

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:
FISKER INC., *et al.*,
Debtors.¹

Chapter 11
Case No. 24-11390 (TMH)
(Joint Administration Requested)

**MOTION OF DEBTORS FOR ENTRY OF A STANDING ORDER CONFIRMING THE
STATUTORY PROTECTIONS OF THE BANKRUPTCY CODE**

Fisker Inc. and certain of its affiliates (collectively, the “**Debtors**”),² each of which is a debtor and debtor in possession in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), hereby file this *Motion of Debtors for Entry of a Standing Order Confirming the Statutory Protections of the Bankruptcy Code* (this “**Motion**”). This Motion is supported by the *Declaration of John C. DiDonato as Chief Restructuring Officer of the Debtors in Support of Debtors’ Chapter 11 Proceedings and First Day Pleadings* (the “**DiDonato Declaration**”) filed contemporaneously herewith and incorporated herein by reference. In further support of this Motion, the Debtors respectfully state as follows:

Relief Requested

1. By this Motion, and pursuant to section 105 of title 11 of the United States Code (the “**Bankruptcy Code**”), the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**”), (a) confirming the application of (i) the automatic

¹ The debtors and debtors in possession in these chapter 11 cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the debtors’ corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.

² The Debtors and their direct and indirect non-Debtor subsidiaries are collectively referred to herein as “**Fisker**.”



stay provisions of section 362 of the Bankruptcy Code, (ii) the anti-termination and anti-modification provisions of section 365 of the Bankruptcy Code, (iii) the anti-discrimination provisions of section 525 of the Bankruptcy Code, and (iv) the anti-transfer provisions of section 541 of the Bankruptcy Code (collectively, the “**Statutory Protections**”) and (b) approving the form and manner of notice related thereto (the “**Notice**”). The Debtors are seeking entry of an order confirming application of the Statutory Protections to facilitate their commercial dealings during the course of the Chapter 11 Cases with parties who may be unfamiliar with, are mistaken regarding, or simply ignore the Statutory Protections.

Jurisdiction, Venue, and Authority

2. The United States Bankruptcy Court for the District of Delaware (the “**Court**”) has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012.

3. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). In addition, the Debtors confirm their consent, pursuant to rule 9013-1(f) of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter a final order or judgment in connection herewith consistent with Article III of the United States Constitution.

4. Venue of the Chapter 11 Cases and related proceedings is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

A. General Background

5. On June 17 and 19, 2024 (collectively, “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors remain in possession of their property and continue to operate and manage their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner, and no official committee has been appointed in the Chapter 11 Cases.

6. Contemporaneously herewith, the Debtors have filed a motion requesting the joint administration of the Chapter 11 Cases pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1.

7. Fisker is an American automotive company that designs, develops, markets, and sells electric vehicles. Passionately driven by a vision of a clean future for all, Fisker created the world’s most sustainable and emotional electric vehicles. Headquartered in California, Fisker operates in several countries (including the United States, Austria, Germany, China, and India) and conducts sales operations in North America and throughout Europe.

8. Additional information about the Debtors’ business and affairs, capital structure, and prepetition indebtedness, and the events leading up to the Petition Date, can be found in the DiDonato Declaration.

B. The Statutory Protections

9. As a result of the commencement of the Chapter 11 Cases, the automatic stay imposed pursuant to section 362 of the Bankruptcy Code enjoins (subject to certain exceptions) all Persons (as defined in section 101(41) of the Bankruptcy Code) and all Governmental Units (as defined in section 101(27) of the Bankruptcy Code) from, among other things, (a) commencing or

continuing any judicial, administrative, or other proceeding against any of the Debtors that was or could have been commenced prior to the Petition Date, (b) recovering upon a claim against any of the Debtors that arose prior to the Petition Date, (c) acting to obtain possession of, or exercise control over, property of any of the Debtors' estates, or (d) taking any action to collect, assess, or recover a claim against any of the Debtors that arose before the Petition Date. *See* 11 U.S.C. § 362(a)(1), (3), and (6).

10. Section 365 of the Bankruptcy Code prohibits all parties to executory contracts or unexpired leases with any of the Debtors from, among other things, modifying or terminating such contracts or leases, or any right or obligation under such contracts or leases, at any time subsequent to the Petition Date solely due to a provision in any such contract or lease that is conditioned on, among other things, (a) the insolvency or financial condition of a Debtor at any time before the closing of the Chapter 11 Cases or (b) the commencement of such Debtor's Chapter 11 Case. *See* 11 U.S.C. § 365(e)(1).

11. Additionally, section 525 of the Bankruptcy Code prohibits and enjoins any and all Governmental Units from, among other things, (a) denying, revoking, suspending, or refusing to renew any permit, license, charter, franchise, or other similar grant to any Debtor, (b) placing conditions upon such a grant to any Debtor, or (c) discriminating against any Debtor with respect to such a grant, solely because the Debtor is a debtor under the Bankruptcy Code, may have been insolvent prior to the Petition Date, is insolvent during the pendency of the Chapter 11 Cases, or has not paid a dischargeable debt. *See* 11 U.S.C. § 525.

12. Similarly, all interests of the Debtors in property held as of the Petition Date become property of the Debtors' estates, and provisions in agreements, transfer interests, or applicable nonbankruptcy law are unenforceable if any such provision "restricts or conditions

transfer of such interest” by the Debtors or “is conditioned on the insolvency or financial condition of the [Debtors], on the commencement of [the Chapter 11 Cases], or on the appointment of or taking possession by a trustee in [the Chapter 11 Cases] or a custodian before such commencement” 11 U.S.C. § 541(c)(1).

13. Each of the Statutory Protections is self-executing and, collectively, they constitute fundamental debtor protections that, in combination with other provisions of the Bankruptcy Code, provide the Debtors with the “breathing spell” that is essential to the Debtors’ ability to position themselves to maximize value for their stakeholders. *See, e.g., FCC v. NextWave Pers. Commc’ns Inc.*, 537 U.S. 293, 307 (2003) (“The government is not to revoke a bankruptcy debtor’s license [under section 525(a) of the Bankruptcy Code] solely because of a failure to pay his debts.”); *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 531 (1984) (holding that while the debtor may enforce the terms of the contract against the creditor, the creditor is “precluded from . . . enforcing the contract terms” of an executory contract prior to assumption by the debtor); *Borman v. Raymark Indus., Inc.*, 946 F.2d 1031, 1033 (3d Cir. 1991) (explaining that the automatic stay is intended to give the debtor a “breathing spell” from creditors by putting a halt to all collection efforts, harassment, and foreclosure actions and allowing the debtor to attempt a reorganization plan); *In re Broadstripe, LLC*, 402 B.R. 646, 656 (Bankr. D. Del. 2009) (“After a debtor commences a Chapter 11 proceeding, but before executory contracts are assumed or rejected under § 365(a), those contracts remain in existence, enforceable by the debtor but not against the debtor.” (citing *United States Postal Serv. v. Dewey Freight Sys., Inc.*, 31 F.3d 620, 624 (8th Cir. 1994))).

14. The Statutory Protections extend to protect a debtor’s property, contracts, and regulatory rights and privileges wherever they are located and by whomever held. *See, e.g., In re Nortel Networks, Inc.*, 669 F.3d 128, 138 (3d Cir. 2011) (noting that courts have uniformly upheld

the “extraterritorial application of the automatic stay”); *Underwood v. Hilliard (In re Rimsat, Ltd.)*, 98 F.3d 956, 961 (7th Cir. 1996) (finding that a bankruptcy court’s in rem jurisdiction over property of the estate permits injunctions against foreign proceedings pursuant to the automatic stay); *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec., LLC*, 474 B.R. 76, 82 (S.D.N.Y. 2012) (stating that, “as numerous judicial opinions explain, ‘the automatic stay applies extraterritorially’” (citing *In re McLean Indus., Inc.*, 74 B.R. 589, 601 (Bankr. S.D.N.Y. 1987))); *Nakash v. Zur*, 190 B.R. 763, 768 (Bankr. S.D.N.Y. 1996) (“[B]ased upon the applicable Code sections, other indicia of congressional intent and case law in this district, the automatic stay applies extraterritorially”).

Basis for Relief

15. The Debtors submit that the relief requested herein is necessary and appropriate and is authorized under section 105(a) of the Bankruptcy Code, which grants the Court statutory authority to exercise its inherent powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Accordingly, the Court has expansive equitable powers to fashion any order or decree that is in the interest of preserving or protecting the value of the Debtors’ assets. *See In re Nixon*, 404 F. App’x 575, 578 (3d Cir. 2010) (“It is well settled that the court’s power under § 105(a) is broad.” (citation omitted)); *In re Combustion Eng’g, Inc.*, 391 F.3d 190, 235–36 (3d Cir. 2004) (noting that section 105 of the Bankruptcy Code “has been construed to give a bankruptcy court ‘broad authority’ to provide equitable relief appropriate to assure the orderly conduct of reorganization proceedings” (citing *United States v. Energy Res. Co.*, 495 U.S. 545, 549 (1990))); *In re Nortel Networks, Inc.*, 532 B.R. 494, 554 (Bankr. D. Del. 2015) (“The Third Circuit has construed [section 105 of the Bankruptcy Code] to give bankruptcy courts ‘broad authority’ to provide appropriate equitable relief to assure the orderly conduct of reorganization proceedings, and to ‘craft flexible remedies

that, while not expressly authorized by the Code, effect the result the Code was designed to obtain.” (citations omitted)); *Patrick v. Dell Fin. Servs. (In re Patrick)*, 344 B.R. 56, 58 (Bankr. M.D. Pa. 2005) (“There is no doubt that § 105(a) is a ‘powerful [and] versatile tool’ designed to empower bankruptcy courts to fashion orders in furtherance of the Bankruptcy Code.” (quoting *Joubert v. ABN AMRO Mortg. Grp., Inc. (In re Joubert)*, 411 F.3d 452, 455 (3d Cir. 2005))).

16. Notwithstanding the self-executing and global nature of the Statutory Protections, not all parties affected or potentially affected by the commencement of the Chapter 11 Cases are aware of, comprehensively understand, or will abide by the Statutory Protections. For example, the Debtors own equity interests directly or indirectly in subsidiaries that have operations, assets, and/or employees in countries (including the United States, Austria, Germany, China, and India) and conducts sales operations in North America and throughout Europe. Additionally, certain of the Debtors are party to various commercial contracts with counterparties that are non-U.S. entities. Experience has shown that it is vital to advise third parties—particularly non-U.S. third parties—of the existence, scope, and effect of sections 362, 365, 525, and 541 of the Bankruptcy Code through a separate order. Accordingly, the Debtors respectfully request that the Court enter the Proposed Order confirming the applicability of the Statutory Protections.

17. Granting the relief requested herein is justified under section 105(a) of the Bankruptcy Code, fully consistent with the terms of the relevant Bankruptcy Code provisions, and will facilitate a smooth and orderly transition into chapter 11. In fact, courts in this jurisdiction routinely grant relief similar to that requested herein. *See, e.g., In re NanoString Techs., Inc.*, No. 24-10160 (CTG) (Bankr. D. Del. Mar. 14, 2024) [D.I. 316]; *In re Lordstown Motors Corp. et al.*, No. 23-10831 (MFW) (Bankr. D. Del. Jun. 29, 2023) [D.I. 78]; *In re Clovis Oncology, Inc., et al.*, No. 22-11292 (JKS) (Bankr. D. Del. Dec. 14, 2022) [D.I. 77]; *In re Akorn, Inc.*, No. 20-11177

(KBO) (Bankr. D. Del. May 22, 2020) [D.I. No. 72]; *In re GCX Ltd., et al.*, No. 19-12031 (CSS) (Bankr. D. Del. Sept. 16, 2019) [D.I. 48]; *In re VER Techs. Holdco LLC*, No. 18-10834 (KG) (Bankr. D. Del. May 4, 2018) [D.I. 230]; *In re Maurice Sporting Goods, Inc.*, No. 17-12481 (CSS) (Bankr. D. Del. Nov. 21, 2017) [D.I. 26]. Accordingly, the Debtors request that the Court grant the relief requested in this Motion.

Debtors' Reservation of Rights

18. Nothing contained herein is intended or should be construed as, or deemed to constitute, an agreement or admission as to the amount, priority, character, or validity of any claim against the Debtors on any grounds, a waiver or impairment of the Debtors' rights to dispute any claim on any grounds, or an assumption or rejection of any agreement, contract, or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve their rights to contest any claims related to the Statutory Protections under applicable bankruptcy and non-bankruptcy law.

Emergency Consideration

19. Pursuant to Local Rule 9013-1(m), the Debtors respectfully request emergency consideration of this Motion under Bankruptcy Rule 6003(b). Bankruptcy Rule 6003 provides that, "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, issue an order granting . . . (b) a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" Fed. R. Bankr. P. 6003. As set forth in this Motion and the DiDonato Declaration, the Debtors believe that an orderly transition into chapter 11 is critical to preserve the value of the Debtors' estates and that any delay in granting the relief requested herein could cause immediate and irreparable harm. Accordingly, the Debtors submit that the relief requested herein satisfies Bankruptcy Rule 6003.

Notice

20. Notice of this Motion will be provided to the following parties: (a) the Office of the United States Trustee for the District of Delaware; (b) those creditors holding the 30 largest unsecured claims against the Debtors' estates (on a consolidated basis); (c) the Securities and Exchange Commission; (d) the Internal Revenue Service; (e) the United States Attorney's Office for the District of Delaware; (f) the state attorneys general for states in which the Debtors conduct business; (g) White & Case LLP, as counsel to CVI Investments, Inc. (c/o Heights Capital Management Inc.); (h) the Debtors' banks and financial institutions; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**").

21. As this Motion is seeking "first-day" relief, the Debtors will serve copies of this Motion and any order entered in respect thereto as required by Local Rule 9013-1(m). A copy of this Motion and any order entered in respect thereto will also be made available on the Debtors' case information website located at <https://www.veritaglobal.net/fisker>. Based on the urgency of the circumstances surrounding this Motion and the nature of the relief requested herein, the Debtors respectfully submit that no other or further notice is required.

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WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: June 20, 2024
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FISKER INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

Re: Docket No. __

**ORDER CONFIRMING THE STATUTORY
PROTECTIONS OF THE BANKRUPTCY CODE**

Upon the motion (the “**Motion**”)² of Fisker Inc. and certain of its affiliates (collectively, the “**Debtors**”), each of which is a debtor and debtor in possession in the Chapter 11 Cases, for entry of an order, pursuant to section 105 of the Bankruptcy Code, confirming the application of the Statutory Protections, as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157; and the Court having found that it may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of the Chapter 11 Cases and related proceedings being proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice

¹ The debtors and debtors in possession in these chapter 11 cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the debtors’ corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Parties, such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed and considered the Motion and the DiDonato Declaration; and the Court having held a hearing, if necessary, to consider the relief requested in the Motion on a final basis (the “**Hearing**”); and the Court having determined that the legal and factual bases set forth in the Motion and the DiDonato Declaration and at the Hearing, if any, establish just cause for the relief granted herein; and the Court having found that the relief requested in the Motion being in the best interests of the Debtors, their creditors, their estates, and all other parties in interest; and all objections and reservations of rights filed or asserted in respect of the Motion, if any, having been withdrawn, resolved, or overruled; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth in this order (this “**Order**”).
2. Pursuant to section 362 of the Bankruptcy Code, the commencement of the Chapter 11 Cases shall operate as a stay, applicable to all Persons (and all those acting for or on their behalf) and all foreign or domestic Governmental Units, including sheriffs, marshals, constables, and other or similar law enforcement officers and officials (and all those acting for or on their behalf), of:
 - (a) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against any of the Debtors that was or could have been commenced before the Petition Date, or an act to recover a claim against any of the Debtors that arose prior to the Petition Date;
 - (b) the enforcement, against any of the Debtors or against property of any of the Debtors’ estates, of a judgment obtained before the Petition Date;
 - (c) any act to obtain possession of, or exercise control over, property of any of the Debtors’ estates;

- (d) any act to create, perfect, or enforce any lien against property of any of the Debtors' estates to the extent that such lien secures a claim that arose before the Petition Date;
- (e) any act to collect, assess, or recover a claim against any of the Debtors that arose before the Petition Date;
- (f) the setoff of any debt owing to any of the Debtors that arose before the Petition Date against any claim against any of the Debtors; and
- (g) the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of the Debtors for a taxable period the bankruptcy court may determine.

3. Pursuant to section 365(e) of the Bankruptcy Code, and notwithstanding any provision in an executory contract or unexpired lease or any applicable law, an executory contract or unexpired lease of any of the Debtors may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the Petition Date solely because of a provision in any such contract or lease that is conditioned on, among other things, (a) the insolvency or financial condition of a Debtor or (b) the commencement of the Chapter 11 Cases. Accordingly, all such Persons shall be required to continue to perform their obligations under such leases and contracts during the post-petition period.

4. Pursuant to section 525 of the Bankruptcy Code (and subject to the exceptions set forth in section 525(a) of the Bankruptcy Code), a foreign or domestic Governmental Unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, any of the Debtors or any of the Debtors' affiliates on account of (a) the commencement of the Chapter 11 Cases, (b) the Debtors' insolvency, or (c) the fact that the Debtors have not paid a debt that is dischargeable in the Chapter 11 Cases.

5. Pursuant to section 541(c) of the Bankruptcy Code, any interest of any of the Debtors in property becomes property of any of the Debtors' estates, notwithstanding any provision in an agreement, transfer instrument, or applicable nonbankruptcy law, that (a) restricts or conditions transfer of such interest by the Debtors, (b) is conditioned on the insolvency or financial condition of the Debtors or on the commencement of the Chapter 11 Cases, or (c) effects or gives an option to effect a forfeiture, modification, or termination of the Debtors' interest in property.

6. This Order shall not affect the substantive rights of any party, nor create any rights, defenses, or arguments not otherwise available under applicable law. Specifically, this Order shall not affect the exceptions contained in sections 362(b), 365(b)(4), and 365(e)(2) of the Bankruptcy Code, the right of any party in interest to seek relief from the automatic stay in accordance with section 362(d) of the Bankruptcy Code, or, with respect to an unexpired lease or executory contract, any party's rights under section 365 of the Bankruptcy Code.

7. The form of notice attached as **Exhibit 1** to this Order (the "Notice") is approved. The Debtors are authorized, but not directed, to serve the Notice upon creditors, Governmental Units or other regulatory authorities, or interested parties wherever located. The Debtors are authorized to procure and provide true and correct foreign-language translations of the Motion, this Order, the Notice, or any other materials filed in the Chapter 11 Cases to any foreign party in interest at the Debtors' discretion.

8. Nothing in this Order or any action taken by the Debtors in furtherance of the implementation hereof shall be deemed to constitute an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, and all of the Debtors' rights with respect to such matters are expressly reserved.

9. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall (a) create, nor is it intended to create, any rights in favor of, or enhance the status of any claim held by, any person or entity or (b) be deemed to convert the priority of any claim from a prepetition claim into an administrative expense claim.

10. Nothing in this Order shall be construed as or deemed to constitute (a) an agreement or admission by the Debtors as to the amount, priority, character, or validity of any claim against the Debtors on any grounds, (b) a grant of third-party beneficiary status or bestowal of any additional rights on any third party, (c) a waiver or impairment of any rights, claims, or defenses of the Debtors' rights to dispute the amount, priority, character, or validity of any claim on any grounds, whether under bankruptcy or non-bankruptcy law, (d) a promise by the Debtors to pay any claim, or (e) an implication or admission by the Debtors that such claim is payable pursuant to this Order.

11. Any Bankruptcy Rule or Local Rule that might otherwise delay the effectiveness of this Order is hereby waived, and the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

12. The Debtors are authorized to take any action necessary or appropriate to implement and effectuate the terms of, and the relief granted in, this Order without seeking further order of the Court.

13. The Court shall retain jurisdiction over any matter arising from or related to the implementation, interpretation, and enforcement of this Order.

Exhibit 1

Form of Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FISKER INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

Re: Docket No. __

**NOTICE OF ENTRY OF ORDER CONFIRMING THE STATUTORY
PROTECTIONS OF THE BANKRUPTCY CODE**

PLEASE TAKE NOTICE that, on June 17 and 19, 2024 (collectively, the “**Petition Date**”), Fisker Inc. and certain of its affiliates (collectively, the “**Debtors**”), each of which is a debtor and debtor in possession in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**Court**”). The Chapter 11 Cases are pending before the Honorable Judge Thomas M. Horan, United States Bankruptcy Judge, and are being jointly administered under the lead case *In re Fisker Inc.*, Case No. 24-11390 (TMH).

PLEASE TAKE FURTHER NOTICE that, pursuant to section 362(a) of the Bankruptcy Code, the Debtors’ filing of their respective voluntary petitions operates as a self-effectuating, statutory stay or injunction, applicable to all entities and protecting the Debtors from, among other things, (a) the commencement or continuation of a judicial, administrative, or other action or

¹ The debtors and debtors in possession in these chapter 11 cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the debtors’ corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.

proceeding against any of the Debtors (i) that was or could have been commenced before the Petition Date or (ii) that is an act to recover a claim against any of the Debtors that arose before the Petition Date, (b) the enforcement, against any of the Debtors or against any property of any of the Debtors' estates, of a judgment obtained before the Petition Date, or (c) any act to obtain possession of, or exercise control over, property of any of the Debtors' estates.²

PLEASE TAKE FURTHER NOTICE that, pursuant to the *Order Confirming the Statutory Protections of the Bankruptcy Code* (the "**Order**") [D.I. ___], entered on _____, 2024, and attached hereto as **Exhibit A**, all persons wherever located (including individuals, partnerships, corporations, and other entities and all those acting on their behalf), persons party to an executory contract or unexpired lease with any of the Debtors, or governmental units (whether of the United States (including any state or locality therein or any territory or possession thereof), or any foreign country (including any division, department, agency, instrumentality, or service thereof, and all those acting on their behalf)), are hereby put on notice that they are subject to the Order and must comply with its terms and provisions.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order, any governmental agency, department, division, subdivision, or any similar governing authority is prohibited from, among other things, (a) denying, revoking, suspending, or refusing to renew any license, permit, charter, franchise, or other similar grant to the Debtors, (b) placing conditions upon such a grant to the Debtors, or (c) discriminating against the Debtors with respect to such a grant solely because the Debtors are debtors under the Bankruptcy Code, may have been insolvent before the Petition

² Nothing herein shall constitute a waiver of the right to assert any claims, counterclaims, defenses, rights of setoff or recoupment, or any other claims of the Debtors against any party. The Debtors expressly reserve the right to contest any claims that may be asserted against the Debtors.

Date, are insolvent during the pendency of the Chapter 11 Cases, or have not paid a dischargeable debt as set forth more particularly in the Order.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order, parties to an executory contract or unexpired lease with any of the Debtors are prohibited from terminating such contracts or agreements because of a Debtor's bankruptcy filing—except as permitted by the Court under applicable law.

PLEASE TAKE FURTHER NOTICE that, pursuant to sections 105(a) and 362(k) of the Bankruptcy Code and rule 9020 of the Federal Rules of Bankruptcy Procedure (among other applicable substantive law and rules of procedure), any person or governmental unit seeking to assert its rights or obtain relief outside of the processes set forth in the Order, the Bankruptcy Code, and applicable law may be subject to proceedings in front of the Court for failure to comply with the Order and applicable law—*including contempt proceedings resulting in fines, sanctions, and punitive damages against the entity and its assets inside the United States.*

PLEASE TAKE FURTHER NOTICE that additional information regarding the Chapter 11 Cases, including copies of pleadings filed therein, may be obtained by (a) reviewing the publicly-available docket of the Chapter 11 Cases located online at [http:// www.deb.uscourts.gov](http://www.deb.uscourts.gov) (PACER login and password required), (b) accessing the Debtors' publicly available website providing information regarding the Chapter 11 Cases located online at <https://www.veritaglobal.net/fisker>, or (c) contacting the undersigned proposed co-counsel for the Debtors.

Dated: June __, 2024
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/
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