

JONES DAY
222 East 41st Street
New York, New York 10017
Telephone: (212) 326-3939
Facsimile: (212) 755-7306
Corinne Ball
Veerle Roovers

JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212
David G. Heiman

JONES DAY
1420 Peachtree Street, N.E.
Suite 800
Atlanta, Georgia 30309
Telephone: (404) 521-3939
Facsimile: (404) 581-8309
Jeffrey B. Ellman

Proposed Attorneys for Debtors
and Debtors in Possession

**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) AND 363(c) OF THE BANKRUPTCY CODE, FOR
INTERIM AND FINAL ORDERS AUTHORIZING THE DEBTORS TO HONOR
OR PAY PREPETITION OBLIGATIONS TO OR FOR THE BENEFIT OF
THEIR DEALERS AND OTHER CUSTOMERS, AND FOR RELATED RELIEF**

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. 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. As the culmination of these efforts, Chrysler, Fiat and New Chrysler (as defined below) have reached an agreement in principle and are expected to enter into a Master Transaction Agreement (collectively with other ancillary and supporting documents, the "Purchase Agreement") in short order. 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) and 363(c) of the Bankruptcy Code, the Debtors hereby seek the entry of: (a) an initial interim order authorizing the Debtors, in their sole discretion, to continue their Warranty Programs and Extended Service Programs (as such terms are defined below), and to perform their obligations related thereto in the ordinary course of business; (b) an interim order (the "Interim Order") (i) authorizing the Debtors, in their sole discretion, to perform their prepetition obligations to their customers (including the Warranty Programs and the Extended Service Programs, the "Customer Programs"); (ii) authorizing the Debtors, in their sole discretion, to continue, renew, replace, modify or terminate those Customer Programs as they see fit in their business judgment, or implement other new customer programs, in the ordinary course of their businesses and without further approval of the Court; and (iii) granting related relief; and (c) a final order (i) authorizing the Debtors, in their sole discretion, to perform their prepetition obligations to their customers (collectively, the "Customer Obligations"); authorizing the Debtors, in their sole discretion, to continue, renew, replace, modify or terminate the Customer Programs as they see fit in their business judgment, or

implement other new customer programs, in the ordinary course of their businesses and without further approval of the Court; and (iii) granting related relief.³ Contemporaneously herewith, the Debtors filed a consolidated memorandum of law (the "Memorandum of Law") in further support of this Motion and certain other requests for first day relief. Prior to any hearing before the Court to consider granting the relief set forth in the Interim Order, the Debtors will have filed the Declaration of Peter Grady in further support of this Motion and certain other requests for relief.

Basis for Relief

15. As set forth above, the Debtors are pursuing the prompt approval and consummation of the Fiat Transaction or a similar going concern transaction with a competing bidder (any such transaction, a "Sale Transaction"). The Debtors remain mindful of their fiduciary obligations to preserve and maximize the value of their estates for the benefit of stakeholders as they pursue a Sale Transaction. Accordingly, during the period between the Petition Date and the anticipated consummation of a Sale Transaction, the Debtors intend to make every effort to minimize the adverse effects of their chapter 11 filing on the transition of the Debtors' assets to New Chrysler or other purchaser (any such purchaser, the "Purchaser"). By doing so, the Debtors will help promote the successful consummation of the Sale Transaction, thereby maximizing the value received by stakeholders.

16. With these goals in mind, the Debtors believe that it is essential to obtain authority to continue honoring Customer Obligations, most of which are provided through the Debtors' network of dealers. Despite the temporary idling of most of the Debtors' operations,

³ Certain of the Debtors' Customer Programs are implemented pursuant to outstanding contracts. As set forth below, by this Motion, the Debtors are not seeking to assume any executory contract or unexpired lease that includes a Customer Program, or any portion thereof.

dealers have substantial inventories and, pending a sale, are expected to (a) continue selling and servicing vehicles manufactured by the Debtors and (b) incurring related obligations for warranties and incentives that typically would be satisfied by the Debtors in the ordinary course of business.

17. To promote a successful Sale Transaction and preserve going concern value, the Debtors must make every effort to provide a "business as usual" experience to the ultimate end consumers of their vehicles notwithstanding the filing of these chapter 11 cases. The Debtors submit that their continuing support of their dealers during this crucial period — i.e., the maintenance of the public face of the Debtors' businesses — is essential to the preservation and protection of the Chrysler, Jeep and Dodge brands and the dealer network itself. Absent the payment of warranty and incentive payments to dealers, e.g., these dealers will have difficulty surviving until the consummation of a sale, and without the dealers no such sale may be possible. Likewise, ensuring that consumer warranty claims are satisfied without interruption is imperative to preserving going concern value. During a period where all aspects of the Debtors' businesses are certain to be under intense public scrutiny, any interruption in the ability of consumers to have their vehicles maintained and repaired would threaten a collapse in confidence in the Debtors' brands. As such, payment of the Customer Obligations described herein is critical to the Debtors' efforts to complete the Fiat Transaction or other going concern sale and to maximize value available to stakeholders.

The Debtors' Customers and Their Customer Programs

18. Consistent with state laws, the Debtors historically have sold vehicles to end consumers in the United States through their nationwide network of authorized dealers. As such, the Debtors' primary direct customers in the United States have been their dealers, to whom

the vast majority of the Debtors' vehicles, service parts and accessories have been directly sold in the United States; the dealers then resell these vehicles, service parts and accessories to individual consumers or commercial or fleet customers.⁴ These end consumers, who choose to purchase a Chrysler, Dodge or Jeep vehicle and related items and accessories out of the many choices available to them in the marketplace, also are the Debtors' customers (albeit indirectly through the Debtors' dealer network). In addition to their U.S. sales, the Debtors distribute their vehicles internationally by selling them to third-party distributors (which in some cases are their own subsidiaries) for resale to dealers or end users in foreign countries.

19. As noted above, the Debtors' dealers are the public face of their businesses. With the exception of the Debtors' fleet customers, end consumers generally interface with dealers rather than the Debtors directly. Most obligations the Debtors have to their U.S. customers, therefore, are paid by the Debtors to their dealers. Most of these obligations are satisfied by weekly netting transactions identified on a document called a "Parts Statement." The "Parts Statement" is generated weekly by the Debtors' accounting department and describes amounts owed to and from each dealer.

20. Maintaining the confidence of all of the Debtors' various global customer constituencies — and particularly the confidence of end consumers in Chrysler, Jeep and Dodge brand vehicles — is of paramount importance as the Debtors work to preserve and maximize the going concern value of their assets and businesses in anticipation of a Sale Transaction. In light of the high value, high cost and expected long-life of the vehicles sold by the Debtors, the likely need for repairs over the extended time that these vehicles are in service and the paramount

⁴ In the United States, the only exception to this has been for sales made by the Debtors directly to the United States government.

importance of vehicle safety, consumers considering a purchase of the Debtors' vehicles must have confidence that the Debtors (or any Purchaser) will (a) honor warranty and recall obligations, (b) maintain a dealership network with service departments to perform warranty and recall repairs and (c) have reliable service parts manufactured for their vehicles. As such, the ability to bolster consumer confidence in the early stages of these cases is critical to the Debtors' ability to consummate a value-maximizing Sale Transaction.

21. Prior to the Petition Date, to support their sales efforts, the Debtors established and implemented a variety of Customer Programs in the ordinary course of their businesses, including, but not limited to, the following: (a) warranty programs, (b) extended service programs, (c) goodwill allowances, (d) dealer incentive programs, (e) customer incentive programs, (f) annual dealer parts inventory allowances and (g) dealer support programs (including sales and marketing support programs and collection programs), each of which is described in greater detail below. The goals of these Customer Programs traditionally have been to retain current customers, attract new ones and ultimately enhance revenue and profitability by (a) projecting the message into the global marketplace that the Debtors stand behind the vehicles they produce, (b) meeting competitive pressures, (c) promoting new vehicle sales, (d) ensuring customer satisfaction and (e) generating goodwill for the Debtors' brands. The Debtors seek to maintain and promote these values and goals in the period between the Petition Date and the consummation of any Sale Transaction as a means of preserving going concern value for the benefit of their estates and stakeholders.

Warranty Programs and Extended Service Programs

22. In connection with the sale of new vehicles, the Debtors (a) maintain certain vehicle warranty programs, recall maintenance programs and goodwill repair programs

(collectively, the "Warranty Programs") and (b) offer for sale extended vehicle service contracts (collectively, the "Extended Service Programs").

Warranty Programs

23. Warranty Programs, Generally. The Debtors' primary warranties are legal obligations to their end consumer customers. In connection with each sale of a vehicle by a Chrysler, Jeep or Dodge dealer, the Debtors provide the consumer with a basic limited warranty that covers certain vehicle repairs that may arise as a result of a defect in materials or workmanship. The Debtors' basic warranty on vehicles sold in the U.S. generally covers (a) all necessary repairs (including emissions-related repairs), as well as related labor costs, arising during the earlier of three years or 36,000 miles after purchase, (b) certain corrosion-related repairs (the term and scope of which vary, depending upon the affected part) and (c) certain other vehicle repairs (primarily related to powertrain repairs) for the lifetime of the vehicle.⁵ The scope and term of the basic, emissions-related and corrosion-related warranties offered by the Debtors in foreign jurisdictions vary widely from region to region.⁶ While the bulk of the Debtors' Warranty Program obligations relate to new vehicle sales, the Debtors also provide warranties for the Mopar (i.e., service) parts that they sell, which warranties commonly last one year or less.

24. Most warranty repairs are required to be performed by an authorized Chrysler, Jeep or Dodge dealer, but certain fleet customers may perform their warranty repairs

⁵ Specialized extended warranties, such as the lifetime powertrain warranty, vary based upon the make, model and year of the vehicle in question.

⁶ For example, the term of the Debtors' basic warranty in the U.K. covers all necessary repairs (including emissions-related and most corrosion-related repairs), as well as related labor costs, arising in the first 24 months after purchase without regard to mileage. In China, by contrast, the basic warranty (including emissions-related repairs) remains in place for the earlier of 24 months or 60,000 kilometers, while all corrosion-related repairs are covered for 36 months after purchase.

themselves. The dealer or fleet customer performing the repairs then seeks reimbursement from the Debtors based upon established reimbursement schedules.⁷ In this way, the Debtors incur certain liabilities to their dealers and also other vehicle repair service providers in connection with repairs covered under the Debtors' Warranty Programs.

25. Recall Services and Good Will Repairs. In the ordinary course of their businesses, the Debtors, like all other OEMs, sometimes are required by federal law to institute recall campaigns to correct suspected defects in vehicles. Necessary repair and maintenance work related to such recall campaigns (which generally is performed by the Debtors' dealers) is occasionally necessary to both (a) comply with applicable law and (b) maintain public confidence in the quality of the Debtors' brands and the safety of their vehicles. Indeed, from time to time, the Debtors initiate their own service campaigns to repair vehicles or have their vehicles checked by authorized repair technicians for certain potential defects. Further, to build and maintain customer "good will," the Debtors in limited instances authorize and pay for certain repairs that are not expressly covered under an existing warranty. All of these recall services or good will repairs are treated and administered by the Debtors like other Warranty Program obligations.

26. Warranty Programs Related to International Sales. With approximately 27% of the Debtors' annual sales made outside of the United States, the Debtors also have obligations under their Warranty Programs (including recall obligations mandated by various regulations) to customers outside of the United States. In general, a vehicle manufactured by the Debtors for sale outside of the United States is the subject of a number of intermediate

⁷ The Debtors generally make reimbursement payments to their North American dealers and fleet customers every Monday for warranty costs incurred by those dealers during the prior week.

transactions before ultimately being purchased by a foreign consumer. Specifically, the Debtors sell the vehicle to Debtor Chrysler International Corporation ("CIC"), which then resells the vehicle to a foreign fleet customer, distributor or dealer.⁸ In turn, the foreign distributors and dealers sell the vehicle to the ultimate end consumer. For the majority of these foreign sales, the Debtors discount the price of the vehicle by its expected warranty costs (including expected costs related to recall obligations) and transfer it to CIC and then to a foreign distributor or dealer without a warranty. In those instances, the warranty costs are accrued locally by the foreign distributors and dealers, and thus there is no warranty claim outstanding against the Debtors.⁹

27. In certain other instances, however, the Debtors do not discount the price paid by CIC for a vehicle by the expected costs for warranty and recall obligations. In those instances, warranty claims asserted by end consumers and the costs of recall-related repairs in foreign countries filter up through the distribution chain and are ultimately honored by the Debtors (who accrue for the costs of such claims on a rolling basis). In these cases, a foreign consumer's warranty claim is honored, or repair work associated with a recall is performed, by the distributor or dealer in that country, which distributor or dealer is reimbursed by CIC for any costs incurred. The Debtors, in turn, reimburse CIC on a monthly basis (ordinarily on the

⁸ Sales in certain jurisdictions, such as Canada and Mexico, take place independent of this distribution system. In these locations, distribution is managed locally through existing dealer networks, and warranties are honored by these entities, with no financial involvement of the Debtors.

⁹ Although the Debtors generally bear no warranty costs related to discounted vehicles sold to CIC, the Debtors, seeking to protect the global value of their brands, occasionally have covered such costs where their foreign dealers and distributors have under-accrued for expected warranty liabilities. The Debtors expect that, due to generally declining international warranty expenses and reduced global production volumes, their foreign dealers and distributors in most cases likely have *over*-accrued for recent warranty costs and that either (a) no expenditures by the Debtors to cover any prepetition warranty obligations arising in such foreign jurisdictions will be required or (b) if any such expenditures are required, the amounts of such expenditures will be *de minimis*.

15th day of every month), with such monthly payments generally averaging approximately \$3 million.

28. Outstanding Warranty Obligations. Given the length of the warranties and the delay between their issuance and the assertion of warranty claims, warranties issued by the Debtors prior to the Petition Date give rise to prepetition contingent claims that may remain contingent for a number of years. The estimated amount that the Debtors paid in respect of Warranty Program obligations either to dealers or to their foreign affiliates in 2008 was between \$1.1 billion and \$1.5 billion. The Debtors estimate that the amount of accrued and unsatisfied obligations under the Warranty Programs as of the Petition Date was approximately \$2.8 billion (including goodwill obligations and obligations paid to parties other than dealers), approximately \$28.5 million of which has already been borne by the Debtors' dealers or CIC and is awaiting reimbursement.

Extended Service Programs

29. Extended Service Programs, Generally. In addition to the Debtors' Warranty Programs, purchasers of new and used vehicles manufactured by the Debtors have the option to purchase a vehicle service contract under one of the Debtors' Extended Service Programs that (a) covers certain vehicle services and repairs after the regular Warranty Program has expired or (b) provides enhanced coverage during the warranty period. Consumers can purchase the Debtors' extended warranties through an authorized Chrysler, Jeep or Dodge dealer when the vehicle is purchased, or may purchase such a warranty directly from the Debtors pursuant to a subsequent direct solicitation from the Debtors. Upon the sale of a vehicle and entry into a service contract, the entire wholesale cost of the service contract is paid to the

Debtors.¹⁰ Except in limited circumstances, all service and repairs covered under the Extended Service Programs are performed by authorized Chrysler, Dodge and Jeep dealers, who then submit the repair charges to the Debtors for reimbursement at agreed-upon rates. As a result, the Debtors incur certain liabilities to dealers and, in limited circumstances, other vehicle repair service providers in connection with repairs covered under the Debtors' Extended Service Programs.

30. Outstanding Extended Service Program Obligations. As with the Warranty Programs, because several years can pass between the issuance of the extended service contracts and the assertion of claims thereunder, claims under such contracts are prepetition contingent claims that may remain contingent for a number of years. The estimated amount that the Debtors paid under their Extended Service Programs in 2008 was approximately \$236 million. The Debtors estimate that the amount of accrued and unsatisfied obligations under the Extended Service Programs as of March 31, 2009 was approximately \$980 million.

*The Debtors' Need to Maintain and Honor their
Warranty Program and Extended Service Program*

31. The Debtors cannot afford to ignore their obligations under Warranty Programs and the Extended Service Programs. Any doubts regarding the quality of the Debtors' (or the Purchaser's) products — or their willingness to stand behind those products by honoring warranty obligations as they arise — could result in a loss of consumer confidence and customer loyalty and otherwise impair the going concern value of the Debtors' assets and their ability to complete a Sale Transaction.

¹⁰ In the case of extended warranties sold through dealers, the dealer maintains the amount paid above the wholesale cost, if any.

32. As has been well-documented by various media sources, the Debtors face the significant challenge of maintaining consumer confidence in the early stages of these chapter 11 cases. Any indication that the Debtors will not honor their warranty and service contract obligations will cause a loss in consumer loyalty that would negatively and perhaps irreparably impact the Debtors' ability to consummate a Sale Transaction, to the significant detriment of their estates and creditors.

33. One of the factors driving the value of the Fiat Transaction, for example, is the ability for both Fiat and New Chrysler to establish a global presence in the automotive industry and expand the scope of their respective dealer and distributor networks. To maximize the value of these efforts (or any similar efforts with another Purchaser), the Debtors must preserve and protect the value of their brands throughout the world. A failure to honor their warranty or extended service commitments worldwide almost certainly would undermine such brand value (and, thus, ultimately impair stakeholder recoveries).¹¹

34. A failure to provide necessary recall maintenance similarly would undercut the Debtors' efforts to preserve consumer confidence in the quality of their vehicles. It would be next to impossible for the Debtors to protect the value of their brands (and, thus, maximize the value of any Sale Transaction) if the public suspects that the Debtors' vehicles are unsafe. Indeed, concern for public safety alone arguably justifies the Debtors' fulfillment of their obligations to provide recall maintenance and other warranty work.

35. Moreover, the Debtors' dealers would suffer many of the financial consequences of the Debtors' failure to honor their warranty and extended service obligations —

¹¹ Indeed, the U.S. government itself implicitly acknowledged the importance of maintaining the Debtors' Warranty Programs in foreign jurisdictions by extending the coverage of the new "Warranty Commitment Program" (see note 12 *infra*) to eligible sales of the Debtors' vehicles throughout the entire world.

consequences that many dealers simply do not have the financial wherewithal to bear.

Maintaining the Debtors' dealer network is critical to the proposed Fiat Transaction. Thus, if obligations related to the Debtors' Warranty Program and Extended Service Programs are not honored, it would threaten the viability of the Debtors' dealer network and, in turn, the going concern value of the Debtors' businesses and assets and the ability to consummate a Sale Transaction.

36. Since the Debtors currently intend to assume and assign to the Purchaser the bulk of their dealer agreements, the majority of dealers would receive reimbursement for the costs of their Warranty Program or Extended Service Program work in connection with the Debtors' assumption of their contracts. Moreover, dealers that do not receive reimbursement for Warranty Program or Extended Service Program work performed may exercise various setoff rights against the Debtors.

37. For all of these reasons, the Debtors believe that the costs of honoring their Warranty Program and Extended Service Program obligations are far less than the cost of the potentially irreparable damage that could be done to the value of the Chrysler, Jeep and Dodge brands, and the Debtors' ability to consummate a value-maximizing sale of their businesses, if the Debtors were to repudiate these obligations to dealers and consumers. As such, the Debtors believe that it is absolutely critical that they be granted authority to honor these obligations without interruption, as described herein.¹²

¹² On March 30, 2009, the U.S. Treasury announced the creation of its "Warranty Commitment Program," designed to provide non-Fleet Customers that purchase Debtor-produced vehicles between March 30, 2009 and June 30, 2009 with confidence that their vehicle warranties will be honored. Although the Debtors have elected to participate in the Warranty Commitment Program to maximize consumer confidence in their brands (and have made capital contributions in the amount of \$38.2 million (15% of the warranty accruals for vehicles sold during this period) into a newly-established special purpose vehicle towards this end), the Debtors do not expect that the Warranty Commitment Program — which only assumes liability for warranty obligations in the event of the Debtors' liquidation — will mitigate their warranty-related costs

Incentive and Rebate Programs

38. In connection with the Debtors' global sales and marketing programs, the Debtors offer their domestic dealers and end consumers (as well as their foreign distributors) a number of cash allowances, financing programs, discounts, holdbacks and other incentives (collectively, the "Sales Incentives"). The Debtors offer these programs to provide (a) dealers an incentive to purchase particular products from the Debtors based upon a variety of metrics, (b) dealers (and at times the dealer's own employees) a direct incentive to encourage or assist in the sale of particular vehicles or products to end consumers and (c) end consumers an incentive to purchase or lease particular vehicles from the dealers.

39. The Sales Incentive Programs vary from time to time and normally are adjusted on a monthly basis. The most common incentive programs provide incentives to end consumers through a set monetary discount (such as \$1,000 or \$3,000) off the price of a particular vehicle model or the availability of certain vehicle options or accessories for no charge or at discounted pricing. These obligations generally are advertised to induce the public to purchase more of a certain make and model of vehicle. These Sales Incentives are obligations of the Debtors, the benefit of which the Debtors' dealers pass along to consumers. Occasionally, the Debtors also provide cash incentives to dealers (or to the dealers' employees) to sell certain

(continued...)

during these chapter 11 cases. Moreover, most vehicles subject to outstanding warranties were sold outside of the limited period covered by the Warranty Commitment Program. Accordingly, the Debtors do not believe that the existence of the Warranty Commitment Program diminishes the necessity for the relief sought herein with respect to their Warranty Programs and Extended Service Programs. Nevertheless, the Debtors request the authority, in their sole discretion and in the ordinary course of their businesses, to continue their participation in the Warranty Commitment Program (which the Debtors submit qualifies as a Customer Program) as long as it remains open and to make payments in connection therewith to the extent such payments are consistent with the terms of the Debtors' postpetition financing facility.

vehicles, including in some instances previously-owned vehicles. Generally, dealer incentives are not advertised or widely publicized. Sales Incentives, whether directed at dealers or end consumers, are satisfied by the Debtors crediting the dealers after a sale of a vehicle by a dealer to an end consumer.¹³

40. In addition, it is customary for the Debtors to agree to a percentage price discount, or "holdback," for vehicles sold by the Debtors to dealers, which is not reflected on the invoices issued by the Debtors. Rather, such holdbacks, which can be up to 3% of the invoice or sticker price, are credited to the dealer's account with the Debtors after the dealer purchases the vehicle at the undiscounted price. Unlike Sales Incentives, Holdbacks are credited to the dealer shortly after the Debtors sell the vehicle to the dealer and are not contingent upon the subsequent sale of the vehicle by the dealer to the end consumer.

41. A variety of other credits are utilized as incentives or assistance to customers, depending upon the circumstances. For example, from time to time, the Debtors provide the dealers with Sales Incentives in the form of "bid assistance" when the dealer is bidding against dealers for other automotive manufacturers for sales to state or local government purchasers. Volume-based incentives also may be provided directly to fleet customers, including daily rental car businesses or commercial customers who purchase large numbers of vehicles (collectively, "Fleet Customers"). These forms of Sales Incentives commonly amount to discounts of thousands of dollars per vehicle purchased. These Sales Incentives are sometimes provided in the form of a discount off the invoice price. Other times the incentives are provided

¹³ The Debtors generally do not directly pay Sales Incentives to end consumers. Instead, Sales Incentives are credited to dealers and honored in the manner described above. One exception, however, is a gas card program that was instituted early in 2008. Under this program, the Debtors agreed to reimburse consumers for certain gasoline purchases at prices above established pricing levels. Generally, gas prices have been well below these levels in recent months, so the Debtors have little or no outstanding obligations to consumers under the gas card program.

in the form of a cash payment. The Debtors further offer certain Sales Incentives related to their sales of Mopar service parts.

42. Similarly, the Debtors recently have issued credits in the form of vouchers (any such credit, a "Voucher") included in the buy-out packages offered to, and accepted by, certain of the Debtors' former union employees. Similar to other Sales Incentives, upon a former employee's presentation of a Voucher to a dealer, the dealer will reduce the sales price of any vehicle purchased by the amount of the Voucher. The dealer is then subsequently reimbursed by the Debtors for the discount provided through the Parts Statement. The Debtors estimate that the aggregate value of Vouchers that have been issued to employees but not yet presented to dealers is approximately \$28 million. The Debtors believe that the amount owed in connection with Vouchers honored by their dealers but unreimbursed by the Debtors as of the Petition Date is relatively *de minimis*. Nevertheless, to the extent such reimbursement obligations exist, the Debtors request authority to honor such obligations in their sole discretion.

43. With respect to their Sales Incentives paid through dealers, the Debtors estimate that they paid approximately \$5 billion to dealers for sales in 2008. Because most of these Sales Incentives are paid to the dealer, or satisfied via setoff, between 12 and 19 days after they are earned by the dealer, the amount of such accrued but unpaid obligations varies based upon what incentive programs are being run, and ranges from \$150 million up to \$400 million. As of the Petition Date, accrued but unpaid obligations attributable to Sales Incentives totaled approximately \$375 million.

44. With respect to their Sales Incentives given to all Fleet Customers, the Debtors estimate that they paid incentives worth \$662 million in 2008.¹⁴ The Debtors estimate that outstanding claims relating to Fleet Customer Sales Incentives are approximately \$20 million as of the Petition Date.

45. Failure to honor and pay their Sales Incentives obligations to dealers likely would harm the goodwill and other objectives that the Debtors have sought to build by providing the Sales Incentives. More fundamentally, these dealers rely on the timely payment of Sales Incentives to operate their businesses. Not only do these incentives assist in promoting the sales of vehicles, most of these amounts represent substantial advances of capital for the benefit of consumers that are then reimbursed by the Debtors. Particularly given the difficult economic conditions faced by these dealers in the current market environment, the Debtors' dealers can ill afford the financial costs associated with any interruption in the payment of Sales Incentives.

46. A smoothly operating dealer network is a core component of the value to be transferred to the Purchaser in connection with any Sale Transaction. If the Debtors fail to honor and pay Sales Incentives, however, dealers critical to the ongoing success of the Debtors'

¹⁴ This amounts do not take into account any discounts off the invoice price given to fleet customers since, as immediate discounts, these are not claims against the Debtors.

In addition to Sales Incentives, the Debtors have guaranteed depreciation agreements with certain of their daily rental company customers that require the Debtors to guarantee that the daily rental company will achieve an established price upon the resale of the Debtors' vehicles after a period of time has passed (normally 8-15 months). If the guaranteed price is not received from the sale of the vehicle (which typically occurs through an auction process), the Debtors pay the difference between the resale price and the guaranteed price. The Debtors presently estimate that they have approximately \$119 million in accrued, contingent obligations under such programs (collectively, the "GDP Obligations"). The Debtors presently anticipate that the GDP Obligations will be assumed by New Chrysler in connection with the Fiat Transaction. It is the Debtors' understanding, however, that certain of their Fleet Customers may experience substantial financial hardship in the event the Debtors suspend payments with respect to the GDP Obligations (i.e., covenant violations under their financing agreements; inability to obtain new short-term financing). Accordingly, the Debtors are seeking authority to honor the GDP Obligations, in their sole discretion and to the extent permitted by, and consistent with, their postpetition financing facility, as may be necessary to prevent materially adverse financial consequences from befalling certain of their Fleet Customers and thereby preserve the value of these commercial relationships in anticipation of a Sale Transaction.

dealer network may not be able to survive financially, or may choose to associate with a different OEM rather than persevere under adverse conditions. The loss of these dealers, and the attendant deterioration of the Debtors' dealer network, in turn could threaten the going concern value of the Debtors and the ability to complete a Sale Transaction. As such, the Debtors submit that the cost of honoring and paying the Sales Incentives is far less than the potential cost of not paying such amounts.

47. Therefore, the Debtors request authority to honor and pay Sales Incentives, in their sole discretion, to preserve and maximize the value of their businesses and assets through the preservation of their dealer network. The Debtors are working to balance the competing considerations of conserving estate resources against the need to provide financial support to those dealers critical to their dealer network and, thus, to the going concern value of their assets, brands and businesses. Accordingly, the Debtors intend to exercise their discretion to honor and pay Sales Incentives carefully, taking into account such factors as a dealer's financial need, credit risk and any objective market factors. The Debtors expect that they will pay no more than 75% of the total accrued but unpaid obligations for Sales Incentives as of the Petition Date..

Dealer Credits and Allowances

48. From time to time, the Debtors' dealers may become entitled to certain credits or allowances (collectively, the "Dealer Credits") from the Debtors. Such dealer credits arise from, among other things, inadvertent overbilling by the Debtors and the reconciliation of prior credits and debits issued in the ordinary course between the Debtors and their dealers. At times, such credits can arise many months after they are earned, as a result of an audit or otherwise.

49. With respect to the inventory parts that are purchased by the dealers from the Debtors, the Debtors also provide their dealers with a number of programs, including (a) credits for damaged parts or the shipment of wrong parts; (b) returns from end consumers within a 60-day or 120-day period; and (c) programs designed to encourage dealers to purchase parts without the fear of having to bear the full cost of those parts if they become obsolete before they are purchased by end consumers from the dealers, including (i) an annual inventory parts allowance equal to a 1% to 2% of the parts purchased by the dealer to provide incentives to dealers to stock certain often-used parts and automatic replenishment order returns and (ii) automatic replenishment order returns for certain parts that the Debtors and their dealers agree are automatically replenished upon orders by end consumers but which sometimes become obsolete and are then returned to the Debtors by the dealers. These programs also help to ensure that their dealers maintain a sufficient inventory of basic parts to perform services and repairs covered under the Debtors' Warranty Programs and Extended Service Programs.

50. In addition to the above programs, from time to time the Debtors issue Dealer Credits to resolve issues that arise in connection with the delivery of vehicles to the Debtors' dealers. For example, the Debtors occasionally incur claims for vehicle damage arising in connection with the transport and delivery of vehicles from the Debtors to the dealers. When such problems arise in connection with the delivery of vehicles, the Debtors remedy these problems by issuing appropriate Dealer Credits. Dealers also earn Dealer Credits by performing service work on Debtor-owned vehicles or Debtor-leased vehicles.

51. In light of the volume of the Debtors' transactions with their dealers, some Dealer Credits undoubtedly would be due under the Debtors' normal customer practices as a result of activities occurring prior to the Petition Date, but the resulting Dealer Credit had not yet

been issued as of the Petition Date. The Debtors estimate that they issued up to \$200 million in Dealer Credits in 2008, but that the majority of such credits will have been paid prior to filing and will not represent prepetition claims. The Debtors believe that a refusal to honor the accrued Dealer Credits or to issue new Dealer Credits based upon prepetition activities would engender substantial ill will among the Debtors' dealers and ultimately would erode the Debtors' customer base. A failure to pay these amounts also would impose an additional financial hardship on many of these dealerships. Thus, the Debtors submit that any short-term savings that could be obtained through disavowing the Dealer Credits would be more than offset by the potential harm to the dealer body and the increased risks to the consummation of a Sale Transaction and, thus, to stakeholder recoveries. Therefore, in connection with the Debtors' efforts to maximize the value of their chapter 11 estates through the consummation of Sale Transaction, the Debtors request authority to honor or pay the Dealer Credits in accordance with their normal practices, including Dealer Credits relating to prepetition transactions.

Dealer Support Programs and Promotional Allowances

52. The Debtors provide other forms of support to their dealers to assist the dealers' efforts to maximize sales of vehicles manufactured by the Debtors or to permit the dealers to take advantage of volume discounts that can be obtained by having certain vendors offer products to all of the Debtors' dealers.

53. First, the Debtors often assist the dealers in their advertising and marketing activities and engage in joint promotional efforts with their dealers to promote the sale of the Debtors' vehicles to end consumers. The Debtors designate a certain portion of the invoice price they charge for vehicles sold to dealers for marketing or advertising fees, which are collected and passed on by the Debtors to local and regional dealer associations to pay for the costs of advertising for the dealerships in a particular market. At times, the Debtors provide such

associations with matching funds to support certain specified advertising programs or otherwise support dealer advertising activities. In addition, the Debtors act as a collecting agent with respect to certain funds for individual dealer advertising expenses and for the cost of certain employee benefit programs. The Debtors function strictly as a "pass-through" entity with respect to these funds, which are arguably held in trust for payment on behalf of their dealers. As such, these amounts are passed on by the Debtors to regional dealer associations for disbursement to the dealers or their designee. Similarly, the Debtors operate so-called "market center programs" pursuant to which they arrange for volume discounts from certain companies that sell goods and services to the Debtors' dealers. Thus, a dealer may purchase certain goods through the "market center program" and pay for the purchased goods by a debit on the "Parts Statement." The Debtors act as agents for their dealers with respect to these market center programs, paying the vendor only after the debit is processed, and these funds are also arguably held in trust on behalf of dealers.

54. In 2008, the Debtors estimate that they provided their dealers and the dealer associations representing their dealers with total payments for advertising and employee benefit programs in the amount of approximately \$800 million (including those capacities in which the Debtors act as a collecting agent). The Debtors estimate that approximately \$54 million in such obligations were outstanding as of the Petition Date.

55. The Debtors submit that they should be permitted to honor and pay any such claims that may have arisen prior to the Petition Date in connection with the various promotional allowances and dealer support programs described above to assist in advertising and promoting their vehicles on a local or regional basis, promoting the financial viability of dealers and, thus, preserving the value of the Debtors' brands and goodwill in anticipation of a Sale

Transaction. Moreover, certain of the Debtors' obligations with respect to the above-described promotional allowances (e.g., the Debtors' advertising efforts on behalf of their dealers) are contractual in nature, arising under the Debtors' dealer agreements. Accordingly, to the extent such agreements are assumed and assigned in these chapter 11 cases, outstanding amounts related to promotional allowances would be paid in connection therewith. Accordingly, the Debtors honoring of these Customer Obligations does not alter the amount of their dealers' recovery with respect thereto, but simply impacts the timing.

Authority to Perform Ordinary Course Setoffs Via "Parts Statement"

56. The Debtors also seek authority to permit, in the Debtors' sole discretion, the ordinary course setoff or recoupment of amounts owed by the Debtors to individual dealers and by individual dealers to the Debtors as of the Petition Date. In the ordinary course of their business transactions with the dealers in the United States, the Debtors and the dealers track credits and debits on an electronic ledger identified as the "Parts Statement." Although designated as the "Parts Statement," suggesting that it addresses only costs for vehicle parts, this accounting mechanism serves to account for most of the amounts paid by the Debtors to the dealers or paid by the dealers to the Debtors in the United States.¹⁵ Generally, each of the amounts identified above as obligations that may be owed by the Debtors to their U.S. dealers, such as various forms of Sales Incentives, Warranty Program Obligations and Extended Service Program obligations, among other items, are listed as debits on the "Parts Statement." Amounts owed by U.S. dealers to the Debtors, including amounts paid by the dealers to the Debtors for

¹⁵ Vehicles sales themselves are not processed through the "Parts Statement." Instead, a dealer's floorplan financing source generally pays the Debtors directly for the cost of the vehicles sold by the Debtors to a dealer.

non-warranty Mopar service parts and accessories and for the wholesale price of the service contracts, among other items, are listed as credits on the "Parts Statement."

57. These debits and credits are accumulated on the "Parts Statement" over the course of a week. Other than credits issued to the Debtors for purchases of non-warranty Mopar parts by the dealers, which are brought current at the end of each month for the prior month, amounts are netted and paid by the Debtors to the dealer or by the dealer to the Debtors by electronic funds transfer or check on Monday of each week. The Debtors submit that the amounts to be setoff are mutual obligations of a Debtor and a dealer that would be subject to setoff under state law and section 553 of the Bankruptcy Code. Accordingly, the Debtors request that they be permitted, after the Petition Date, in their sole discretion, to continue setoff or net amounts owed by, and owed to, their dealers in the ordinary course of business in the same manner as prior to the commencement of these chapter 11 cases.

Importance of the Customer Programs

58. The value of the Debtors' Chrysler, Jeep and Dodge brands is dependent upon the loyalty and confidence of the dealers who sell and service the vehicles manufactured by the Debtors and the end consumers who purchase vehicles from these dealers. As described in detail above, the continued support of these two key customer constituencies is absolutely essential to the Debtors' ability to preserve and maximize the going concern value of their assets in anticipation of a Sale Transaction. The Debtors' failure to honor or pay various outstanding Customer Obligations prior to the implementation of a Sale Transaction will severely and irreparably impair the Debtors' customer relations at a time when the loyalty and support of their customers are extremely critical. Indeed, a failure to honor Customer Obligations in connection with the contemplated sale of the Debtors' assets could destroy goodwill built over decades with

respect to the Debtors' customers, could adversely impact the viability of many of their key dealers and severely diminish the Debtors' ability to maximize the value available to stakeholders by consummating a Sale Transaction.

59. Consumers in today's marketplace have a number of vehicle options from which they can choose. Car manufacturers, who sold 16 million vehicles in the United States for several years running, expect to sell substantially less than 9 million vehicles in 2009. In this competitive and contracting marketplace, a failure to honor Customer Obligations would enhance and exacerbate market concerns for potential customers and severely undermine the Debtors' ability to preserve and protect the value of their vehicle brands and assets in anticipation of a Sale Transaction. Likewise, a failure to honor these obligations would further cause serious disruptions to the Debtors' dealer network and cause many dealerships that are central to the efficient functioning of the Debtors' businesses — and, thus, to the success of a Sale Transaction — to terminate or otherwise go out of business.

60. The failure to honor certain of the Customer Obligations would result in dealers recovering certain of these amounts in any event, or attempting to recover these amounts, through setoff or recoupment. By contrast, honoring these prepetition obligations will require a reasonable expenditure of estate funds in light of the amounts and benefits to be gained, and will assist the Debtors in preserving their key customer relationships for the benefit of all stakeholders. Moreover, given the proposed assumption of the majority of the Debtors' dealer agreements and assignment of these agreements to the Purchaser pursuant to section 365 of the Bankruptcy Code, to the extent that the Customer Obligations described herein arise pursuant to contracts between the Debtors and their dealers, approval of the payment of such obligations at

this time generally will not alter the ultimate amount paid to such dealers, but simply will alter the timing of such payments

61. Accordingly, to preserve the value of their assets and the ability to consummate a Sale Transaction, the Debtors request that they be permitted, in their sole discretion, to (a) continue honoring or paying all Customer Obligations without modification and (b) enter into postpetition agreements with their dealers and other customers whereby the Debtors agree to honor or pay Customer Obligations without the need for further Court approval. In addition, to provide necessary assurances to the Debtors' customers on a going-forward basis, the Debtors request authority, in their sole discretion, to continue honoring or paying all obligations to customers that arise from and after the Petition Date under the Customer Programs.¹⁶

62. Similar relief to honor customer obligations has been granted in numerous other chapter 11 cases in this District and elsewhere. See, e.g., In re Steve and Barry's Manhattan, LLC, No. 08-12579 (ALG) (Bankr. S.D.N.Y. Jul. 30, 2008) (order authorizing debtors to honor certain prepetition customer programs); In re Frontier Airlines Holdings, Inc., No. 08-11298 (RDD) (Bankr. S.D.N.Y. Apr. 14, 2008) (order authorizing the debtors to honor prepetition obligations to customers and continue customer programs); In re Interep Nat'l Radio Sales, Inc., Case No. 08-11079 (RDD) (Bankr. S.D.N.Y. Apr. 1, 2008) (same); In re Wellman, Inc., No. 08-10595 (SMB) (Bankr. S.D.N.Y. Feb. 25, 2008) (same); In re Dana Corp., Case

¹⁶ The Debtors believe that, pursuant to section 363(b) of the Bankruptcy Code and other governing statutory and case law, they have the authority to continue such Customer Programs without an express grant of authority from the Court, but seek such approval out of an abundance of caution to provide further assurances to their customers that these programs will continue to be available if offered by the Debtors. The Debtors also submit that, given the temporary idling of the Debtors' manufacturing and assembly facilities, the aggregate amount of their postpetition obligations to dealers and other customers arising under the continuing Customer Programs will be a fraction of the amount of such obligations arising prior to the Petition Date.

No. 06-10354 (BRL) (Bankr. S.D.N.Y. Mar. 29, 2006) (same); In re Delphi Corp., No. 05-44481 (RDD) (Bankr. S.D.N.Y. Oct. 14, 2005) (same); In re Tower Automotive, Inc., 05-10578 (ALG) (Bankr. S.D.N.Y. Feb. 3, 2005) (same); accord In re Collins & Aikman Corp., No. 05-55927 (SWR) (Bankr. E.D. Mich. May 17, 2005) (same).¹⁷

63. The Debtors further represent that they have anticipated access to sufficient debtor in possession financing to pay all Customer Obligations, to the extent described herein, as such amounts become due in the ordinary course of their businesses.¹⁸

Request for Authority for Banks to Honor and Pay Checks and Fund Transfers Related to Customer Obligations

64. 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 checks presented for payment of, and to honor all fund transfer requests made by the Debtors related to, Customer Obligations, whether such checks were presented or fund transfer requests were submitted prior to, on 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 disbursement accounts and can be readily identified as relating directly to the authorized payment of Customer Obligations. Accordingly, the Debtors believe that checks other than those relating to authorized payments will not be honored inadvertently.

¹⁷ The unreported orders listed in the text above are not attached to this Motion. Copies of these unreported 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 counsel to the Debtors.

¹⁸ 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.

65. 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 would constitute a Customer Obligation; or (e) a request to assume any executory contract or unexpired lease, pursuant to section 365 of the Bankruptcy Code.

Requests for Entry of Interim Orders Granting the Relief Requested Herein and Waiver of Stay with Respect to Such Relief

66. Pursuant to Rules 6003(b) and 6004(h) of the Federal Rules of Bankruptcy Procedure (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 interim order and of any final order granting the relief requested in this Motion. 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." 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."

67. As set forth above, the honoring and payment of the Customer Obligations without delay is necessary to prevent irreparable damage to the going concern value of the Debtors' brands and assets that would result from the impairment of dealer and consumer

customer confidence in the Debtors, as well as to prevent financial hardship that could lead to the loss of dealers critical to the strength and survival of the Debtors' dealer network. Accordingly, the Debtors submit that ample cause exists to justify: (a) the immediate entry of an order granting the interim relief sought herein pursuant to Bankruptcy Rule 6003(b); and (b) a waiver of the ten-day stay imposed by Bankruptcy Rule 6004(h), to the extent that it applies, with respect to such interim relief and with respect to final relief.

Notice

68. No trustee or examiner has been appointed in these chapter 11 cases. Notice of this Motion has been given to: (a) the U.S. Trustee; (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

69. 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 interim order substantially in the form attached hereto as Exhibit A, granting certain of the relief sought herein immediately; (ii) enter an interim order substantially in the form attached hereto as Exhibit B, granting the relief sought herein on an interim basis; (iii) enter a final order substantially in the form attached herein as Exhibit C, granting the relief sought herein on a final basis; and (iv) 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
Corinne Ball
Veerle Roovers
JONES DAY
222 East 41st Street
New York, New York 10017
Telephone: (212) 326-3939
Facsimile: (212) 755-7306

David G. Heiman
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212

Jeffrey B. Ellman
JONES DAY
1420 Peachtree Street, N.E.
Suite 800
Atlanta, Georgia 30309
Telephone: (404) 521-3939
Facsimile: (404) 581-8309

PROPOSED ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

**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

**INTERIM ORDER, PURSUANT TO SECTIONS 105(a) AND
363(c) OF THE BANKRUPTCY CODE, AUTHORIZING
DEBTORS AND DEBTORS IN POSSESSION TO HONOR OR PAY
CERTAIN PREPETITION OBLIGATIONS WITH RESPECT TO WARRANTY
AND EXTENDED SERVICE PROGRAMS, AND FOR RELATED RELIEF**

This matter coming before the Court on the Motion of Debtors and Debtors in Possession, Pursuant to Sections 105(a) and 363(c) of the Bankruptcy Code, for Interim and Final Orders Authorizing Them to Honor or Pay Certain Prepetition Obligations to or for the Benefit of Their Dealers and Other Customers, and for Related Relief (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, the Affidavit of Ronald E. Kolka filed in support of the Debtors' first day papers (the "Affidavit") and the Memorandum of Law and having considered the evidence adduced and the statements of counsel with respect to the Motion at a hearing before the Court on the Motion (the "Hearing"); the Court finding 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)(2), (iii) notice of the Motion and the Hearing was sufficient under the circumstances and (iv) the requirements of Bankruptcy Rule 6003(b) have been satisfied with

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

respect to the payments authorized by this Order; and the Court having determined that the legal and factual bases set forth in the Motion, the Memorandum of Law 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 on an interim basis to the extent set forth herein.
2. Pursuant to sections 105(a) and 363(c) of the Bankruptcy Code, the Debtors are authorized, in their sole discretion, to continue their Warranty Programs and Extended Service Programs and to perform all obligations related thereto in the ordinary course of business and without further order of the Court, including pursuant to setoff against amounts owed by individual dealerships to the Debtors, in accordance with ordinary business practices, pursuant to section 553 of the Bankruptcy Code or otherwise.
3. The Debtors' banks and 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 presented for payment of, and to honor all fund transfer requests made by the Debtors related to, Warranty Programs or Extended Service Programs, whether such checks were presented or fund transfer requests were submitted prior to, on 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 fund transfer as approved by this Interim Order.
4. Nothing in the Motion or this Interim Order, nor the Debtors' payment of claims pursuant to this Interim 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 would constitute a Customer Obligation; or (e) a request to assume any executory contract or unexpired lease, pursuant to section 365 of the Bankruptcy Code.

5. Any objection to granting of the relief requested by the Motion on a permanent basis shall be filed with the Court on or before May ____, 2009 (the "Objection Deadline"), and served, so as to be received by the Objection Deadline, upon: (a) the U.S. Trustee, Manhattan Office, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Brian S. Masumoto, Esq.); (b) Chrysler LLC Legal Department, 1000 Chrysler Drive, 14th Floor, Auburn Hills, Michigan 48326, Attn: Jereen Trudell, Esq.; (c) (i) Jones Day, 222 East 41st Street, New York, New York 10017, Attn: Corinne Ball, Esq. and Veerle Roovers, Esq., and (ii) Jones Day, 1420 Peachtree Street, N.E., Suite 800, Atlanta, Georgia 30309, Attn: Jeffrey B. Ellman, Esq.; and (d) counsel to any official committee of unsecured creditors appointed in these cases.

6. The Debtors shall, within two business days of the date of entry of this Interim Order, serve by United States mail, first class postage prepaid, copies of the Motion, this Interim Order and a notice (the "Final Hearing Notice") of the final hearing on the Motion (the "Final Hearing") to be held on _____, 2009 at __: __ .m. on: (a) the U.S. Trustee; (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 the UAW; (f) counsel to the U.S. Treasury; (g) those persons who have formally appeared and requested service in this proceeding pursuant to Bankruptcy Rule 2002; and (h) counsel to any official committee of unsecured creditors appointed in these cases.

7. If no objections are timely filed and served as set forth herein, the Debtors shall, on or after the Objection Deadline, submit to the Court a final order substantially in the form of the Final Order attached to the Motion, which Order may be entered with no further notice or opportunity to be heard afforded to any party.

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

9. The requirements of Bankruptcy Rule 6004(a) are hereby waived.

10. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: New York, New York
_____, 2009

UNITED STATES BANKRUPTCY JUDGE

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

**INTERIM ORDER, PURSUANT TO SECTIONS 105(a) AND
363(c) OF THE BANKRUPTCY CODE, AUTHORIZING
DEBTORS AND DEBTORS IN POSSESSION TO HONOR OR PAY
CERTAIN PREPETITION OBLIGATIONS TO OR FOR THE BENEFIT OF
THEIR DEALERS AND OTHER CUSTOMERS, AND FOR RELATED RELIEF**

This matter coming before the Court on the Motion of Debtors and Debtors in Possession, Pursuant to Sections 105(a) and 363(c) of the Bankruptcy Code, for Interim and Final Orders Authorizing Them to Honor or Pay Certain Prepetition Obligations to or for the Benefit of Their Dealers and Other Customers, and for Related Relief (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, the Declaration of Peter Grady (the "Grady Declaration"), the Affidavit of Ronald E. Kolka filed in support of the Debtors' first day papers (the "Affidavit") and the Memorandum of Law and having considered the evidence adduced and the statements of counsel with respect to the Motion at a hearing before the Court on the Motion (the "Hearing"); the Court finding 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)(2), (iii) notice of the Motion and the Hearing was sufficient under the circumstances and (iv) the requirements of

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

Bankruptcy Rule 6003(b) have been satisfied with respect to the payments authorized by this Order; and the Court having determined that the legal and factual bases set forth in the Motion, the Memorandum of Law, the Grady Declaration 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 on an interim basis to the extent set forth herein.

2. Pursuant to sections 105(a) and 363(c) of the Bankruptcy Code, the Debtors are authorized, in their sole discretion, to continue, renew, replace, modify or terminate their Customer Programs, or implement other new customer programs, in the ordinary course of business, and to pay any postpetition obligations arising under Customer Programs in the ordinary course of business, without further order of the Court

3. The Debtors are authorized to honor and pay, in their sole discretion, all Customer Obligations in the ordinary course of business and without further order of the Court, including pursuant to setoff against amounts owed by individual dealerships to the Debtors, in accordance with ordinary business practices, pursuant to section 553 of the Bankruptcy Code or otherwise.

4. The Debtors' banks and 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 presented for payment of, and to honor all fund transfer requests made by the Debtors related to, Customer Obligations, whether such checks were presented or fund transfer requests were submitted prior to, on 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 fund transfer as approved by this Order.

5. 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 would constitute a Customer Obligation; or (e) a request to assume any executory contract or unexpired lease, pursuant to section 365 of the Bankruptcy Code.

6. Any objection to granting of the relief requested by the Motion on a permanent basis shall be filed with the Court on or before May ____, 2009 (the "Objection Deadline"), and served, so as to be received by the Objection Deadline, upon: (a) the U.S. Trustee, Manhattan Office, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Brian S. Masumoto, Esq.); (b) Chrysler LLC Legal Department, 1000 Chrysler Drive, 14th Floor, Auburn Hills, Michigan 48326, Attn: Jereen Trudell, Esq.; (c) (i) Jones Day, 222 East 41st Street, New York, New York 10017, Attn: Corinne Ball, Esq. and Veerle Roovers, Esq., and (ii) Jones Day, 1420 Peachtree Street, N.E., Suite 800, Atlanta, Georgia 30309, Attn: Jeffrey B. Ellman, Esq.; and (d) counsel to any official committee of unsecured creditors appointed in these cases.

7. The Debtors shall, within two business days of the date of entry of this Interim Order, serve by United States mail, first class postage prepaid, copies of the Motion, this Interim Order and a notice (the "Final Hearing Notice") of the final hearing on the Motion (the "Final Hearing") to be held on _____, 2009 at __: __ .m. on: (a) the U.S. Trustee; (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 the UAW; (f) counsel to the U.S. Treasury; (g) those persons who have formally appeared and requested service in this proceeding pursuant to Bankruptcy Rule 2002; and (h) counsel to any official committee of unsecured creditors appointed in these cases.

8. If no objections are timely filed and served as set forth herein, the Debtors shall, on or after the Objection Deadline, submit to the Court a final order substantially in the form of the Final Order attached to the Motion, which Order may be entered with no further notice or opportunity to be heard afforded to any party.

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

10. The requirements of Bankruptcy Rule 6004(a) are hereby waived.

11. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: New York, New York
_____, 2009

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT C

**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

**FINAL ORDER, PURSUANT TO SECTIONS 105(a) AND
363(c) OF THE BANKRUPTCY CODE, AUTHORIZING
DEBTORS AND DEBTORS IN POSSESSION TO HONOR OR PAY
PREPETITION OBLIGATIONS TO OR FOR THE BENEFIT OF
THEIR DEALERS AND OTHER CUSTOMERS, AND FOR RELATED RELIEF**

This matter coming before the Court on the Motion of Debtors and Debtors in Possession, Pursuant to Sections 105(a) and 363(c) of the Bankruptcy Code, for Interim and Final Orders Authorizing Them to Honor or Pay Prepetition Obligations to or for the Benefit of Their Dealers and Other Customers, and for Related Relief (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, the Affidavit of Ronald E. Kolka filed in support of the Debtors' first day papers (the "Affidavit") and the Memorandum of Law and having considered the statements of counsel with respect to the Motion at a hearing before the Court on the Motion (the "Hearing"); the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and (c) notice of the Motion and the Hearing was sufficient under the circumstances; and the Court

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

having determined that the legal and factual bases set forth in the Motion, the Memorandum of Law 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 on a final basis.
2. Pursuant to sections 105(a) and 363(c) of the Bankruptcy Code, to the extent deemed necessary or appropriate by the Debtors, the Debtors are authorized, in their sole discretion, to continue, renew, replace, modify or terminate their Customer Programs, or implement other new customer programs, in the ordinary course of business, and to pay any postpetition obligations arising under Customer Programs in the ordinary course of business, without further order of the Court.
3. The Debtors are authorized to honor and pay, in their sole discretion, all Customer Obligations in the ordinary course of business and without further order of the Court, including pursuant to setoff against amounts owed by individual dealerships to the Debtors, in accordance with ordinary business practices, pursuant to section 553 of the Bankruptcy Code or otherwise.
4. The Debtors' banks and 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 presented for payment of, and to honor all fund transfer requests made by the Debtors related to, Customer Obligations, whether such checks were presented or fund transfer requests were submitted prior to, on 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 fund transfer as approved by this Order.

5. 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 would constitute a Customer Obligation; or (e) a request to assume any executory contract or unexpired lease, pursuant to section 365 of the Bankruptcy Code.

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

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: New York, New York
_____, 2009

UNITED STATES BANKRUPTCY JUDGE