

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

In re:

FISKER, INC., *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

**Hearing Date:**

**July 16, 2024, at 11:00 a.m. (ET)**

**Objection Deadline:**

**July 10, 2024, at 4:00 p.m. (ET)**

**APPLICATION OF DEBTORS FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS TO (A) EMPLOY AND RETAIN HURON CONSULTING SERVICES, LLC, AND (B) DESIGNATE JOHN C. DIDONATO AS CHIEF RESTRUCTURING OFFICER FOR THE DEBTORS EFFECTIVE AS OF THE PETITION DATE; AND  
(II) GRANTING RELATED RELIEF**

Fisker Inc. and certain of its affiliates (collectively, the “**Debtors**”),<sup>2</sup> each of which is a debtor and debtor in possession in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), hereby submit this *Application of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) Employ and Retain Huron Consulting Services, LLC and (B) Designate John C. DiDonato as Chief Restructuring Officer for the Debtors Effective as of the Petition Date and (II) Granting Related Relief* (this “**Application**”). This Application is supported by the *Declaration of John C. DiDonato in Support of the Application of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) Employ and Retain Huron Consulting Services, LLC and (B) Designate John C.*

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<sup>1</sup> 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 Dr, La Palma, CA 90623.

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



*DiDonato as Chief Restructuring Officer for the Debtors Effective as of the Petition Date and (II) Granting Related Relief* (the “**DiDonato Declaration**”), attached hereto as **Exhibit B** and incorporated herein by reference.

**Relief Requested**

1. By this Application, and pursuant to sections 105(a) and 363(b) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “**Bankruptcy Code**”), rule 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and rule 2016-2 of the Local Bankruptcy Rules for the District of Delaware (the “**Local Rules**”), the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**”), authorizing the Debtors to (a) employ and retain Huron Consulting Services, LLC (“**Huron**”) to provide the Debtors with a Chief Restructuring Officer (“**CRO**”) and (b) designate John C. DiDonato as CRO, pursuant to the terms of the engagement letter by and among Debtors and Huron, dated as of April 25, 2024, attached hereto as **Exhibit C** (the “**Engagement Letter**”). The Debtors request that the Court (as defined below) approve the employment and retention of Huron under the terms and conditions set forth in this Application, as more fully described in the DiDonato Declaration.

**Jurisdiction and Venue**

2. The United States Bankruptcy Court for the District of Delaware (the “**Court**”) has jurisdiction over this Application under 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. The matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). In addition, the Debtors confirm their consent, pursuant to Local Rule 9013-1(f), to the entry of a final order by the Court in connection with this Application to the extent that it is later determined

that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. Venue of these Chapter 11 Cases and this Application is proper in this district under 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

### **Background**

5. On June 17 and 19, 2024 (collectively, the “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, thereby commencing the instant cases (the “**Chapter 11 Cases**”). The Debtors remain in possession of their property and continue to manage and operate their business as debtors in possession under sections 1107 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. The Chapter 11 Cases are being jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b) and the *Order Directing Joint Administration of Chapter 11 Cases* entered by the Court on June 21, 2024, in each of the Chapter 11 Cases.<sup>3</sup>

7. Information about the Debtors’ business and affairs, capital structure, and prepetition indebtedness, and the events leading to the Petition Date can be found in 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 “**First Day Declaration**”) (D.I. 37).

### **Huron’s Prior Involvement with the Debtors**

8. On or about April 25, 2024, Huron was engaged under the Engagement Letter to provide financial advisory and contingency planning services to the Debtors. As set forth in the

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<sup>3</sup> See D.I. 51, 10, 3, 3, 3, and 3, in the Chapter 11 Case of Fisker Inc., Fisker Group Inc., Fisker TN LLC, Blue Current Holding, LLC, Platinum IPR LLC, and Terra Energy Inc., respectively.

Engagement Letter, Huron has, among other things, provided restructuring advisory services, including the development of strategic options or positioning, business advice and direction on the Debtors' business affairs, various cash flow forecasts, and assistance to the Debtors in their preparation of the filing of these Chapter 11 Cases. As a result, Huron has developed much institutional knowledge regarding the Debtors' operations, finances, and systems. Such experience and knowledge will be valuable to the Debtors in their efforts to reorganize or administer their estates.

9. Going forward, during these Chapter 11 Cases, the Debtors seek to continue Huron's engagement as the provider of financial advisor services to the Debtors because Huron has substantial knowledge of the Debtors' financial and operational conditions, and vast experience with insolvency proceedings.

10. Given the aforementioned history, the Debtors submit that Huron's services are necessary to enable the Debtors to maximize the value of their estates. Further, Huron is well qualified and able to represent the Debtors in a cost-effective, efficient, and timely manner.

#### **Huron's Qualifications**

11. Considering the size and complexity of their business, as well as the exigencies of the circumstances, the Debtors have determined that the services of experienced restructuring executives and supporting personnel will substantially enhance their attempts to maximize the value of their estates. Prior to the commencement of the Chapter 11 Cases, Debtor Fisker Inc. retained Huron to provide interim consulting services in connection with a potential restructuring, including the services of John C. DiDonato as CRO, pursuant to the engagement letter dated April 25, 2024. Mr. DiDonato is familiar with the Debtors' business and is well-qualified to act on the

Debtors' behalf given his extensive knowledge and expertise with respect to chapter 11 proceedings.

12. Huron and its personnel have a proven track record of enhancing value for financially distressed business organizations. Among other services, Huron provides comprehensive solutions to companies in transition, creditor constituencies, and other stakeholders in connection with out-of-court restructuring and bankruptcy proceedings. Huron personnel possess years of experience in providing in-depth analyses of the strengths and weaknesses of financially distressed business entities and assisting with developing a clear strategy for moving forward. Huron's turnaround management services include numerous interim management and advisory roles, including debtor advisory, fiduciary roles, board advisory, secured lender advisory, unsecured creditor advisory, equity holder advisory, and other financial consulting and related services. Huron possesses specific experience with businesses the size of the Debtors, and Huron's core competencies include providing management services and advising debtors in chapter 11 case.

13. Huron has extensive experience in restructuring services in and out of chapter 11 proceedings and has an excellent reputation for its services on behalf of debtors and creditors throughout the United States. Among many other examples, Huron and its personnel have provided restructuring and turnaround advisory services to clients, including American Physician Partners, LLC, Invacare Corporation, Vital Pharmaceuticals, Inc., Rockdale Marcellus Holdings, LLC, Town Sports International, LLC, Maines Food and Paper Services, Inc., Allen Systems Group, Kazi Foods, FuelCell Energy, Inc. The NORDAM Group, Inc., and Revstone Industries.

14. Huron specializes in interim management, turnaround consulting, wind-down and liquidation assistance, operational due diligence, creditor advisory services, special situations

investment banking, and financial and operational restructuring. Huron's debtor advisory services include a wide range of activities targeted at stabilizing and improving a company's financial position, including, among others: (a) developing or validating forecasts and business plans and related assessments of a business's strategic position; (b) monitoring and managing cash, cash flow, and supplier relationships; (c) liquidating and winding down businesses; (d) assessing and recommending cost reduction and performance improvement strategies; (e) supporting capital raises and strategic transactions; (f) designing and negotiating financial restructuring packages; and (g) negotiating with stakeholders.

15. Mr. DiDonato is Huron's Managing Director and Business Advisory Leader. He has over 30 years of experience guiding organizations through restructuring, operational transformation, capital raising, buy-side advisory, and merger integration. His expertise encompasses various industries, including automotive, healthcare, metals and mining, manufacturing, aerospace, specialty engineering and construction, transportation and logistics, retail, and technology. Mr. DiDonato has served more than 250 companies, functioning as the chief restructuring officer and lead fiduciary. He is a trusted advisor to financially and operationally distressed organizations and their leadership. He has extensive experience servicing debtors with complex capital structures and has raised billions of dollars in replacement and exit financings.

16. Huron has significant relevant experience and expertise regarding the Debtors, their operations, and the unique circumstances of the Chapter 11 Cases. Huron is well-qualified to deal effectively and efficiently with matters that may arise in the context of the Chapter 11 Cases. Huron has advised the Debtors that it will endeavor to coordinate with the professionals retained in the Chapter 11 Cases to eliminate unnecessary duplication of work. Accordingly, the Debtors

submit that the retention of Huron and the designation of Mr. DiDonato as CRO on the terms and conditions set forth herein are necessary and appropriate, are in the best interests of the Debtors' estates, creditors, and all other parties in interest, and should be granted.

**Scope of Services to be Provided by Huron**

17. Subject to Court approval, the Debtors propose to retain Huron on the terms and conditions outlined in the Engagement Letter<sup>4</sup> and any order granting this Application.

18. Huron will provide Mr. DiDonato to serve as the Debtors' CRO. The CRO shall report to and have such duties as the Transaction Committee of the Board of Directors may from time to time determine.

19. Generally, the CRO shall perform activities and services customarily performed by a chief restructuring officer (the "**Services**"), including assisting in (a) the operational and cash management functions of the Debtors, (b) the development of any cost reduction programs or asset conservation measures with respect to the Debtors and any underlying analysis thereof; (c) the wind-down and liquidation of the remaining assets; and (d) any elements of the restructuring process with respect to the Debtors.

20. The Services to be provided by Huron do not include audit, legal, tax, environmental, accounting, actuarial, employee benefits, insurance advice, or similar specialist and other professional services that are typically outsourced and that shall be obtained directly where required by the Debtors at the Debtors' expense. Consistent with the "Jay Alix Protocol," Huron and Mr. DiDonato will not act as financial advisors retained under section 327 of the

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<sup>4</sup> The Engagement Letter summaries contained in this Application are provided for purposes of convenience only. In the event of any inconsistency between the summaries contained herein and the terms and provisions of the Engagement Letter, the terms of the Engagement Letter shall control unless otherwise set forth herein. Capitalized terms used in such summaries but not otherwise defined herein shall have the meanings given in the Engagement Letter.

Bankruptcy Code, claims agents, or claims administrators appointed pursuant to 28 U.S.C. § 156, or investors or acquirers in the Debtors' Chapter 11 Cases.<sup>5</sup>

21. The Debtors believe that Huron is well qualified and able to provide the foregoing services to the Debtors. Further, the Debtors believe that the services that Huron will provide are necessary to maximize the value of their estates and will not be duplicative of the services that other professionals will be providing to the Debtors in these Chapter 11 Cases.

#### **Huron's Disinterestedness**

22. The Debtors believe that the CRO is not a "professional" whose retention is subject to approval under section 327 of the Bankruptcy Code. However, Huron has informed the Debtors that, except as may be set forth in the DiDonato Declaration and the Services contemplated herein, Huron and its subsidiaries that may be performing the Services to the Debtors: (a) have no connection with the Debtors, their creditors, or other parties in interest in the Chapter 11 Cases; (b) do not hold any interest adverse to the Debtors' estates; and (c) believe each of them is a "disinterested person" as defined in section 101(14) of the Bankruptcy Code.

#### **Terms of Huron's Retention**

23. As outlined in the Engagement Letter, the Debtors have agreed, among other things: (a) to compensate and reimburse Huron for Services provided and expenses incurred; and (b) to indemnify those persons serving as executive officers on the same terms as provided to the

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<sup>5</sup> A copy of the "Jay Alix Protocol" is available at <https://www.justice.gov/ust/united-states-trustee-program-policy-and-practices-manual>.



Debtors' other officers and directors under the corporate bylaws and to provide such persons with insurance coverage under the Debtors' director and officer liability insurance policies.

24. For Huron's services, the Debtors have agreed to pay Huron on a time and materials basis based on the actual hours worked at the following range of standard hourly billing rates (which may be subject to adjustment from time to time):

Managing Director:	\$1,025—\$1,400
Senior Director:	\$975
Director:	\$750—\$850
Manager:	\$650
Associate:	\$550—\$600
Analyst:	\$450

25. In addition to the fees outlined above, Huron will bill for reasonable direct expenses incurred on the Debtors' behalf during the Chapter 11 Cases. Expenses include reasonable and customary out-of-pocket expenses billed directly to the Chapter 11 Cases such as certain overnight mail, messenger, travel, meals, accommodations, and other expenses specifically related to the engagement. Further, suppose Huron or any of its employees are required to testify or provide evidence at or in connection with any judicial or administrative proceeding related to this matter. In that case, Huron will be compensated by the Debtors at its regular hourly rates and reimbursed for reasonable direct expenses (including reasonable, documented counsel fees) with respect thereto.

26. In connection with Huron's original retention and pursuant to the Engagement Letter, Huron received an initial retainer in the total amount of \$100,000 and subsequent advance payments from the Debtors to establish a retainer totaling \$650,000 (the "**Retainer**"). Additionally, Huron submitted invoices to the Debtors and applied the Retainer towards Huron's invoiced services and fees. The Retainer was fully applied prior to the Petition Date. According to Huron's books and records, during the ninety (90) days before the Petition Date, the Debtors

paid Huron \$1,057,112.50 in the aggregate for services performed and expenses incurred, including the Retainer and advance payments. The Debtors do not owe Huron any sums for prepetition services.

### **Indemnification**

27. As a material part of the consideration for which Huron has agreed to provide the Services described herein, the Debtors have agreed to the indemnification provisions set forth in the “General Business Terms” attached to the Engagement Letter (the “**Indemnification Provisions**”). The Indemnification Provisions provide that the Debtors indemnify and hold harmless Huron and any of its subsidiaries and affiliates, officers, directors, principals, shareholders, agents, independent contractors, and employees under certain circumstances. All requests of Huron for the payment of indemnity pursuant to the Indemnification Provisions will be made using an application to, and shall be subject to review by, the Court to ensure that payment of such indemnity: (a) conforms to the terms of the Engagement Letter; and (b) is reasonable based upon the circumstances.

28. Notwithstanding the foregoing, the Proposed Order modifies the Indemnification Provisions so that the Debtors are only permitted to indemnify those persons serving as executive officers on the same terms as provided to the Debtors’ other officers and directors under the Debtors’ by laws and applicable state law, in addition to insurance coverage under the Debtors’ director and officer insurance policies. The Proposed Order further provides that there shall be no other indemnification of Huron and its affiliates or subsidiaries. The Debtors and Huron believe that the Indemnification Provisions, modified by the Proposed Order, are customary and reasonable for firms providing interim management services.

29. Moreover, the terms and conditions of the Indemnification Provisions were negotiated by the Debtors and Huron at arm’s length and in good faith. The provisions contained

in the Engagement Letter, viewed in conjunction with the other terms of Huron's proposed retention, are reasonable and in the best interests of the Debtors, their estates, and creditors because the Debtors require Huron's services to navigate the Chapter 11 Cases successfully. Accordingly, the Debtors request that this Court approve the Indemnification Provisions set forth in the Engagement Letter, as modified by the Proposed Order.

### **Liability Limitation**

30. The Engagement Letter provides that no Indemnified Person shall be liable to the Debtors, or their successors, affiliates, or assigns for damages in excess of the total amount of the fees paid to Huron under the Engagement Letter and, without limiting the generality of the foregoing, that in no event shall any Indemnified Person be liable for consequential, indirect, or punitive damages, damages for lost profits or opportunities, or other like damages or claims or any kind. The Debtors and Huron have agreed that during these Chapter 11 Cases, any limitation of liability provisions in the Engagement Letter shall have no force or effect.

### **Fees and Reporting**

31. If the Court approves the relief requested herein, Huron will be engaged and Mr. DiDonato will be designated as CRO, pursuant to section 363 of the Bankruptcy Code. Because Huron is not employed as a professional under section 327 of the Bankruptcy Code, Huron will not be required to submit fee applications pursuant to sections 330 and 331 of the Bankruptcy Code. Instead, Huron will file with the Court and provide notice to the U.S. Trustee and all official committees appointed in these Chapter 11 Cases (together, with the U.S. Trustee, the "**Notice Parties**"), reports of compensation earned, expenses incurred, and staffing on the Chapter 11 Cases (the "**Staffing Report**") by the 30th calendar day of each month for the previous month, which will include summary charts describing the number of hours billed by Huron personnel. The first Compensation and Staffing Report shall cover the period from the Petition Date until the end of

the month in which the Proposed Order is entered and shall be submitted within thirty (30) days thereafter.

32. The Staffing Reports will be subject to review by the Court if an objection is filed by any of the Notice Parties and served on the Debtors, the Debtors' undersigned counsel, and Huron within twenty-one (21) days after the date such Staffing Report is filed and served (the "**Objection Period**"). The Debtors respectfully request that they be authorized, but not directed, to pay, in the ordinary course of business, all amounts invoiced by Huron for fees and expenses incurred in connection with Huron's retention. If an objection is filed and served during the Objection Period and not consensually resolved, the Debtors shall deduct an amount equal to the amount objected to from the next payment to Huron until such objection is resolved, either consensually or by Court order.

33. Given the numerous issues that Huron may be required to address in the performance of its services and the effort necessary to address all such issues as they arise, and the market prices for such services in engagements of this nature in an out-of-court context, as well as in chapter 11, the Debtors submit that the fee arrangements set forth in the Engagement Letter are reasonable.

#### **Dispute Resolution Provisions**

34. The Debtors and Huron have agreed, subject to the Court's approval of this Application, that any claim, dispute, or difference concerning the Engagement Letter and any matter arising from it shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

#### **Basis for Relief**

35. The Debtors seek to engage Huron and to designate Mr. DiDonato as CRO, pursuant to section 363 of the Bankruptcy Code effective as of the Petition Date. Section 363(b)(1)

of the Bankruptcy Code provides in relevant part that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Further, pursuant to section 105(a) of the Bankruptcy Code, the “court may 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).

36. Under applicable case law in this and other jurisdictions, if a debtor’s proposed use of its assets pursuant to section 363(b) of the Bankruptcy Code represents an exercise of reasonable business judgment on the part of the debtor, such use should be approved. *See, Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) (“In determining whether to authorize the use, sale or lease of property of the estate under this section, courts require the debtor to show that a sound business purpose justifies such actions.”); *see also Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983) (“The rule we adopt requires that a judge determining a § 363(b) application expressly find from the evidence presented before him at the hearing a good business reason to grant such an application.”); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (section 363(b) gives the court “broad flexibility” to make payments outside of ordinary course of business as long as the debtor articulates a business justification); *Comm. of Asbestos-Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (“Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct”).

37. The relief requested herein is appropriate and warranted under the above standards. The decision to retain Huron and employ Mr. DiDonato as CRO should be authorized because it

represents a sound exercise of the Debtors' business judgment. As described above, Mr. DiDonato has extensive experience as a senior officer and advisor for many troubled companies and has institutional knowledge that will be valuable to the Debtors during these Chapter 11 Cases. The Debtors believe that Mr. DiDonato will provide services that substantially benefit the Debtors' estates and creditors. Huron has extensive experience providing turnaround and crisis management services in chapter 11 proceedings and has an excellent reputation for the services it has rendered in Chapter 11 Cases on behalf of debtors and creditors throughout the United States.

38. Mr. DiDonato, working in conjunction with the Debtors' senior management, has already proven to be of valuable assistance to the Debtors in developing financial projections, assisting in short-term cash management activities, evaluating strategic alternatives, and coordinating the Debtors' efforts to prepare for and operate in chapter 11.

39. Through negotiations, the Debtors have retained Huron and secured Mr. DiDonato's services during these Chapter 11 Cases on economic terms that are fair, reasonable, and beneficial to the Debtors' estates. Moreover, the compensation arrangement provided for in this Application and the Engagement Letter is consistent with and typical of arrangements entered into by Huron and other restructuring consulting firms with respect to rendering similar services for clients such as the Debtors.

40. The Debtors believe that the retention of Huron is a sound exercise of the Debtors' business judgment and is in the best interests of all parties in interest in these Chapter 11 Cases. The Debtors additionally believe that Huron is well-qualified and able to represent the Debtors in a cost-effective, efficient, and timely manner. Huron has indicated a willingness to act on behalf of the Debtors and to subject itself to the jurisdiction and supervision of the Court. The retention of Huron and employment of Mr. DiDonato as CRO is necessary to the Debtors' efforts to

efficiently administer the Chapter 11 Cases. As such, the relief requested herein will allow the Debtors to maximize the value of the Debtors' estates for the benefit of all stakeholders.

41. Courts in this district and other jurisdictions have approved relief similar to the relief requested in this Application. *See, e.g., In re Am. Physician Partners, LLC*, Case No. 23-11469 (BLS) (Bankr. D. Del. Oct. 16, 2023) (Huron retained as debtors' financial advisor and Mr. DiDonato designated as debtors' CRO); *In re Yellow Corp.*, Case No. 23-11069 (CTG) (Bankr. D. Del. Oct. 4, 2023) (Huron retained as official committee of unsecured creditors' financial advisor); *In re iMedia Brands, Inc.*, Case No. 23-10852 (KBO) (Bankr. D. Del. Aug. 10, 2023) (Huron retained as debtors' financial advisor); *see also In re Peer Street, Inc.*, Case No. 23-10815 (LSS) (Bankr. D. Del. July 27, 2023); *In re Boxed, Inc.*, Case No. 23-10397 (BLS) (Bankr. D. Del. July 11, 2023); *In re Nova Wildcat Shur-Line Holdings, Inc.*, Case No. 23-10114 (CTG) (Bankr. D. Del. Mar. 9, 2023); *In re Big Village Holding, LLC*, Case No. 23-10174 (CTG) (Bankr. D. Del. Mar. 6, 2023); *In re Taronis Fuels, Inc.*, Case No. 22-11121 (BLS) (Bankr. D. Del. Dec. 14, 2022); *In re TZEW Holdco LLC*, Case No. 20-10910 (CSS) (Bankr. D. Del. May 7, 2020); *In re Forever 21, Inc.*, Case No. 19-12122 (MFW) (Bankr. D. Del. Nov. 4, 2019); *In re Aerogroup Int'l, Inc.*, Case No. 17-11962 (KJC) (Bankr. D. Del. Oct. 16, 2017).<sup>6</sup>

42. Based upon the foregoing, the Debtors submit that retention of Huron and the designation of Mr. DiDonato as CRO on the terms set forth herein and in the Engagement Letter is essential, appropriate, and in the best interests of the Debtors' estates, creditors, and other parties in interest, and should be granted in these Chapter 11 Cases.

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<sup>6</sup> Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Application. Copies of these orders are available upon request to the Debtors' proposed counsel.

43. The Debtors further request that Huron's retention be effective as of the Petition Date to allow Huron to be compensated for the work performed for the Debtors prior to the Court's consideration and approval of this Application. The Debtors submit that under the circumstances, and to avoid irreparable harm to the Debtors' estates that may occur if Huron is not immediately retained, retroactive approval to the Petition Date is warranted.<sup>7</sup> See e.g., *FIS Airlease II, Inc. v. Simon (In re FIS Airlease II, Inc.)*, 844 F.2d 99, 103 (3d Cir. 1988), cert. denied, 488 U.S. 852 (1988); *In re Garden Ridge Corp.*, 326 B.R. 278, 281 (Bankr. D. Del. 2005); *Indian River Homes, Inc. v. Sussex Tr. Co.*, 108 B.R. 46, 51 (D. Del. 1989) (finding that approval of the debtor's employment of an attorney and real estate agent as of a prior date was not an abuse of discretion).

#### **Notice**

44. The Debtors will provide notice of this Application to: (a) the U.S. Trustee; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to CVI Investments, Inc. ("**Heights**"); and (d) any party that requests notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice is necessary, or need be given.

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

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<sup>7</sup> Local Rule 2014-1 provides, in relevant part: "If the retention motion is granted, the retention shall be effective as of the date the motion was filed, unless the Court orders otherwise." Del. Bankr. L.R. 2014-1(b).



Dated: June 26, 2024  
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Brenna A. Dolphin

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*Proposed Counsel to the Debtors and Debtors in Possession*

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

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Debtors.<sup>1</sup>

Chapter 11

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**PLEASE TAKE NOTICE** that on June 25, 2024, the above-captioned debtors and debtors in possession (the “**Debtors**”) filed the *Application of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) Employ and Retain Huron Consulting Services, LLC and (B) Designate John C. DiDonato as Chief Restructuring Officer for the Debtors Effective as of the Petition Date and (II) Granting Related Relief* (the “**Application**”) with the United States Bankruptcy Court for the District of Delaware (the “**Court**”).

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the Application must be (a) in writing; (b) filed with the Clerk of the Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **July 10, 2024, at 4:00 p.m. (ET)** (the “**Objection Deadline**”); and (c) served so as to be received on or before the Objection Deadline by the undersigned proposed counsel to the Debtors.

**PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE APPLICATION WILL BE HELD ON JULY 16, 2024, AT 11:00 A.M. (ET) BEFORE THE HONORABLE BRENDAN L. SHANNON AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 MARKET STREET, 6th FLOOR, COURTROOM #1, WILMINGTON, DELAWARE 19801.**

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<sup>1</sup> 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 Dr, La Palma, CA 90623.

**PLEASE TAKE FURTHER NOTICE THAT ONLY OBJECTIONS MADE IN WRITING AND TIMELY FILED AND RECEIVED IN ACCORDANCE WITH THE PROCEDURES ABOVE WILL BE CONSIDERED BY THE COURT AT SUCH HEARING.**

**IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE APPLICATION WITHOUT FURTHER NOTICE OR HEARING.**

Dated: June 26, 2024  
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Brenna A. Dolphin

Robert J. Dehney, Sr. (No. 3578)  
Andrew R. Remming (No. 5120)  
Brenna A. Dolphin (No. 5604)  
Sophie Rogers Churchill (No. 6905)  
Evanthea Hammer (No. 7061)  
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-and-

DAVIS POLK & WARDWELL LLP

Brian M. Resnick (admitted *pro hac vice*)  
Darren S. Klein (admitted *pro hac vice*)  
Steven Z. Szanzer (admitted *pro hac vice*)  
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richard.steinberg@davispolk.com

*Proposed Counsel to the Debtors and Debtors in Possession*

**EXHIBIT A**

**Proposed Order**

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

In re:

FISKER, INC., *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

**Re: Docket No. \_\_**

**ORDER (I) AUTHORIZING THE DEBTORS TO (A) EMPLOY AND  
RETAIN HURON CONSULTING SERVICES, LLC, AND (B) DESIGNATE JOHN C.  
DIDONATO AS CHIEF RESTRUCTURING OFFICER FOR THE DEBTORS  
EFFECTIVE AS OF THE PETITION DATE; AND (II) GRANTING RELATED RELIEF**

Upon the application (the “**Application**”)<sup>2</sup> of the Debtors for entry of an order (this “**Order**”), authorizing the Debtors, in their sole discretion, to (a) employ and retain Huron Consulting Services, LLC (“**Huron**”) to provide the Debtors with a Chief Restructuring Officer (“**CRO**”), in accordance with the terms of the Engagement Letter, as modified by this Order, and (b) designate John C. DiDonato as CRO, all as more fully described in the Application; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* of the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b) and that the Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of these Chapter 11 Cases and this proceeding

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<sup>1</sup> 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 Dr, La Palma, CA 90623.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Application.

is proper pursuant to 28 U.S.C. § 1408; and this Court having found that the relief requested in this Application is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Application and opportunity for a hearing on the Application were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Application and the DiDonato Declaration; and this Court having heard the statements in support of the requested relief at a hearing before this Court, if any; and this Court having determined that the legal and factual bases set forth in the Application and at the hearing establish just cause for the relief granted herein; and any objections to the relief requested in the Application having been overruled or withdrawn; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The Application is APPROVED as set forth herein.
2. All objections to the entry of this Order, to the extent not withdrawn or settled, are overruled.
3. The terms of the Engagement Letter, including, without limitation, the compensation, indemnification, and liability limitation provisions, as modified by the Application and this Order, are approved as reasonable terms and conditions of employment.
4. The Debtors are permitted to indemnify those persons serving as executive officers on the same terms as provided to the Debtors' other officers and directors under the corporate bylaws and applicable state law and to provide insurance coverage to such executive officers under the Debtors' or their affiliates' existing director and officer liability policies.
5. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors are authorized to employ and retain Huron to provide the Debtors with a CRO, to designate Mr.

DiDonato as CRO for the Debtors, effective as of the Petition Date, on the terms set forth in the Engagement Letter, subject to the following terms, which apply notwithstanding anything to the contrary in the Engagement Letter, the Application, or any of the exhibits related thereto:

- a. Huron shall not act in any other capacity (for example, without limitation, claims agent/claims administrator or investor/acquirer) in connection with the Chapter 11 Cases.
- b. In the event the Debtors seek to have Huron personnel assume executive officer positions that are different than the positions disclosed in the Application or to change materially the terms of the engagement by either (i) modifying the functions of personnel, (ii) adding new executive officers, or (iii) altering or expanding the scope of the engagement, an application or motion to modify the retention shall be filed.
- c. Huron shall file with this Court with copies to the United States Trustee (the “**U.S. Trustee**”) and all official committees, reports of compensation earned, expenses incurred, and staffing on the Cases (the “**Staffing Report**”) by the 30th day of each month for the previous month, which will include summary charts describing the number of hours billed by Mr. DiDonato and expenses incurred. The first Compensation and Staffing Report shall cover the period from the Petition Date until the end of the month in which this Order is entered and shall be submitted within thirty (30) days thereafter.
- d. No principal, employee, or independent contractor of Huron shall serve as a director of the above-captioned Debtors during the pendency of the Chapter 11 Cases.
- e. The Staffing Report will be subject to review by the Court if an objection is filed by any of the Notice Parties and served on the Debtors, the Debtors’ undersigned counsel, and Huron within twenty-one (21) days after the date each Staffing Report is filed and served (the “**Objection Period**”). The Debtors shall be authorized, but not directed, to pay, in the ordinary course of business, all amount invoiced by Huron for fees and expenses incurred in connection with Huron’s retention. If an objection is filed and served during the Objection Period and not consensually resolved, the Debtors shall deduct an amount equal to the amount objected to from the next payment to Huron until such objection is resolved, either consensually or by Court order.
- f. For three years after the conclusion of the engagement, Huron shall not make any investments in the Debtors or any reorganized Debtor.
- g. During these Chapter 11 Cases, any limitation of liability provisions in the Engagement Letter shall have no force or effect.

- h. Huron has disclosed any and all facts that may have a bearing on whether it has any interest materially adverse to the interest of the Debtors' estates or any class of creditors or equity security holders by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason. If additional Potential Parties-in-Interest are provided to Huron and any new material relevant facts or relationships are discovered or identified, Huron will promptly file a supplemental declaration.
6. To the extent there is inconsistency between the terms of the Engagement Letter, the Application, and this Order, the terms of this Order shall govern.
7. The Debtors are authorized to take all actions necessary or appropriate to effectuate the relief granted pursuant to this Order in accordance with the Application.
8. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.



**EXHIBIT B**

**DiDonato Declaration**

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

In re:  FISKER, INC., <i>et al.</i> ,  Debtors. <sup>1</sup>	Chapter 11  Case No. 24-11390 (TMH)  (Jointly Administered)
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**DECLARATION OF JOHN C. DIDONATO IN SUPPORT OF APPLICATION OF DEBTORS FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS TO (A) EMPLOY AND RETAIN HURON CONSULTING SERVICES, LLC, AND (B) DESIGNATE JOHN C. DIDONATO AS CHIEF RESTRUCTURING OFFICER FOR THE DEBTORS EFFECTIVE AS OF THE PETITION DATE; AND  
(II) GRANTING RELATED RELIEF**

Pursuant to 28 U.S.C. § 1746, I, John C. DiDonato, do hereby declare, under penalty:

1. I am a Managing Director of Huron Consulting Services LLC (“**Huron**”), a consulting firm that specializes in, among other things, restructuring, operational, and financial consulting, and interim management to financially troubled companies. Huron is a subsidiary of Huron Consulting Group Inc., a global professional services firm with offices throughout the United States, Canada, Europe, and Asia. I am duly authorized to make this declaration (this “**Declaration**”) in support of the *Application of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) Employ and Retain Huron Consulting Services, LLC and (B) Designate John C. DiDonato as Chief Restructuring Officer for the Debtors Effective as of the Petition Date and (II) Granting Related Relief* (this “**Application**”)<sup>2</sup> which seeks authorization to (a) employ and retain Huron to provide the Debtors with a Chief Restructuring Officer (“**CRO**”) and (b) designate John

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<sup>1</sup> 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 Dr, La Palma, CA 90623

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Application.

C. DiDonato as CRO, pursuant to the terms of the engagement letter by and among Debtors and Huron, dated as of April 25, 2024. Except as otherwise notice, I have personal knowledge of the matters set forth herein.<sup>3</sup>

### **Huron's Qualifications**

2. Prior to the commencement of the Chapter 11 Cases, Fisker Inc. retained Huron to provide interim consulting services in connection with a potential restructuring, including the services of John C. DiDonato as CRO, pursuant to the terms of the Engagement Letter. Mr. DiDonato is intimately familiar with the Debtors' business and is well-qualified to act on the Debtors' behalf given his extensive knowledge and expertise with respect to chapter 11 proceedings.

3. Huron and its personnel have a proven track record of enhancing value for financially distressed business organizations. Among other services, Huron provides comprehensive solutions to companies in transition (including wind-down and liquidation), creditor constituencies, and other stakeholders in connection with out-of-court restructurings and bankruptcy proceedings. Huron personnel possess years of experience in providing in-depth analyses of the strengths and weaknesses of financially distressed business entities and assisting with developing a clear strategy for moving forward. Huron's turnaround management services include numerous interim management and advisory roles, including debtor advisory, fiduciary roles, board advisory, secured lender advisory, unsecured creditor advisory, equity holder advisory, and other financial consulting and related services. Huron possesses specific experience with businesses the size of the Debtors, and Huron's core competencies include providing management services and advising debtors in Chapter 11 Cases.

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<sup>3</sup> Certain of the disclosures herein relate to matters within the persona knowledge of other personnel at Huron and are based on information provided by such personnel.

4. Huron has extensive experience in restructuring services in and out of chapter 11 proceedings and has an excellent reputation for its services on behalf of debtors and creditors throughout the United States. Among many other examples, Huron and its personnel have provided restructuring and turnaround advisory services to clients, including American Physician Partners, LLC, Invacare Corporation, Vital Pharmaceuticals, Inc., Rockdale Marcellus Holdings, LLC, Town Sports International, LLC, Maines Food and Paper Services, Inc., Allen Systems Group, Kazi Foods, FuelCell Energy, Inc. The NORDAM Group, Inc., and Revstone Industries.

5. In particular, Huron specializes in interim management, turnaround consulting, wind-down and liquidation assistance, operational due diligence, creditor advisory services, special situations investment banking, and financial and operational restructuring. Huron's debtor advisory services include a wide range of activities targeted at stabilizing and improving a company's financial position, including, among others: (a) developing or validating forecasts and business plans and related assessments of a business's strategic position; (b) monitoring and managing cash, cash flow, and supplier relationships; (c) liquidating and winding down businesses; (d) assessing and recommending cost reduction and performance improvement strategies; (e) supporting capital raises and strategic transactions; (f) designing and negotiating financial restructuring packages; and (g) negotiating with stakeholders.

6. I have the requisite experience to serve as the Debtors' CRO. I have over 30 years of experience guiding organizations through restructuring, operational transformation, capital raising, buy-side advisory, and merger integration. My expertise encompasses various industries, including automotive, healthcare, metals and mining, manufacturing, aerospace, specialty engineering and construction, transportation and logistics, retail, and technology. I have served more than 250 companies, functioning for many as the chief restructuring officer and the lead

fiduciary. I am a trusted advisor to financially and operationally distressed organizations and their leadership. I have extensive experience servicing debtors with complex capital structures and has raised billions of dollars in replacement and exit financings.

### **Scope of Services**

7. Subject to approval by the Court, Huron will be retained by the Debtors to provide the CRO on the terms and conditions set forth in the engagement letter dated April 25, 2024, and attached to the Application as **Exhibit C** (the “**Engagement Letter**”) and any order granting the Application.

### **Disinterestedness**

8. Huron uses certain procedures (the “**Firm Procedures**”) to identify the Huron’s relationships, if any, to parties that may have a connection to any of the Debtors in the Chapter 11 Cases. In implementing the Firm Procedures, the following actions were taken to identify parties that may have connections to the Debtors and Huron’s relationship with such parties.

- a. Huron requested and obtained from the Debtors extensive lists of interested parties and significant creditors (the “**Potential Parties-in-Interest**”).<sup>4</sup> The list of Potential Parties-in-Interest that Huron reviewed is annexed as **Exhibit 1**. The Potential Parties-in-Interest reviewed include, among others, the Debtors and non-Debtor affiliates, current and former officers, bankruptcy professionals, judges for the United States Bankruptcy Court for the District of Delaware, banks, lenders, contract counterparties, governmental/regulatory agencies, insurance carriers, landlords, parties to significant actual or known litigation with Debtors/adverse parties, the Debtors’ top 30 creditors, U.S. Trustee personnel for the District of Delaware, utility providers, and vendors.
- b. Huron then compared the names of each of the Potential Parties-in-Interest to the names in its master electronic database of Huron’s clients and vendors (the “**Database**”). For clients, the Database generally includes the name of each client or vendor of Huron Consulting Group Inc., the name of each party that has, or had, a substantial role with regard to the subject matter of Huron’s retention, and the names of the Huron professionals who are, or were, primarily responsible for

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<sup>4</sup> As may be necessary, Huron will supplement the Declaration if additional Potential Parties-in-Interest are provided to it and Huron becomes aware of any relationship that may adversely affect Huron’s retention in the Chapter 11 Cases or would otherwise require disclosure.

matters for such clients. For vendor, the Database generally includes the name of the vendor.

- c. An email was sent to all of Huron's Senior Directors, Directors, Managers, and Associates, requesting disclosure of information regarding (i) any known personal connections between the respondent or Huron on the one hand, and the Potential Parties-in-Interest, on the other hand,<sup>5</sup> (ii) any known connections or representations by the respondent or Huron of any of those Potential Parties-in-Interest in matters relating to the Debtors; and (iii) any other conflict or reason why Huron may be unable to represent the Debtors.
- d. Known connections between former or recent clients and vendors of Huron Consulting Group Inc. and the Potential Parties-in-Interest were compiled for purposes of preparing this Declaration. These connections are listed in **Exhibit 2** annexed hereto. The connections identified on Exhibit 2 are unrelated to these Chapter 11 Cases.

9. Neither Huron nor any of its affiliates control, manage, administer, or supervise any investments or investment vehicles.

10. As a result of the Firm Procedures, I have thus far ascertained that, except as may be set forth herein, upon information and believe, if retained, Huron:

- a. is not a creditor of the Debtors (including by reason of unpaid fees for prepetition services) or an equity security holder of the Debtors;
- b. is not, and has not been, within two years before the Petition Date, a director, officer (other than by Huron employees serving in roles as engagement personnel (pre- and post-petition) as described in the Application), or an employee of the Debtors; and
- c. does not have an interest materially adverse to the interests of the Debtors' estates, or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason.

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<sup>5</sup> In reviewing its records and the relationships of its personnel, Huron did not seek information as to whether any Huron personnel or member of such an employee's immediate family: (a) indirectly owns, through a public mutual fund or through partnerships in which certain Huron personnel may have invested but as to which such personnel have no control over or knowledge of investment decisions, securities of the Debtors, or any other party-in-interest; or (b) has engaged in any ordinary course consumer transaction with any party-in-interest. If any such relationship does exist, I do not believe it would impact Huron's disinterestedness or otherwise give rise to a finding that Huron holds or represents an interest adverse to the Debtors' estates.

11. Further, as part of its diverse practice, Huron appears in numerous cases and proceedings, and it participates in transactions that involve many different professionals, including attorneys, accountants, and financial consultants, who represent claimants and parties in interest in the Chapter 11 Cases. Further, Huron performed in the past and may perform in the future, advisory consulting services for various attorneys and law firms. Huron has been represented by several attorneys and law firms, some of whom may be involved in these proceedings. Based on our current knowledge of the professionals involved, and to the best of my knowledge, none of these relationships create interests materially adverse to the Debtors in matters upon which Huron is to be employed, and none are in connection with the Chapter 11 Cases.

12. Accordingly, except as otherwise set forth herein, insofar as I have been able to determine, neither I nor Huron hold or represent any interest adverse to the Debtors or their estates, and Huron is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code.

13. Huron will promptly file a supplemental declaration if additional Potential Parties-in-Interest are provided to Huron and any new material relevant facts or relationships are discovered or identified.

14. To the best of my knowledge, (a) no commitments have been made or received by Huron concerning compensation or payment in connection with the Chapter 11 Cases other than in accordance with the Engagement Letter, the Application, and the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules; and (b) Huron has no agreement with any other entity to share with such entity any compensation received by Huron in connection with the Chapter 11 Cases.

15. By reason of the foregoing, I believe that Huron is eligible for retention by the Debtors pursuant to sections 105(a) and 363(b) of the Bankruptcy Code and the applicable Bankruptcy Rules and Local Rules.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: June 26, 2024

/s/ John C. DiDonato

John C. DiDonato

Managing Director – Leader of Business Advisory Services

Huron Consulting Services LLC



**Schedule 1**

**Potential Parties in Interest**

**U.S. Bankruptcy Judges, District of Delaware**

Chief Judge Laurie Selber Silverstein  
Judge Brendan L. Shannon  
Judge Craig T. Goldblatt  
Judge J. Kate Stickle  
Judge John T. Dorsey  
Judge Karen B. Owens  
Judge Mary F. Walrath  
Judge Thomas M. Horan

**Current Directors and Officers**

Corey MacGillivray  
Geeta Gupta-Fisker  
Henrik Fisker  
John Dubel  
Jose Salinas  
Mark E. Hickson  
Mitchell S. Zuklie  
Nadine J. Watt  
Roderick K. Randall  
Wendy J. Greuel

**Debtors**

Blue Current Holding LLC (Delaware)  
Fisker Group Inc. (Delaware)  
Fisker Inc. (Delaware)  
Fisker TN LLC (Tennessee)  
Platinum IPR LLC (Delaware)  
Terra Energy Inc. (Delaware)

**Professionals**

Davis Polk & Wardwell LLP  
Deutsche Bank Securities Inc.  
Huron Consulting Group  
Kurtzman Carson Consultants LLC d/b/a Verita Global  
Morris, Nichols, Arsht & Tunnell LLP

**Former Officers and Directors**

Burkhard Huhnke  
Florus Beuting  
John Finnucan  
William R. McDermott

**Non-Debtor Affiliates**

Fisker (GB) Limited (United Kingdom)  
Fisker (Shanghai) Motors Ltd. (China)  
Fisker Belgium B.V. (Belgium)

Fisker Canada Ltd. (Canada)  
Fisker Denmark ApS (Denmark)  
Fisker France SAS (France)  
Fisker GmbH (Austria)  
Fisker GmbH (Germany)  
Fisker Ireland Limited (Ireland)  
Fisker Italy (Italy)  
Fisker Netherlands B.V. (Netherlands)  
Fisker Netherlands Sales B.V. (Netherlands)  
Fisker Norway AS (Norway)  
Fisker Portugal (Portugal)  
Fisker Spain (Spain)  
Fisker Sweden AB (Sweden)  
Fisker Switzerland IP GmbH (Switzerland)  
Fisker Switzerland Sales GmbH (Switzerland)  
Fisker Vigyan India Private Limited (India)  
Ocean EV, S. de R.L. de C.V. (Mexico)

**Insurance Brokers and Carriers**

American Casualty Company of Reading, Pennsylvania  
American Zurich Insurance Company  
Berkshire Hathaway Specialty Insurance  
Continental Insurance Agency  
Everest National Insurance Company  
Federal Insurance  
Great American Insurance Group  
Homesite Insurance Company  
Illinois Union Insurance Company  
James River Insurance Company  
Lloyd's of London  
Marsh USA LLC  
National Union Fire Insurance Company of Pittsburgh, PA.  
Starr Indemnity & Liability Company  
Twin City First Insurance Co.  
Twin City Insurance  
Valley Forge Insurance Company  
Vantage Risk Assurance Company  
W. R. Berkley Corporation  
XL Specialty Insurance Company

**Letter of Credit and Surety Bond Parties and Banks**

Avalon Risk Management Insurance  
Credit Suisse First Boston  
Hudson Insurance Company  
JPMorgan Chase Bank, N.A.  
Nordea Bank ABP, Filial I Norge  
Old Republic Surety Company  
State of Arizona  
State of California  
State of Indiana – Secretary of State Auto Dealer Division  
State of Maryland

State of Tennessee  
Tennessee Motor Vehicle Commission

**Parties Relating to Known Litigation Matters**

Alisher Yunusov  
Allison Black  
Anja Pechnik  
Anthony Ku  
Ari Jaffe  
Arnie Sherman  
Arutyun Agaronyan  
Ashley Wool-Smith  
Brent McDaniel  
Bret Ahmed  
Brian Diaz  
Chokha Palayamkottai  
Chris Hacker  
Chris Sorensen  
Clarence Chan  
David Buchsbaum  
Dennis Cymbalski  
Eric Balich  
Eric Gilbert  
Gerardo Aceves  
Gurmeet Mohem  
Jacob Moss  
James Verity  
Jennifer Liu  
Jim Wilder  
Joe Cocco  
Justin Bukoski  
Kerry Swecker  
Kevin Milliner  
Kurt & Holly Affleck  
Laurie Hanna  
Lonny Simonian  
Mahomed Altaf Omar  
Marcos Figueroa  
Mark Ambrosio  
Mark Lawlor  
Mark Marias  
Mark Schaefer  
Michael Mayer  
Michael Shklovsky  
Mohamad Zahabi  
Neil Gako  
Nicholas Rodriguez  
Noelle White  
Praveena Pattanashetti  
Rajiv Patel  
Raul Morales

Roman Zima  
Roshan Patel  
Satwinder Hanjra  
Scott Moore  
Sheshadri Nukala  
Stemmons Enterprise, L.L.C.  
Tom McKeone  
Tonianne Calabrese-Strohkirch  
Travis Spoor  
Yuriy Bilozarov  
Zalmon Uvaydov

**Ordinary Course Professionals**

Axiom Global LLC  
Bennett Jones LLP  
Blythe Global Advisors, LLC  
CPA Global (FIP) LLC  
CSC Global Corporation Service Company  
Deloitte & Touche LLP  
Dennemeyer & Co. LLC  
Donnelley Financial Solutions  
Dykema Gossett PLLC  
Ernst & Young LLP  
Fisher & Phillips, LLP  
Hedin LLP  
Hogan Lovells US LLP  
HWC Group, LLC  
Ingenics Corporation LLC  
Lancaster Safety Consulting, Inc.  
Latham & Watkins LLP  
Mayer Brown LLP  
National Center for Dispute Settlement  
Nelson Mullins Riley & Scarborough  
Orrick, Herrington & Sutcliffe LLP  
PCAOB Public Company Accounting Oversight  
R. L. Polk & Co  
Riveron Consulting, LLC  
Setter Roche Smith & Shellenberger  
Starfly Inc  
Thomson Reuters West Publishing Cor  
VASS America, D/B/A ECENTA America  
WilliamsMarston LLC

**Personal Property Lessors**

Alta Food Craft  
Aqua Green Solutions  
CRH California Water, Inc. dba Culligan of Santa Ana  
HYG Financial Services, Inc.  
La Colombe Coffee Roasters

**Real Estate Lessors**

2085 Tamiami Trail East LLC  
3131 Irving Boulevard LP  
3Gen Teale, LLC  
401 West 14th Street Fee LLC  
501 Northpoint Parkway LLC  
950 CHARTER PARTNERS, LLC  
Astronautics APG LLC  
Cathedral Energy Services, Inc  
Continental 830 Nash LLC  
Corte Madera Village, LLC Macerich Management Company  
Cosmo Co USA Inc  
Diamond Automotive Services LLC  
Jeffrey Greenberg Separate Property  
RED 1000 LLC  
Shamrock (La Palma) Properties II  
Successor Agency to Vista's Redevelopment Agency  
VistalCal Luxury Imports, Inc. dba BMW of Vista

**Secured Creditors and Trustees**

CVI Investments, Inc.  
Heights Capital Management  
Hyundai Glovis Co.,Ltd  
Wilmington Savings Fund Society, FSB

**Substantial Equityholders**

Amanda Galton  
Beau Boeckmann 2012 Irrevocable Trust  
Blue Bridge Trust CO INC TR Nobile Trust  
Bo Holmgreen  
C4 Ventures I SCSP  
CEDE & Co.  
Henrik Fisker + Geeta Fisker TR UA 03/14/2017 Mayfair Trust  
Jameel Jameel  
Jenell Randall  
John J MacWilliams  
John M Stice  
Lawrence Renna  
Leslie Buskrik  
Nadine I Watt Jameson Family Trust  
NikolaJ Coster-Waldau  
Phillip Holding APS  
Richard John Giltrap  
Subbarayudu Kamma

**Government and Regulatory Authorities**

Alabama Dept of Revenue  
Arizona Dept of Revenue  
Arkansas Dept of Finance & Administration  
Attorney General of the State of Ohio  
CA Franchise Tax Board

California Dept of Tax and Fee Admin  
California State Board of Equalization  
Colorado Department of Revenue  
Commonwealth of KY Department of Revenue  
Comptroller of Maryland  
Connecticut Department of Revenue Services  
Delaware Division of Revenue Bankruptcy Service  
Department of the Treasury - Internal Revenue Service  
Florida Dept of Revenue  
Georgia Dept of Revenue  
Hawaii Dept of Taxation  
Idaho State Tax Commission  
Illinois Dept of Revenue  
Illinois Secretary of State  
Illinois State Treasurer  
Indiana Dept of Revenue  
Iowa Dept of Revenue and Finance  
Kansas Dept of Revenue  
Kentucky Dept of Revenue  
Louisiana Dept of Revenue  
Maine Revenue Services  
Massachusetts Department of Revenue  
Michigan Dept of Treasury  
Minnesota Dept of Revenue  
Missouri Department of Revenue  
Nebraska Dept of Revenue  
Nevada Dept of Taxation  
New York City Department of Finance  
New York State Dept of Finance  
North Carolina Dept of Revenue  
Office of State Tax Commissioner - North Dakota  
Ohio Dept of Taxation  
Oklahoma Tax Commission  
Oregon Dept of Revenue  
Pennsylvania Department of Revenue  
Rhode Island Division of Taxation  
South Carolina Department of Revenue  
South Dakota Dept of Revenue  
State of Florida - Department of Revenue  
State of Hawaii  
State of Louisiana  
State of Michigan - Department of Treasury  
State of New Hampshire Dept of Revenue Administration  
State of New Jersey  
State of New Mexico Taxation & Revenue Department  
Tennessee Dept of Revenue  
Texas Comptroller of Public Accounts  
Utah Dept of Taxation  
Vermont Dept of Taxes  
Virginia Department of Taxation  
Washington DC Office of Tax and Revenue

Washington Dept of Revenue  
West Virginia State Tax Dept  
Wisconsin Department of Revenue  
Wyoming Dept of Revenue

**30 Largest Unsecured Creditors on a Consolidated Basis**

Adobe  
Automotive Marketing Consultants, Inc  
Avnet Inc  
Bertrandt US, Inc.  
BROADRIDGE ICS BROADRIDGE INVESTOR COMMUNICATION  
Contemporary Amperex Technology Co. Limited  
Duck-ill Industry Co., Ltd.  
FedEx  
Future Electronics Corp.  
Google LLC  
HL Mando (Suzhou) Automotive System Co.,Ltd.  
I.G. Bauhin GmbH  
ManpowerGroup US Inc  
Montara North America Corporation  
MOURI Tech LLC  
NBC Universal LLC  
NYSE Listings  
Prelude Systems Inc  
PwC US Tax LLP  
Queens Plaza Ventures, LLC  
SAP America Inc.  
Stratus-X LLC, DBA XD Innovation Am  
TESSOLVE DTS INC  
Tessolve Semiconductor Private Limited  
T-Mobile USA, Inc.  
TomTom North America, Inc.  
U.S. Bank National Association  
Urgent.ly Inc.  
Vector North America Inc.  
Workday Inc

**U.S. Trustee, District of Delaware (and Key Staff Members)**

Andrew R. Vara  
Benjamin Hackman  
Fang Bu  
Hannah M. McCollum  
Jane Leamy  
Jonathan Lipshie  
Joseph Cudia  
Joseph McMahon  
Linda Casey  
Linda Richenderfer  
Malcolm M. Bates  
Richard Schepacarter  
Rosa Sierra-Fox

Timothy J. Fox, Jr.

**Utility Providers**

ACS Billing Services  
Acworth Power & Public Works  
AireSpring  
AT&T  
Athens Services  
Bartow County Water Department  
Charter Communications Operating, L  
City of Manhattan Beach  
City of Oklahoma  
City of Tempe  
Cox Business  
Edco Waste & Recycling Service  
Frontier Communications  
Georgia Natural Gas  
Golden State Water Company  
LADWP  
Oklahoma Gas And Electric Company  
Oklahoma Natural Gas  
PG&E  
Recology Sunset Scavenger  
Republic Services #605  
San Diego Gas & Electric (SDG&E)  
SF-Water San Francisco Water Power Sewer  
SoCal Gas  
Southern California Edison  
Southwest Gas Corporation  
SRP Headquarters  
Vista Irrigation District  
Waste Management

**Vendors<sup>1</sup>**

A2MAC1 LLC  
Adaptavist Inc  
Adaptive Corporation  
Amazon Business  
AMERICAN AUTO TRANSPORTATION Ltd  
Aptiv Electrical Centers (Shanghai) Ltd.  
Arcadis Inc. (FKA CallisonRTKL Inc.  
Argus Cyber Security LTD.  
Arrow Electronics Inc  
ATA Engineering, Inc.  
Attack Research LLC

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<sup>1</sup> This category includes only those vendors comprising approximately the top 97% of the Debtors' total spend for the 12-month period ending April 2024 and approximately the top 92% of the Debtors' open accounts payable. The remaining entities are not included because of their relatively small contributions to total spend and open accounts payable, and the excessive burden of performing a conflicts search on such additional entities.



Auto-Kabel Management GmbH  
AVL Mobility Technologies Inc.  
Beijing Jingwei Hirain Technologies Inc  
BETA CAE Systems USA, Inc.  
BlackBerry Corporation  
Bloomberg L.P.  
Bridgestone Americas, Inc  
Bush Specialty Vehicles, Inc  
CASCO IMOS ITALIA S.r.l.  
Cato Networks, Inc.  
CDW Direct, LLC  
Chargepoint, Inc.  
Chevalier Technologies Limited  
COMM2IG A/S  
Conjetta Investments LLC  
Continental Development Corporation dba Continental Rosecran  
CONTROLWORKS, Inc.  
Corinthian Textile Solutions, Inc.  
Daniel J. Edelman, Inc.  
Dell Marketing L.P. C/O Dell USA L.  
Digi-Key Electronics  
Dow Jones & Company, Inc.  
DSA Systems INC  
Efficient Tool Solutions dba Sonic  
GAMMA Technologies LLC  
Gannett Satellite Information Netwo LLC dba USA TODAY  
GFM, LLC DBA The Grove, LLC  
Gray West Construction  
Hertz Global Holdings  
Hon Hai Precision Industry Co., LTD  
Humanetics Innovative Solutions Inc  
IAC Group (Hrusky)  
IAC Group (Slovakia) s.r.o  
IAV Automotive Engineering Inc.  
Icertis Inc  
IMAGINit Technologies  
Innovative Pristine Services  
Insight Direct USA Inc  
Intellias Global Limited  
International Automotive Components  
J.D. Power  
Jama Software, Inc.  
JRM Construction West, LLC  
KPIT Technologies Inc  
Lantronix Canada, ULC DBA Intrinsyc Technologies  
LEAR CORPORATION ROMANIA SRL  
Lyft, Inc.  
Maxion Wheels Czech s.r.o., divize Alukola  
Metalcrafters Transparencies & Composites, Inc.  
Microsoft Corporation  
MOLD TECH SARL Standex Engraving

Mouser Electronics  
National Cable Communications, LLC dba Ampersand  
Ningbo Xusheng Group Co., Ltd  
Obendrauf & Steiner GmbH  
Panasonic Automotive System Co  
Premikati, Inc.  
PricewaterhouseCoopers LLP  
Protechnvil System Private Limited  
Sachse Construction and Development  
Saint-Gobain Sekurit Scandinavia AB  
Salesforce.com, Inc  
Saratech  
Say Technologies LLC  
SBS-FEINTECHNIK GmbH & Co.KG  
SDL, Inc.  
Shanghai Xundao New Energy Technolo Co., Ltd  
SHI Headquarters  
Shrin LLC  
Signtech Electrical Advertising, In  
Solana Beach Labs  
Sprinklr  
Suzhou Sonavox Electronics Co.,Ltd  
Synopsys, Inc.  
Terapixels Systems Inc.  
The MathWorks, Inc.  
The New York Times  
The Whiting-Turner Contracting Comp  
ThermoAnalytics, Inc.  
Thundercomm America Corp  
thyssenkrupp Federn und Stabilisato GmbH  
Trace3, LLC  
Transmit.Live LLC  
TrueInsight LLC  
TTI, INC. - USA  
Unity Technologies ApS  
Webasto Roof & Components SE  
Xiezhong International Thermal Management Systems (Jiangsu) Co., L

**Schedule 2**

**Disclosures**

Client Match List for Past Two Years

<b>Matched Entity</b>	<b>Relationship to Debtors</b>
Salesforce.com, Inc	Top 30 Unsecured Creditor
Workday Inc	Unsecured Creditor
PricewaterhouseCoopers LLP	Ordinary Course Professionals

**Exhibit C**

**Engagement Letter**



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April 25, 2024

**PROPRIETARY AND CONFIDENTIAL**

Mr. John S. Dubel  
Chairperson, Transaction Committee of the Board of Directors  
Fisker Inc.  
14 Centerpointe Drive  
La Palma, CA 90623-1028

Dear Chairperson:

On behalf of Huron Consulting Services LLC (“Huron”), we are pleased to confirm Huron’s engagement to provide Fisker Inc. (the “Company”) and its U.S. subsidiaries<sup>1</sup> (together, the “Group”), certain services as outlined in the Objectives and Scope section below.

This letter (the “Engagement Letter”) and the attached General Business Terms (collectively, the “Agreement”) confirm the terms of the Company’s engagement with Huron, including the mutual understanding and agreement regarding the services to be provided and how Huron will bill and be paid for these services.

Objectives and Scope

Huron understands the engagement objectives and scope to consist of the following services (the “Services”):

Huron will make available the Services of Huron Managing Director and Practice Leader, John C. DiDonato, to serve as the Group’s Chief Restructuring Officer (“CRO” or the “Executive”) upon formal appointment by the Company, including such automatic appointment effective pursuant to and provided for in that certain Forbearance Agreement, dated April 21, 2024 (the “Forbearance Agreement”), by and among the Company, certain subsidiaries of the Company party thereto, CVI Investments, Inc., in its capacity as the holder (the “Noteholder”) of outstanding Series A-1 Senior Convertible Notes Due 2025 and Series B-1 Senior Convertible Notes Due 2025 (collectively, the “Notes”) and in its capacity as collateral agent with respect to the Notes. The CRO will exercise the duties and responsibilities customarily associated with the role in question. The Executive shall report to the Transaction Committee of its Board of Directors (“the Transaction Committee”), who will conduct, direct, and exercise complete control over all activities of the Company, other than the activities over which the CRO will have sole authority as an officer of the Company, as provided in the Forbearance Agreement and the resolutions of the Board of Directors dated April 21, 2024 (the

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<sup>1</sup> Fisker Group Inc, Blue Current Holding LLC, Fisker TN LLC, Terra Energy LLC and Platinum IPR LLC.



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"Board Resolutions"). Nothing in this Agreement shall be construed to limit the duties and authorities granted to the CRO in the Board Resolutions or the Company's obligations or the Noteholder's rights under the Forbearance Agreement. Huron and the Executive understand that the Company has retained FTI Consulting, Inc. ("FTI") as financial advisor, and the Executive agrees to endeavor to utilize FTI personnel in performing the Services to the extent it is efficient to do so and is also consistent with the CRO's duties to stakeholders. Huron shall cause the Executive to perform his respective duties and responsibilities diligently, efficiently, faithfully, and to the best of his abilities.

The scope of the Executive's services shall include the following:

1. Managing those workstreams and exercising decision-making authority as an officer of the Company relating to the Company's restructuring initiatives consistent with the strategic alternative selected by the Transaction Committee.
2. Liaising with and reporting to the Transaction Committee.
3. Managing decision-making regarding the sale process of the business and/or assets of the Group (whether (or not) as a going-concern or as part of a liquidation).
4. Aligning staffing requirements.
5. Approval of and compliance with the Approved Budget (as defined the Forbearance Agreement) and any additional budget that may need to be approved in consultation with the Company's senior secured lender.
6. Collaborating and coordinating the Group's legal counsel, FTI, other advisors, and other stakeholders' professionals, including interacting with and directing the Group's professionals with respect to matters within the CRO's scope of authority.
7. Oversight of cash management of the Group.
8. Interacting with and repatriation of cash, if possible, from non-US subsidiaries.
9. Directing the staff and third-party execution of essential workstreams.
10. Serve as liaison and principal contact with the Company's senior secured lender and key creditors and constituents regarding financial and operational matters.



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11. Communicating with existing lenders or constituents regarding matters within the scope of the CRO's authority .
12. Direct the planning and execution of workstreams in connection with a potential Chapter 11 bankruptcy filing prepared by the Group and its financial advisors, including, among others:
  - a. Liquidity planning tools – oversight and approval of any weekly budgets and projections,
  - b. Assist with the preparation of chapter 11 petitions, first day motions, proposed orders, and required schedules,
  - c. Communication with third parties, among others,
  - d. In the event the Company files for Chapter 11 bankruptcy, case reporting, including preparation of schedules, statements, and monthly operating reports, and
  - e. In the event the Company files for Chapter 11 bankruptcy, assist with the preparation of a plan of reorganization, liquidation analysis, and disclosure statement, among other filings.
13. Provide other services customarily provided in connection with the analysis and negotiation of restructuring or liquidation initiatives in bankruptcy, as authorized by the Board or the Transaction Committee and mutually agreed upon.

The Executive will not attest to financial events, reports, or other facts that precede the Executive's appointment in that capacity and will not exercise any check signing authority.

#### Huron's Services

Huron is a management consulting firm. Huron does not provide attest services, audits, or other engagements that are subject to standards established by the American Institute of Certified Public Accountants ("AICPA") or the Public Company Accounting Oversight Board ("PCAOB").

Except as stated in this Engagement Letter, the Company shall bear the risk of loss concerning the Company's operations and assets. Huron shall not be deemed to have assumed or be liable for any claim, liability, or obligation of the Company, whether known or unknown, fixed, or contingent, accrued or un-accrued. Except as otherwise required by applicable law, any reference to the nature or results of Huron's work may not be communicated to the public through public relations media, news media, sales media, or any other means without the prior written consent of both parties.

#### Company's Responsibilities

The Company agrees to provide the Executive the most favorable indemnities provided by the Company to its



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officers and directors, whether under the Company's by-laws, partnership agreement, contract, or otherwise. This indemnification is in addition to Huron's indemnification under the accompanying General Business Terms. The Company shall provide Huron with an executed copy of the resolution of the Company's governing body appointing the Executive as Chief Restructuring Officer. The use and dissemination of deliverables are addressed in further detail in the General Business terms, which are attached.)

The Company shall also provide the Executive coverage under applicable Company insurance policies that protect officers and directors from liability ("D&O" insurance) to the fullest extent such coverage is available under such D&O insurance policy. A copy of each applicable D&O policy, including endorsements, shall be furnished to Huron after the execution of this Engagement Letter. Certificates of insurance evidencing the coverage contemplated by the preceding shall also be furnished to Huron. The Company will maintain the available limits of the coverage as they were at the inception of the engagement (purchasing additional coverage if necessary), will not permit the D&O insurance to lapse or terminate without notifying Huron, and shall include a quote for a minimum of one year of extended notice reporting ("tail") coverage. The Company will furnish certificates evidencing renewal of the coverage within thirty days of the renewal of insurance coverage referenced herein.

If the Company files for relief under Chapter 11 of the Bankruptcy Code, the Company will, in consultation with Huron, timely file an appropriate motion seeking the immediate approval of this Agreement and the retention of Huron to provide Services contemplated hereunder. In addition to Huron's other rights or remedies hereunder, Huron may, in its sole discretion and without liability arising therefrom, terminate this Agreement in the event that (a) a final order to approve this Agreement is not issued by the Bankruptcy Court on or before sixty (60) days from the date of the commencement of any bankruptcy case by the Company and conditions set forth herein or on such other terms and conditions as are satisfactory to Huron; or (b) the motion to approve this Agreement is denied by the Bankruptcy Court. Any order approving the engagement of Huron must be acceptable to Huron in its reasonable discretion.

#### Fees and Expenses

The Services will be performed on a time and materials basis based on the actual hours worked at the following range of standard hourly billing rates, which may be subject to adjustment from time to time), provided that prior to undertaking any significant workstream or project, Executive will provide the Company (and the Noteholder) with an estimate of anticipated fees and costs:

<b>Business Advisory</b>	<b>Standard Rate</b>
Managing Director	\$1,025 - \$1,400
Senior Director	\$975
Director	\$750 - \$850
Manager	\$650





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Associate	\$550 - \$600
Analyst	\$450

Reasonable and documented out-of-pocket expenses, incurred in connection with performing the Services, include transportation, lodging, meals, communications, supplies, and copying, will be billed at the actual amounts incurred. Out-of-pocket expenses also include reasonable fees and expenses of attorneys consulted or engaged by Huron to assist it with matters under this agreement, such as retention applications, fee applications, and collection of fees.

Travel time during which no work is performed shall be itemized separately and billed at fifty percent (50%) of standard hourly rates.

Invoices should be made by wire transfer or ACH to:

BMO Harris Bank  
 Chicago, Illinois  
 Routing No. 071000288  
 Account Title: Huron Consulting Services LLC  
 Account Number: 262-463-3  
 Swift Code: HATRUS44  
 Comments: (Include Invoice Number to ensure proper credit)

Payment by Check:  
 Huron Consulting Services LLC  
 P.O. Box 71223  
 Chicago, IL 60694-1223

Huron will require a retainer of \$250,000 (the "Retainer"). The Company agrees to pay the Retainer by April [26], 2024. The retainer will be applied as follows:

(1) Immediately prior to the Company's filing of its bankruptcy petition, Huron will apply the retainer to all outstanding amounts due. The amount drawn against the retainer may include an estimate for fees and expenses incurred but not yet billed prior to the date the Company intends to file its petition for bankruptcy protection. The precise amount due Huron as of the petition date will be determined upon the final recording of all time and expense charges. The excess retainer, if any, will be held by Huron for application to post-petition fees and expenses that are finally allowed by a bankruptcy court. If no such fees are allowed on a final basis by a bankruptcy court, the excess retainer will be refunded to the Company at the conclusion of the engagement.



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(2) If the Company does not file a bankruptcy petition, the retainer will either be applied to Huron's final invoice or will be refunded to the Company at the conclusion of the engagement.

Huron will bill on a weekly basis. Huron's invoices are due upon presentation. Prior to the filing of a bankruptcy petition, amounts remaining outstanding for more than 20 days (past due) will be subject to an interest charge of 1.5% per month from the invoice date. Huron reserves the right to suspend further Services until payment is received on past due invoices, in which event, Huron will not be liable for any resulting loss, damage, or expense connected with such suspension. Huron understands that bills should be sent to:

Fisker Inc.  
14 Centerpointe Drive  
La Palma, CA 90623-1028  
Email: [ap@fiskerinc.com](mailto:ap@fiskerinc.com)  
Cc: [secretary@fiskerinc.com](mailto:secretary@fiskerinc.com) and [jdubel@dubel.com](mailto:jdubel@dubel.com)

*Business Terms*

The attached General Business Terms apply to this engagement.

\* \* \* \* \*



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Please indicate the Company's agreement with these terms by signing and returning the enclosed copy of this letter to me. This engagement and the enclosed terms will become effective upon Huron's receipt of an executed copy of the Engagement Letter and payment of the Retainer.

Huron appreciates the opportunity to be of service to the Company and looks forward to working with you and the Company on this engagement.

Sincerely,

**HURON CONSULTING SERVICES LLC**

A handwritten signature in black ink, appearing to read 'John C. DiDonato'.

**John C. DiDonato**

Huron | Managing Director and Practice Leader

T 646-691-0797

E [jdidonato@hcg.com](mailto:jdidonato@hcg.com)

Attachments: General Business Terms

Acknowledged and Accepted:

**FISKER INC.**

A handwritten signature in blue ink, appearing to read 'John Dubel'. Below the signature is a horizontal line.

By: John Dubel

Title: Chair of the Transaction Committee

Date: \_\_\_\_\_



**Attachment to Engagement Letter dated April 25, 2024 between Huron Consulting Services LLC and Fisker Inc.**

**GENERAL BUSINESS TERMS**

These General Business Terms, together with the Engagement Letter (including any attachments, exhibits, and schedules) constitute the entire understanding and agreement (the "Agreement") between us concerning the services and deliverables described in the Engagement Letter. If there is a conflict between these General Business Terms and the terms of the Engagement Letter, these General Business Terms will govern, except to the extent the Engagement Letter explicitly refers to the conflicting term herein.

**1. Services and Deliverables.** Huron will provide the services and furnish the deliverables (the "Services") described in Huron's Engagement Letter and any attachments to it, as may be modified from time to time by mutual consent.

**2. Independent Contractor.** Huron is an independent contractor, not your employee, agent, joint ventures, or partner, and will determine the method, details, and means of performing its Services. Huron assumes full and sole responsibility for paying all compensation and expenses of its employees and for all their state and federal income tax, unemployment insurance, Social Security, payroll, and other applicable employee withholdings.

**3. Fees and Expenses.** (a) Huron's fees and payment terms are set out in the Engagement Letter. Those fees do not include taxes and other governmental charges (which will be separately identified in Huron's invoices). The Company requests that Huron perform some or all of the Services outside of the United States, Huron may issue the resulting invoice from a Huron affiliate located in the country where such Services are performed.

(b) The Company acknowledges that where out-of-town personnel is assigned to any project on a long-term basis (as defined from time to time in the applicable provisions of the Internal Revenue Code and related IRS regulations, and currently defined under IRC Section 162 as a period reasonably expected to be greater than one year), the associated compensatory tax costs applied to out-of-town travel and living expenses also shall be calculated on an individual basis, summarized, and assessed to such personnel. In such cases, the expenses for which you shall reimburse Huron hereunder shall be deemed to include the estimated incremental compensatory tax costs associated with the out-of-town travel and living expenses of Huron's personnel, including tax gross ups. Huron shall use reasonable efforts to limit such expenses.

(c) Huron reserves the right to suspend Services if invoices are not timely paid, in which event Huron will not be liable for any resulting loss, damage or expense connected with such suspension.

(d) Huron acknowledges and agrees that, with respect to any expenses for which Huron is entitled to seek reimbursement from the Company under this Agreement, the Company will only be required to reimburse Huron for its reasonable and documented expenses.

**4. Taxes.** (a) The Company will be responsible for and pay all

applicable sales, use, excise, value-added, services, consumption, and other taxes and duties associated with the performance or receiving the Services, excluding taxes on Huron's income generally. If applicable, the Company will provide Huron with a copy of its certificate of tax exemption.

(b) If the Company is required by the laws of any foreign tax jurisdiction to withhold income or profits taxes from Huron's payment, then the amount payable by the Company upon which the withholding is based shall be paid to Huron net of such withholding. The Company shall pay any such withholding to the applicable tax authority. However, if after 120 days of the withholding, the Company does not provide Huron with official tax certificates documenting the remittance of the taxes, the Company shall pay Huron an amount equal to such withholding. The tax certificates shall be in a form sufficient to establish the qualification of the taxes for the foreign tax credit allowable against Huron's corporation income tax.

**5. Confidentiality and Privacy.** (a) With respect to any information supplied in connection with this engagement and designated by the Company as confidential, or which Huron should reasonably believe is confidential based on its subject matter or the circumstances of its disclosure ("Confidential Information"), Huron agrees to protect the confidential information reasonably and appropriately and use confidential information only to perform its obligations under this engagement and for no other purpose. This will not apply to information that is (i) publicly known, (ii) already known to the recipient, (iii) lawfully disclosed by a third party, or (iv) independently developed. (v) pursuant to legal requirements or order, or (vii) to taxing authorities or to representatives and advisors in connection with tax filings, reports, claims, audits, and litigation.

(b) Confidential Information made available hereunder, including copies thereof, shall be returned or destroyed upon request by the Company, provided that Huron may retain other archival copies for recordkeeping or quality assurance purposes, and Huron shall make no unauthorized use of such copies.

(c) Huron agrees to use any personally identifiable information and data the Company provides Huron only for this engagement and as the Company directs, and Huron will not be liable for any third-party claims related to such use. The Company agrees to take necessary actions to ensure that it complies with applicable laws relating to privacy and data protection and acknowledge that Huron is not providing legal advice on compliance with the privacy and data



protection laws of any country or jurisdiction.

(d) At the conclusion of the engagement, Huron has the right to use the Company's name, logo, and a general description of the engagement in Huron's marketing materials and traditional tombstone advertising; provided, that, the form and substance of any such materials or advertisement will be subject to the Company's prior written approval (not to be unreasonably withheld).

**6. Deliverables and License.** All right, title and interest in and to any ideas, work papers, proprietary information, processes, methodologies, know-how, plans, materials, results, documents and other content developed by Huron in connection with the Services (such right, title and interest, other than any Huron Property, the "Client Property") is your sole and exclusive property, and we do hereby assign all rights, title, and interest in and to such Client Property to you. We will, and to the extent necessary will cause our employees to, execute any and all documents reasonably necessary for you to acquire, perfect, maintain and enforce your rights in all Client Property. We will retain sole and exclusive ownership of all right, title and interest in and to our pre-existing or independently developed work papers, proprietary information, processes, methodologies, know-how and software ("Huron Property"). To the extent any materials, content or other deliverables that we provide you contain any Huron Property, then we grant you a non-exclusive, non-assignable, royalty-free, perpetual license to use such materials, content or deliverables in connection with your business. If our deliverables are subject to any third-party rights in software or intellectual property, we will notify you of such rights and the applicable terms and conditions.

**7. Your Responsibilities.** To the extent applicable, the Company will reasonably cooperate in providing Huron with office space, equipment, data, and access to your personnel as reasonably necessary to perform the Services. The Company will provide information reasonably necessary for Huron to adequately perform the Services. The Company acknowledges that Huron is not responsible for independently verifying the truth or accuracy of any information supplied to Huron by or on behalf of the Company.

**8. Warranty.** Huron warrants that its Services will be performed with reasonable diligence and competence. Huron's sole obligation will be to correct any non-conformance with this warranty, provided that the Company gives us written notice within ten (10) days after you become aware or would reasonably be expected to become aware of the non-conformance. The notice will specify and detail the non-conformance and Huron will have a reasonable amount of time to correct the non-conformance, based on its severity and complexity.

Huron does not warrant and is not responsible for any third-party products or services. The Company's sole and exclusive rights and remedies concerning any third-party products or services are against the third-party vendor and not against Huron.

THIS WARRANTY IS HURON'S ONLY WARRANTY

CONCERNING THE SERVICES. IT IS MADE EXPRESSLY INSTEAD OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE, ALL OF WHICH ARE HEREBY DISCLAIMED.

**9. Liability and Indemnification.** (a) This engagement is not intended to shift risk usually borne by the Company to Huron. To the fullest extent permitted under applicable law, the Company agrees to indemnify and hold Huron and its personnel, agents, and contractors harmless against all costs, fees, expenses, damages, and liabilities (including reasonable defense costs and legal fees), associated with any legal proceeding or other claim brought against us by a third party, including a subpoena or court order, arising from or relating to any Services that the Company uses or discloses, or this engagement generally. This indemnity shall not apply to the extent a claim arises out of Huron's gross negligence, bad faith or willful misconduct, as finally adjudicated by a finder of fact.

(b) Huron will not be liable for any special, consequential, incidental, indirect, or exemplary damages or loss (nor any lost profits, savings, or business opportunity). Further, Huron's liability relating to this engagement will in no event exceed an amount equal to the fees (excluding taxes and expenses) it receives from the Company.

(c) Neither party will be liable to the other for any delays or failures in performance due to circumstances beyond its reasonable control.

**10. non-solicitation.** During the term of this engagement, and for a period of one year following its expiration or termination, (a) the Company will not directly or indirectly solicit, employ, or otherwise engage a person who participated in the Services on behalf of Huron and (b) Huron will not directly or indirectly solicit, employ, or otherwise engage any of the Company's employees provided that, in each case, this restriction shall not apply to any general solicitation for employees (such as general newspaper advertisements, employment agency referrals, and internet postings) not targeting any such persons. Neither the Company nor Huron shall be restricted in hiring anyone who responds to such general solicitation.

**11. Termination.** (a) Termination for Convenience. Either party may terminate this Agreement for convenience at any time on 30 days' prior written notice to the other.

(b) Termination for Breach. Either party may terminate this Agreement for breach if, within 15 days' notice, the breaching party fails to cure a material breach of this Agreement.

(c) To the extent the Company terminates this Agreement for convenience, the Company will pay us for all Services rendered, effort expended, expenses incurred, contingent fees (if any), or commitments made by us to the effective date of termination. To the extent the Company terminates this Agreement for breach, the Company will pay us for all conforming Services rendered and reasonable and documented expenses incurred by Huron to the



effective termination date.

(d) Further, Huron reserves the right to terminate this Agreement at any time upon providing written notice to the Company, if conflicts of interest arise or become known to Huron that, in Huron's sole judgment, would impair Huron's ability to perform the Services objectively.

(e) The terms of this Agreement which relate to confidentiality, ownership, and use, limitations of liability and indemnification, non-solicitation, and payment obligations shall survive its expiration or termination.

**12. General.** (a) This Agreement supersedes all prior oral and written communications between the parties and may be amended, modified, or changed only in writing when signed by both parties.

(b) No term of this Agreement will be deemed waived, and no breach of this agreement will be excused unless the waiver or consent is in writing signed by the party granting such waiver or consent.

(c) The parties acknowledge that they may correspond or convey documentation via Internet e-mail and that neither party controls the performance, reliability, availability, or security of Internet e-mail. Therefore, neither party will be liable for any loss, damage, expense, harm, or inconvenience resulting from the loss, delay, interception, corruption, or alteration of any Internet e-mail due to any reason beyond its reasonable control.

(d) This Agreement shall be governed by and construed in

accordance with the laws of the State of Illinois without giving effect to conflict of law rules. The parties hereto agree that any and all disputes or claims arising hereunder, or in any way related to this Agreement or any performance thereunder, including any disputes with or claims against Huron employees, and any claims by any of the Company's officers, directors, employees, shareholders and/or creditors, shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The parties agree that questions of arbitrability shall be delegated to and decided by an arbitrator and not a court. Any arbitration will be conducted in Chicago, Illinois. Any arbitration award may be entered in and enforced by any court having jurisdiction thereof. The parties consent and commit themselves to the jurisdiction of the courts of the State of Illinois for purposes of any enforcement of any arbitration award. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

(e) If any portion of this Agreement is found invalid, such finding shall not affect the enforceability of the remainder hereof, and such portion shall be revised to reflect the parties' mutual intention.

(f) This Agreement shall not provide third parties with any remedy, cause, liability, reimbursement, claim of action, or other rights in law or in equity for any matter governed by or subject to the provisions of this Agreement

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