all compensation and benefits without interruption.

Argument

28. The payment of the Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs is warranted under sections 105(a), 363, 507(a)(4), 507(a)(5) and 541(d) of the Bankruptcy Code and case law in this District and elsewhere.

¹⁵ In addition, in the ordinary course of their businesses, the Debtors periodically make contributions to defined benefit pension plans maintained by the Debtors for covered Regular Employees (collectively, the "Pension Plans") in accordance with the Pension Plans' documents and applicable law. All funding obligations to the Pension Plans due as of the Petition Date have been paid.

¹⁶ This amount does not include the VTEP Benefits that were outstanding as of the Petition Date.

Amounts Owed to Regular Employees and Independent Contractors Enjoy Priority Status Under the Bankruptcy Code

29. Under section 507(a)(4) of the Bankruptcy Code, employees are granted a priority claim for:

allowed unsecured claims, but only to the extent of \$10,950 for each individual or corporation, as the case may be, earned within 180 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for —

(A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual; or

(B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor in the sale of goods or services for the debtor in the ordinary course of the debtor's business if, and only if, during the 12 months preceding that date, at least 75 percent of the amount that the individual or corporation earned by acting as an independent contractor in the sale of goods or services was earned from the debtor

11 U.S.C. § 507(a)(4). Likewise, under section 507(a)(5) of the Bankruptcy Code, employees are granted a priority claim for:

allowed unsecured claims for contributions to an employee benefit plan —

(A) arising from services rendered within 180 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

(B) for each such plan, to the extent of —

(i) the number of employees covered by each such plan multiplied by \$10,950; less

(ii) the aggregate amount paid to such employees under paragraph (4) of this subsection, plus the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

11 U.S.C. § 507(a)(5).

30. In addition, the costs of administrating employee benefits programs are also entitled to priority under section 507(a)(5) of the Bankruptcy Code. See Allegheny Int'l, Inc. v. Metro. Life Ins. Co., 145 B.R. 820, 822-23 (W.D. Pa. 1992). In Allegheny, the court ruled that the prepetition claims of a medical benefits plan administrator for, among other things, fees charged for performing administrative, actuarial and claims services in connection with the medical benefits plans of a chapter 11 debtor were entitled to priority under former section 507(a)(4) of the Bankruptcy Code. The court stated that "[i]t would be useless to prioritize expenses for contributions to an employee benefit plan and not prioritize the expenses necessary to administer those plans." Id. at 822-23.

31. In the instant case, the Debtors believe that the amount of prepetition wages, salaries and contractual compensation owing to or on account of any particular Regular Employee will not exceed the sum of \$10,950 allowable as a priority claim under section 507(a)(4) or section 507(a)(5) of the Bankruptcy Code.¹⁷ Therefore, the payment of these amounts pursuant to this Motion would not deplete assets otherwise available to other unsecured creditors under a plan. Likewise, because the Prepetition Processing Costs are entitled to priority under section 507(a)(5) of the Bankruptcy Code, amounts paid on account of such Prepetition Processing Costs also are not available for distribution to unsecured creditors.

Funds Held in Trust Are Not Available for General Distribution to Creditors

32. Section 541(d) of the Bankruptcy Code excludes "property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest." 11 U.S.C. § 541(d). It is well established under section 541(d) of the Bankruptcy Code that taxes collected on behalf of the taxing authorities are not property of the estate. See Begier v. IRS,

¹⁷ Certain payments on account of VTEP Benefits may exceed the \$10,950 amount that is allowable as a priority claim, but nonetheless are required to be made pursuant to the Debtors' CBAs.

496 U.S. 53, 59, 61-62 (1990) (holding that taxes such as excise taxes, FICA taxes and withholding taxes are property held by the debtor in trust for another and, as such, do not constitute property of the estate); see also Old Republic Nat'l Title Ins. Co. v. Tyler (In re Dameron), 155 F.3d 718, 721 (4th Cir. 1998) (holding that deposits subject to an express trust are excluded from the bankruptcy estate); City of Farrell v. Sharon Steel Corp. (In re Sharon Steel Corp.), 41 F.3d 92, 98-103 (3d Cir. 1994) (holding that funds withheld from employees' paychecks may be subject to a trust, and thus are not property of a debtor's estate, even where such funds are commingled with the debtor's other property). Accordingly, such funds are not available for general distribution to a debtor's creditors.

33. To avoid the serious disruption of the Debtors' chapter 11 cases that could result from the nonpayment of any withholding taxes, the Debtors seek authority to remit all Withholdings to the applicable Taxing Authorities to the extent that the Withholdings have not already been remitted. The Withholdings are held in trust for the benefit of the appropriate Taxing Authority for employees on behalf of whom such payment is being made. As such, the Withholdings are not property of the Debtors' estates within the meaning of section 541 of the Bankruptcy Code. Because the Withholdings are held in trust on behalf of others and thus do not constitute property of the Debtors' estates, the remittance of the Withholdings will not adversely affect the Debtors' estate or their creditors and is warranted.

34. Further, many Taxing Authorities impose personal liability on the officers and directors of entities responsible for collecting taxes from employees to the extent any such taxes are collected but not remitted. Accordingly, if these amounts remain unpaid, there is a risk that the Debtors' officers and directors may be subject to lawsuits on account of any such nonpayment during the pendency of these chapter 11 cases. Lawsuits of this type obviously

would constitute a significant distraction for officers and directors at a time when they should be focused on the Debtors' efforts to administer these cases, implement a prompt Sale Transaction and preserve and maximize the value of their assets.

The Doctrine of Necessity Provides a Basis for Granting the Requested Relief

35. Section 105(a) of the Bankruptcy Code, which codifies the equitable powers of bankruptcy courts, authorizes the Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a).

36. It is well established under the "doctrine of necessity" that bankruptcy courts have the equitable power to authorize the payment of prepetition claims where such payments are necessary to preserve the value of a debtor's business or assets, thereby facilitating the chapter 11 process. See, e.g., Miltenberger v. Logansport, Crawfordsville and Southwestern Ry. Co., 106 U.S. 286, 311 (1882) (holding that "[m]any circumstances may exist which may make it necessary and indispensable to . . . the preservation of the property, for the receiver to pay pre-existing debts of certain classes out of the earnings of the receivership . . ."); see also Mich. Bureau of Workers' Disability Comp. v. Chateaugay (In re Chateaugay Corp.), 80 B.R. 279, 285-87 (S.D.N.Y. 1987) (finding that a court's equitable powers include authorizing a debtor to pay prepetition debts). As such, a bankruptcy court's use of its equitable powers to "authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept." In re Ionosphere Clubs, Inc., 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (citing Miltenberger, 106 U.S. at 311).

37. The bankruptcy court's exercise of its authority under the "doctrine of necessity" is appropriate to carry out specific statutory provisions of chapter 11, specifically sections 1107(a), 1108 and 363(b)(1) of the Bankruptcy Code, which authorize a debtor in

possession to maintain and operate the debtor's business and use estate property outside of the ordinary course of business. Indeed, a debtor in possession has a duty to protect and preserve the value of its assets, and prepetition claims may be paid if necessary to perform the debtor's duty. See In re Tusa-Expo Holdings, Inc., No. 08-45057(DML) 2008 WL 4857954 at*3 (Bankr. N.D. Tex. 2008) (noting the necessity of permitting the payment of prepetition employee wages and related obligations in chapter 11 bankruptcy, "notably the accounting and in-house legal functions- [where] employee turnover can inhibit a debtor's ability to perform its chapter 11 duties"); In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) ("There are occasions when this duty can only be fulfilled by the preplan satisfaction of a prepetition claim."); In re NextWave Personal Commc'ns Inc., 244 B.R. 253, 275 (Bankr. S.D.N.Y. 2000) (observing that payment of prepetition debt could be supported by the rationales of sections 363 and 1107 of the Bankruptcy Code, "but only after notice and a hearing"); In re Columbia Gas Sys., Inc., 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (finding that a debtor is entitled to pay certain prepetition creditors upon a showing that the payment is "essential to the continued operation of the business") (citations omitted). Accordingly, a bankruptcy court's exercise of its authority under section 105(a) of the Bankruptcy Code is appropriate to carry out one of the central policies underlying chapter 11: i.e., to preserve value and maximize property available to satisfy the Debtors' stakeholders.

38. In the first reorganization of The LTV Corporation and its affiliated debtors, this Court authorized the payment of certain prepetition wages, salaries and employee benefits and reimbursement of expenses, as well as certain workers' compensation obligations, aggregating in excess of \$250 million. See Chateaugay Corp., 80 B.R. at 281. On appeal, one creditor challenged the order on the ground that the debtor should have been required to pay all

similarly situated prepetition claimants. The district court, however, affirmed the bankruptcy court's order authorizing the debtor to make selective prepetition payments, finding that such payments did not violate the claim priority provisions of section 507 of the Bankruptcy Code:

A rigid application of the priorities of § 507 would be inconsistent with the fundamental purpose of reorganization and of the Act's grant of equity powers to bankruptcy courts, which is to create a flexible mechanism that will permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately.

* * *

In this case, a restrictive interpretation of § 507 or of the powers accorded the bankruptcy court judge would similarly defeat the very end of Chapter 11 petitions.

Id. at 287; see also Ionosphere Clubs, Inc., 98 B.R. at 175-76; In re Gulf Air, Inc., 112 B.R. 152, 154 (Bankr. W.D. La. 1989) (authorizing the debtor to pay certain prepetition employee claims for wages, health and life insurance and workers' compensation premiums). The court in Gulf Air found that such payments were in the best interests of creditors, the debtor and the debtor's employees and were essential to a successful reorganization. See Gulf Air, 112 B.R. at 153-54.

39. Moreover, recently implemented changes to the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") confirm that the Court may authorize the postpetition satisfaction of prepetition claims by reference to standards mirroring those articulated by courts with respect to the doctrine of necessity. Specifically, Bankruptcy Rule 6003(b) provides, in relevant part, that "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 20 days after the filing of the petition, grant relief regarding . . . a motion to pay all or part of a claim that arose before the filing of the petition." This rule plainly implies that, where the failure to grant any such requested relief *would* result in immediate and irreparable harm to the Debtors' estates, the Court

may allow the Debtors to pay (prior to the twenty-first day following the Petition Date) all or part of a prepetition claim.

40. Although few court decisions have been rendered on this barely year-old rule, the "immediate and irreparable harm" standard established by Bankruptcy Rule 6003(b) appears to be essentially congruent with the "necessary and indispensable to . . . the preservation of property" standard established by the Supreme Court in Miltenberger (as described above). See Miltenberger, 106 U.S. at 311; see also In re Frontier Airlines Holdings, Inc., No. 08-11298 (RDD) (Bankr. S.D.N.Y. Apr. 14, 2008) (finding that debtors had satisfied the standard of Bankruptcy Rule 6003(b) where "immediate relief [was] necessary to avoid irreparable harm" and ordering that the debtor could make expenditures related to certain prepetition customer obligations). Accordingly, Bankruptcy Rule 6003(b), in addition to providing independent grounds for the authorization of payment of prepetition claims, serves to complement the doctrine of necessity.

41. The relief sought herein is essential to success of the Debtors' chapter 11 cases. The Debtors commenced these cases with the goals of conserving cash and other resources, while pursuing prompt approval and consummation of a Sale Transaction that will maximize the value available to stakeholders. The Debtors' Regular Employees and Additional Workforce are essential to idling manufacturing facilities in a safe and prudent manner, operating parts depots, administering these cases, preserving the value of the Debtors' business assets and assisting the Debtors in their efforts to consummate a Sale Transaction in an expedited manner. Any delay or disruption in the provision of employee benefits, payment of compensation (including the payment of Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs or

reimbursement of business expenses) under these extraordinary and difficult circumstances will destroy the Debtors' relationships with the Regular Employees and the Third-Party Employers and will irreparably impair morale of the Debtors' remaining workforce at the very time when the dedication, confidence and cooperation of the Regular Employees and Additional Workforce are most critical.

42. In light of the foregoing, the Debtors respectfully submit that the payment of the Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs is essential to the success of the Debtors' chapter 11 cases, represents an exercise of the Debtors' sound business judgment and is in the best interests of the Debtors' estates and stakeholders.

43. Relief similar to the relief requested herein has been granted by courts in this District in other chapter 11 cases. See, e.g., In re Steve and Barry's Manhattan, LLC, No. 08-12579 (ALG) (Bankr. S.D.N.Y. July 10, 2008) (authorizing the debtors to pay various prepetition employee obligations); In re Interep Nat'l Radio Sales, Inc., No. 08-11079 (RDD) (Bankr. S.D.N.Y. Apr. 1, 2008) (authorizing the debtors to pay various employee obligations); In re Dana Corp., No. 06-10354 (BRL) (Bankr. S.D.N.Y. Mar. 3, 2006) (authorizing the debtors to pay prepetition wages, salaries, benefits to regular employees and independent contractors, including severance benefits, and authorizing additional workforce payments); In re Musicland Holding Corp., No. 06-10064 (SMB) (Bankr. S.D.N.Y. Feb. 1, 2006) (authorizing the debtors to pay prepetition employee obligations); In re Calpine Corp., No. 05-60200 (BRL) (Bankr. S.D.N.Y. Dec. 21, 2005) (authorizing the debtors to pay prepetition wages, salaries and reimbursable employee expenses); In re Delphi Corp., No. 05-44481 (RDD) (Bankr. S.D.N.Y. Oct. 13, 2005) (authorizing the debtors to pay prepetition wages and salaries to employees,

independent contractors and temporary employees); In re Delta Air Lines, Inc., No. 05-17923 (PCB) (Bankr. S.D.N.Y. Sept. 16, 2005) (authorizing the debtors to pay prepetition wages, salaries and employee benefits); In re Northwest Airlines Corp., No. 05-17930 (ALG) (Bankr. S.D.N.Y. Sept. 15, 2005) (order authorizing the debtors to pay prepetition wages, compensation and employee benefits); In re Tower Automotive, Inc., 05-10578 (ALG) (Bankr. S.D.N.Y. Feb. 3, 2005) (authorizing the debtors to pay prepetition wages, salaries and other compensation).¹⁸

Request for Authority for Banks to Honor and Pay Checks Issued to Pay Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs

44. In addition, by this Motion, the Debtors request that all applicable banks and other financial institutions be authorized and directed, when requested by the Debtors in the Debtors' sole discretion, to receive, process, honor and pay any and all checks¹⁹ presented for payment of, and to honor all fund transfer requests made by the Debtors related to, Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs, whether such checks were presented or fund transfer requests were submitted prior to or after the Petition Date, provided that sufficient funds are available in the applicable accounts to make the payments. The Debtors represent that these checks are drawn on identifiable payroll and disbursement accounts and can be readily

¹⁸ Because of the voluminous nature of these unreported orders, they are not attached to this Motion. Copies of these orders will be made available to the Court at or prior to the hearing on this Motion and are available to other parties upon request from the Debtors' counsel.

¹⁹ Unionized former employees who have separated from the Debtors prior to the Petition Date in accordance with the terms of the VTEP and the IPR and who received checks (collectively, the "VTEP Checks") at the time of their separation might not have presented the VTEP Checks or these checks may not have cleared, as of the Petition Date. Similarly, certain electronic funds transfers in accordance with the VTEP and the IPR (collectively, the "VTEP Transfers") might not have been honored yet by the Debtors' banks and financial institutions. As of April 27, 2009, approximately 111 prepetition VTEP Checks remained outstanding, in a total amount of approximately \$5 million.

identified as relating directly to the authorized payment of Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs. Accordingly, the Debtors believe that checks other than those relating to authorized payments will not be honored inadvertently.

45. The Debtors represent that they have anticipated access to sufficient debtor in possession financing²⁰ to pay all Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs, to the extent described herein, as such amounts become due in the ordinary course of their businesses.

46. Nothing contained herein is intended or should be construed as: (a) an admission as to the amount, validity or priority of any claim against the Debtors; (b) a waiver of the Debtors' rights to dispute any claim on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim is a claim for Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs; or (e) a request to assume any executory contract or unexpired lease, pursuant to section 365 of the Bankruptcy Code.

Request for Waiver of Stay

47. Pursuant to Rules 6003(b) and 6004(h) of the Bankruptcy Rules, the Debtors seek (a) immediate entry of an order granting the relief sought herein and (b) a waiver of any stay of the effectiveness of such an order. As noted above, Bankruptcy Rule 6003(b) provides, in relevant part, that

²⁰ Concurrently with the filing of this Motion, the Debtors have filed a motion seeking approval of up to \$4.5 billion in debtor in possession financing from the U.S. Treasury and Export Development Canada.

[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 20 days after the filing of the petition, grant relief regarding . . . a motion to pay all or part of a claim that arose before the filing of the petition.

Fed. R. Bankr. P. 6003(b). Accordingly, where the failure to grant any such requested relief would result in immediate and irreparable harm to the Debtors' estates, the Court may allow the Debtors to pay all or part of a claim that arose before the Petition Date prior to the twenty-first day following the Petition Date. Bankruptcy Rule 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 10 days after entry of the order, unless the court orders otherwise."

48. As set forth above, the payment of the Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs is necessary to prevent the immediate and irreparable damage to employee morale, commitment and support that is essential to the Debtors' efforts to administer these cases, preserve their assets and pursue and consummate a Sale Transaction in an expedited manner. Without the payment of such amounts, therefore, the Debtors' ability to idle these manufacturing facilities in a safe and prudent manner, continue the operation of parts depots, preserve and maximize the value of their business assets and complete a Sale Transaction would be compromised. Accordingly, the Debtors submit that ample cause exists to justify (a) a finding that the requirements of Bankruptcy Rule 6003(b) have been satisfied and that the immediate entry of an order granting the relief sought herein is appropriate and (b) a waiver of the ten-day stay imposed by Bankruptcy Rule 6004(h), to the extent that it applies.

Notice

49. No trustee or examiner has been appointed in these chapter 11 cases. Notice of this Motion has been given to: (a) the Office of the United States Trustee for the

Southern District of New York; (b) the creditors holding the 50 largest unsecured claims against the Debtors' estates, as identified in the Debtors' chapter 11 petitions; (c) counsel to the administrative agent for the Debtors' prepetition senior secured lenders; (d) counsel to Cerberus; (e) counsel to Daimler; (f) counsel to the UAW; and (g) counsel to the U.S. Treasury. The Debtors submit that no other or further notice need be provided.

No Prior Request

50. No prior request for the relief sought in this Motion has been made to this or any other Court.

WHEREFORE, the Debtors respectfully request that this Court: (i) enter an order substantially in the form attached hereto as Exhibit B, granting the relief sought herein; and (ii) grant such other and further relief to the Debtors as the Court may deem proper.

Dated: April 30, 2009
New York, New York

Respectfully submitted,

/s/ Corinne Ball

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PROPOSED ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

**ESTIMATED PREPETITION COMPENSATION
AND PREPETITION BUSINESS EXPENSES**

<u>ITEM</u>	<u>AGGREGATE AMOUNT</u>
Wages, Salaries and Contractual Compensation for Regular Employees	\$14.5 million
Net Earned and Accrued Vacation ¹	\$86 million
Contractual Compensation for Additional Workforce	\$32.1 million
Reimbursable Business Expenses	\$2.2 million
TOTAL	<u>\$134.8 million</u>

¹ Non-union Regular Employees (i.e., the vast majority of the Debtors' salaried employees) who hold earned and accrued vacation are not entitled to receive the cash value of this time, except to the limited extent that such Regular Employees generally are entitled to compensation for earned and accrued vacation time upon any termination of their employment. Instead, these non-union Regular Employees merely exchange their vacation time for days off work. Accordingly, the estimated expense listed above does not represent an out-of-pocket cost for the Debtors, but rather a reduction in the number of hours that such Regular Employees with earned and accrued vacation time may work during the course of a year. The extent to which union Regular Employees are entitled to paid vacation time is determined by the applicable collective bargaining agreement. Accordingly, the estimated expense listed above represents that amount of accrued but unused vacation time for union Regular Employees as of the Petition Date.

EXHIBIT B

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

-----X
In re : Chapter 11
Chrysler LLC, *et al.*, : Case No. 09-50002 (AJG)
Debtors. : (Jointly Administered)
-----X

**ORDER, PURSUANT TO SECTIONS 105(a), 363, 507(a)(4), 507(a)(5),
AND 541(d) OF THE BANKRUPTCY CODE, AUTHORIZING
THE DEBTORS TO PAY: (A) PREPETITION REGULAR EMPLOYEE
WAGES, SALARIES AND RELATED ITEMS; (B) PREPETITION REGULAR
EMPLOYEE BUSINESS EXPENSES; (C) PREPETITION CONTRIBUTIONS TO,
AND BENEFITS UNDER, EMPLOYEE BENEFIT PLANS; (D) PREPETITION
REGULAR EMPLOYEE PAYROLL DEDUCTIONS AND WITHHOLDINGS;
(E) PREPETITION ADDITIONAL WORKFORCE COSTS; AND (F) ALL COSTS AND
EXPENSES INCIDENT TO THE FOREGOING PAYMENTS AND CONTRIBUTIONS**

This matter coming before the Court on the Motion of Debtors and Debtors in Possession, Pursuant to Sections 105(a), 363, 507(a)(4), 507(a)(5) and 541(d) of the Bankruptcy Code, for an Order Authorizing Them to Pay: (A) Prepetition Regular Employee Wages, Salaries and Related Items; (B) Prepetition Regular Employee Business Expenses; (C) Prepetition Contributions to, and Benefits Under, Employee Benefit Plans; (D) Prepetition Regular Employee Payroll Deductions and Withholdings; (E) Prepetition Additional Workforce Costs; and (F) All Costs and Expenses Incident to the Foregoing Payments and Contributions (the "Motion"),¹ filed by the debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors"); the Court having reviewed the Motion and the Affidavit of Ronald E. Kolka filed in support of the Debtors' first day papers (the "Affidavit") and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing

¹ Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

before the Court (the "Hearing"); and the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (iii) notice of the Motion and the Hearing was sufficient under the circumstances, (iv) the payment of the Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs on the terms and conditions described in the Motion is necessary and appropriate to prevent serious, and potentially irreparable, disruptions to the Debtors' chapter 11 cases, will serve to protect and preserve the value of the Debtors' business assets for the benefit of all stakeholders, will facilitate the Debtors' chapter 11 cases and will maximize value available to stakeholders, (v) the requirements of Bankruptcy Rule 6003(b) have been satisfied with respect to the payments authorized by this Order and (vi) there is good cause to waive the ten-day stay imposed by Bankruptcy Rule 6004(h) to the extent it is applicable; and the Court having determined that the legal and factual bases set forth in the Motion and the Affidavit and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Debtors are authorized, in accordance with their stated policies (as such policies may be modified from time to time) and in the Debtors' sole discretion, to pay:
(a) Prepetition Compensation; (b) Prepetition Business Expenses; (c) Deductions;
(d) Withholdings; (e) Benefits that accrued but remained unpaid as of the Petition Date to or for the benefit of the Regular Employees; and (f) certain VTEP Benefits that accrued pursuant to the Debtors' CBAs but remained unpaid as of the Petition Date for the benefit of certain former unionized Regular Employees, and to the extent necessary, the Debtors are authorized to use any

cash collateral in the Debtors' payroll account for such purposes, pursuant to section 363 of the Bankruptcy Code.

3. The Debtors are authorized, in the Debtors' sole discretion, to pay the Prepetition Processing Costs.

4. The Debtors are authorized, in the Debtors' sole discretion, to pay the Additional Workforce Costs for the benefit of the Additional Workforce.

5. The Debtors' Banks and other financial institutions (collectively, the "Banks") are authorized and directed, when requested by the Debtors in the Debtors' sole discretion, to receive, process, honor and pay all checks (including the VTEP Checks) presented for payment of, and to honor all fund transfer requests (including the VTEP Transfers) made by the Debtors related to Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Deductions, Withholdings, Benefits and Prepetition Processing Costs, whether such checks were presented or fund transfer requests were submitted prior to or after the Petition Date, provided that funds are available in the Debtors' accounts to cover such checks and fund transfers. The Banks are authorized to rely on the Debtors' designation of any particular check or funds transfer as approved by this Order.

6. Nothing in the Motion or this Order, nor the Debtors' payment of claims pursuant to this Order, shall be deemed or construed as: (a) an admission as to the amount, validity or priority of any claim against the Debtors; (b) a waiver of the Debtors' rights to dispute any claim on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim is a claim for Prepetition Compensation, Prepetition Business Expenses, Additional Workforce Costs, Benefits or Prepetition Processing Costs; or (e) a request to assume any executory contract or unexpired lease, pursuant to section 365 of the Bankruptcy Code.

7. Pursuant to Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

Dated: New York, New York
_____, 2009

UNITED STATES BANKRUPTCY JUDGE