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

-----X
In re: : Chapter 11
: :
MOTORS LIQUIDATION COMPANY, *et al.*, : Case No. 09-50026 (REG)
f/k/a General Motors Corp., *et al.* :
: (Jointly Administered)
Debtors :
: :
-----X

**TOYOTA MOTOR CORPORATION'S MEMORANDUM OF LAW IN SUPPORT OF
NEW UNITED MOTOR MANUFACTURING, INC'S RESPONSE TO DEBTORS'
OBJECTION TO PROOF OF CLAIM 67357**

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Toyota Motor Corporation (“TMC”), by its attorneys, hereby submits, pursuant to Section 1109(b) of Title 11 of the United States Code (the “Bankruptcy Code”), this Memorandum of Law (“Memorandum”) In Support of New United Motor Manufacturing, Inc.’s Response to Debtors’ Objection to Proof of Claim 67357 (“NUMMI’s Response”). In support of its Memorandum, TMC states as follows:

PROCEDURAL BACKGROUND

1. On June 1, 2009, Motors Liquidation Company (f/k/a General Motors Corporation) (“MLC”) filed bankruptcy under Chapter 11 of the Bankruptcy Code. On July 10, 2009, after obtaining Court approval, MLC sold substantially all of its assets to General Motors, LLC (“New GM”). MLC’s fifty percent (50%) interest in New United Motor Manufacturing, Inc. (“NUMMI”) was not included in the sale to New GM. Instead, MLC retained its interest in NUMMI to evade its obligations to NUMMI and avoid transferring those liabilities to New GM.

2. Among its claims against MLC, TMC timely filed Proofs of Claim against MLC for: (i) certain costs incurred by TMC related to the wind down of NUMMI as required under the Shareholders’ Agreement between TMC, MLC and NUMMI (“TMC’s NUMMI Claim”) and (ii) certain research and development costs rendered unrecoverable as a result of MLC’s decision to walk away from its contractual obligations to TMC and NUMMI and reject the Vehicle Supply Agreement (“VSA”), attached hereto as Exhibit “A”, and the 2006 Memorandum of Understanding (“2006 MOU”), attached hereto as Exhibit “B”, (“TMC’s VSA Claim”, together with TMC’s NUMMI Claims, the “TMC Claims”)¹.

¹ TMC timely filed Proofs of Claim for damages under the VSA and the 2006 MOU. On or about July 30, 2010, TMC filed an amended and consolidated proof of claim for the VSA and 2006 MOU. The amended and consolidated proof of claim is referred to herein as the VSA Proof of Claim and is attached hereto as Exhibit “C”.

3. On November 24, 2009, NUMMI filed a proof of claim against MLC for Five Hundred Million Dollars (\$500,000,000) to recover certain wind down costs and capital expenditures that NUMMI incurred in reliance on MLC's commitments under the various agreements executed by and between NUMMI, MLC and TMC ("NUMMI's Claim"). On April 1, 2010, MLC filed the Debtors' Objection to Proof of Claim 67357 Filed by NUMMI (the "MLC Objection") requesting that the Court enter an order disallowing and expunging NUMMI's Claim. The hearing on the MLC Objection is scheduled for November 9, 2010 at 9:45 a.m. before this Court.

4. The issues raised in the MLC Objection and in NUMMI's Response could drastically affect TMC's Claims against MLC. NUMMI's Claim involves an interpretation of many of the same contracts as TMC's Claims. Therefore, pursuant to § 1109(b) of the Bankruptcy Code, TMC files this Memorandum in support of NUMMI's Response to address the legal arguments that directly affect TMC's Claims against MLC.² See 11 U.S.C. § 1109(b) ("A party in interest, including ... a creditor ... may raise and may appear and be heard on any issue in a case under this chapter."). TMC urges the Court to overrule the MLC Objection and either allow NUMMI's (and TMC's) Claims in full or set the matter for a full and fair trial as a contested matter under the Part 9 Rules of the Federal Rules of Bankruptcy Procedure to hear and determine the critical legal and factual issues in dispute.

² On October 18, 2010, counsel for TMC and MLC spoke regarding MLC's Objection. MLC's counsel informed TMC's counsel that MLC did not object to TMC filing a brief in support of NUMMI in advance of the hearing on the MLC Objection pursuant to Section 1109 of the Bankruptcy Code, nor did MLC object to TMC's counsel appearing and arguing in support of NUMMI (and TMC) at the hearing on the MLC Objection. As a courtesy, on November 2, 2010, TMC's counsel provided language to MLC's counsel memorializing MLC's non-objection to TMC's filing and appearance at the hearing. On November 4, 2010, MLC's counsel changed its position and informed TMC's counsel that MLC does not take any position regarding TMC's filing and/or appearance at the hearing.

5. MLC understands that the issues in NUMMI's Claim and TMC's Claims are intertwined. In fact, MLC specifically requested that TMC's counsel attend settlement negotiations with MLC and NUMMI. It was MLC's position that TMC was essential to those settlement negotiations because of how the issues related to TMC's Claims and NUMMI's Claim overlapped. Thus, at MLC's specific request, TMC's counsel flew to New York City and attended a negotiating session with counsel for MLC and NUMMI. The triparte negotiations were unsuccessful. TMC asked MLC if MLC would separately negotiate TMC's Claims. MLC refused and all parties agreed that it would be necessary to proceed to a hearing on the MLC Objection. After the conclusion of the settlement negotiations in August, TMC expected that MLC would object to TMC's Claims and schedule a joint hearing on MLC's objections to the claims of TMC and NUMMI. However, an objection was never filed.

6. Approximately five weeks prior to the hearing on the MLC Objection, counsel for TMC asked MLC's counsel if MLC would include TMC's Claims in the upcoming hearing on the MLC Objection. After two weeks of "internal discussions" MLC's counsel informed TMC's counsel that MLC would not file an objection to TMC's Claims. To date, MLC has not objected to TMC's Claims; therefore, TMC's Claims constitute allowed claims against the estate. However, TMC anticipates an objection from MLC and given the similarities between TMC's Claims and NUMMI's Claim, as recognized by TMC, NUMMI *and* MLC, TMC's appearance in support of NUMMI's Claim is necessary.

7. As set forth below, the MLC Objection, which is equivalent to a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure ("FRCP"), should be denied and the claims of NUMMI – and TMC – should be allowed in full or, at a minimum, entitled to full hearings and adjudication of their claims.

FACTUAL BACKGROUND³

I. The NUMMI Joint Venture.

8. NUMMI is a unique joint venture between two major automotive companies: MLC and TMC. MLC and TMC agreed to establish NUMMI as an equally owned joint venture to manufacture MLC (and later TMC) vehicles in an old MLC plant in Fremont, California. The parties memorialized their joint venture agreement in a Memorandum of Understanding executed on February 17, 1983 (the “1983 MOU”). *See* Ex. “D”. The 1983 MOU provided the foundation for NUMMI, which ultimately manufactured millions vehicles for MLC and provided MLC (and New GM) with billions of dollars of institutional knowledge prior to MLC’s decision to abandon its obligations as a joint venture partner to TMC and NUMMI.

9. In February 1984, TMC and MLC implemented the 1983 MOU by entering into a Shareholders’ Agreement, as amended, originally dated February 21, 1984 (the “SHA”) and various other organizational documents for the NUMMI joint venture. *See* Ex. “E”. Both companies made significant initial contributions to NUMMI: MLC contributed its Fremont plant and TMC contributed \$100 million in cash. NUMMI Resp. ¶¶ 10-11. On December 18, 1984, a yellow Chevrolet Nova became the first MLC vehicle manufactured by NUMMI.

10. TMC’s contributions to NUMMI went beyond simple cash. As detailed in the 1983 MOU and the VSA, TMC agreed to design vehicles for NUMMI to manufacture. Between 1984 and 1986, NUMMI exclusively manufactured TMC designed cars that NUMMI sold to MLC, and that MLC in turn sold to customers as MLC badged Chevrolet Novas. Beginning in 1986, NUMMI also began manufacturing the Toyota Corolla FX for TMC. More recently,

³ In NUMMI’s Response, NUMMI provides a detailed history of NUMMI and the relationship between the parties. *See* NUMMI Resp. ¶¶ 7-34.

NUMMI manufactured the Pontiac Vibe and Toyota Corolla. Over the past 25 years, MLC has sold almost two million cars badged under its various brands that that TMC designed and NUMMI manufactured. NUMMI Resp. ¶ 9.

11. NUMMI's purpose was "not just to produce cars." NUMMI Resp. ¶ 9. The NUMMI venture "was designed as a way for MLC to learn [Toyota's] manufacturing methods from TMC." *Id.* In fact, the Federal Trade Commission ("FTC"), in its final approval of the NUMMI joint venture, noted that TMC and MLC's joint venture "promises substantial benefits for American consumers, for American labor, and for the American manufacturing sector in general." *In re General Motors Corp.*, 103 F.T.C. 374 (1984) (Douglas, G., concurring). Ultimately, MLC's involvement was "'positive[,] 'beneficial' and lucrative'" and resulted in MLC gaining "'billions of dollars worth of learnings [sic]' from NUMMI." NUMMI Resp. ¶¶ 9, 20. NUMMI became an award winning plant, producing high quality vehicles for MLC. In addition, NUMMI became a training ground for MLC's managers and executives who studied the Toyota manufacturing system in place at NUMMI. The knowledge, experience and business acumen that MLC gained from TMC through this joint venture is priceless and was spread to all of MLC's (and now New GM's) manufacturing facilities. NUMMI ¶ 9, 20. Thus, for over 25 years, TMC and MLC operated NUMMI as a joint venture.

12. In 2006, MLC committed to purchasing at least 65,000 Pontiac Vibe per year from NUMMI pursuant to the 2006 MOU. NUMMI Resp. ¶ 21. In reliance on MLC's promise in the 2006 MOU, TMC and NUMMI spent hundreds of millions of dollars in research, design, equipment, machinery and tooling to design and manufacture the Pontiac Vibe. NUMMI Resp. ¶ 16. As detailed below, MLC's decision to cease ordering the Vibe left NUMMI with over \$120 million of unrecoverable capital expenditures and TMC with over \$73 million of unrecoverable

research and development expenditures that never would have been spent if MLC had not executed the 2006 MOU. NUMMI Resp. ¶ 22. Moreover, MLC's failure to work with NUMMI and TMC to seek alternatives to the Pontiac Vibe and its ultimate decision to "withdraw from NUMMI" necessitated the wind down of NUMMI. NUMMI Resp. ¶¶ 31, 32 ("With MLC's withdrawal, one of NUMMI's 50 percent owners had abandoned it and it was no longer a viable joint venture ... its collaborative production and allocation procedures needed to be replaced.").

II. TMC's Claims Against MLC.

A. TMC's VSA Claim

1. TMC Honored Its Unique Contractual Obligation to Design Vehicles for MLC.

13. Between 1983 and 2009, TMC, MLC and NUMMI entered into numerous contracts regarding the parties' obligations. The contracts memorialized TMC's agreement to design, in consultation with MLC, MLC badged vehicles to be manufactured by NUMMI. From the first Chevrolet Nova to the last Pontiac Vibe, TMC designed and collaborated with MLC on each vehicle that MLC purchased from NUMMI.

14. The various agreements reflect the unique relationship between the parties. Moreover, the contracts demonstrate that the relationship between TMC, MLC and NUMMI was not a typical customer-supplier relationship in the automotive industry. As specified below, TMC invested hundreds of millions of dollars to design vehicles for MLC, MLC collaborated with TMC and knew that TMC was investing hundreds of millions of dollars for MLC's benefit, and MLC approved of TMC's continued expenditures through 2012 in the 2006 MOU.

15. The 1983 MOU contains the first recitation of the unique relationship between TMC and MLC:

The vehicle to be manufactured by the JV will be derived from Toyota's new front-wheel drive Sprinter. Body styles will include

a 4-Door Sedan and (6-12 months later) a 5-Door Liftback. **Toyota will retain design authority over the vehicle, in consultation as to vehicle appearance with GM, the purchaser.** As modifications will probably be made to the Sprinter or Corolla over time in accordance with market demand. Toyota will effect similar changes to the JV vehicles **if such changes are deemed desirable by the parties.** (1983 MOU at pgs. 1-2.) (emphasis added)

16. After incorporating NUMMI, TMC and MLC memorialized their collaborative joint venture relationship in the founding contracts, including the VSA:

As Modifications will probably be made to the “Sprinter” or “Corolla” over time in accordance with market demand, Toyota will effect similar changes in the design of the Vehicles **if such changes are deemed desirable by the parties.** (VSA at § 3.3(a).) (emphasis added)

Toyota will present to the **JV Company** the plan for any Modifications, Specification Changes or model changes concerned. **The JV Company will thereafter submit to and negotiate with GM the planned Modifications, Specification Changes or model changes** together the planned price changes. (VSA at § 3.3(c).) (emphasis added)

Toyota has previously **furnished to GM preliminary technical information and specifications for the initial Vehicle ...** to be manufactured by the **JV Company** to GM. (VSA at § 3.1.) (emphasis added)

17. The February 21, 1984 Vehicle License Agreement, as amended, by and between TMC, MLC, and NUMMI (“VLA”) demonstrates that the relationship between TMC and MLC vis-à-vis each other and vis-à-vis NUMMI goes well beyond the typical customer-supplier agreements common in the automotive industry. *See* Ex. “F”.

During the Agreement Term **Toyota shall**, to the extent reasonably necessary for the manufacture of the Licensed Vehicles ... **furnish the JV Company such technical information**, data and other like information which Toyota possesses at the time of this Agreement or may **hereafter develop or acquire** and which are within the categories identified in Annex A. (VLA at § 2.1) (emphasis added)

18. As recently as the 2006 MOU 2006, MLC reiterated the parties' distinctive relationship and the unique obligations to each other. Moreover, MLC extended the parties' mutual obligations through the 2012 model year.

It is understood that over the product lifecycle, product enhancements will be made. **All changes of Vibe's specifications which are visible to the customer**, and/or which affect vehicle performance in such a manner that would be apparent to the customer, **must be discussed with estimated transfer price changes and agreed upon among the Parties prior to determination of implementation.** (2006 MOU at § 4) (emphasis added)

As for additional minor model changes to the Products, if any, the timing of them may be made as separately agreed upon among the Parties. (2006 MOU at § 6)

19. The common theme running throughout all of the agreements executed over the 25 years of NUMMI's existence is that TMC, MLC and NUMMI have a special relationship not common in the industry. From inception, NUMMI was an exceptional collaboration among competitors. The contracts demonstrate that the obligations between the parties run deeper than the customer-supplier obligations typical in the industry. TMC, with MLC's collaboration and consent, fulfilled its obligations under the joint venture agreements resulting in the production of almost two million vehicles sold under MLC's brands and billions of dollars worth of institutional knowledge for MLC. There is no doubt that MLC knew of, and explicitly approved, TMC's extensive research and development efforts undertaken for MLC's benefit.

2. MLC's Obligation to Purchase Pontiac Vibes Under the VSA and 2006 MOU.

20. The VSA and 2006 MOU detail MLC's commitment to purchase vehicles from NUMMI on a "continuous and stable basis." VSA at § 4.1(b). In the VSA, MLC "acknowledged that the JV Company is making substantial amounts of capital expenditures ... relying on GM's present projection that market demand for the Vehicles will exceed 200,000 per

annum.” VSA at § 4.1(b). Over the course of the joint venture, NUMMI began making cars for TMC, but retained its annual production goal of at least 200,000 vehicles. Pursuant to the 2006 MOU, MLC agreed to purchase “at least 65,000” Pontiac Vibes per year from NUMMI. 2006 MOU, § 1(3). As detailed in the NUMMI Response, MLC understood its obligations to NUMMI and upheld its commitments until mid-2009 when MLC abruptly elected to withdraw from NUMMI in June 2009. NUMMI Resp. ¶ 23. Despite its commitment to “ensure that NUMMI will remain viable,” MLC stopped ordering Pontiac Vibes from NUMMI in August 2009. NUMMI Resp. ¶ 31; 2006 MOU at § 7.

3. TMC’s Research and Design Costs in Developing the Pontiac Vibe for MLC.

21. In reliance on MLC’s promise to purchase vehicles from NUMMI contained in the VSA and 2006 MOU, TMC actually incurred over \$100 million in research and development costs for the Pontiac Vibe. Of those costs actually spent by TMC, \$73.8 million were rendered uncollectable as a result of MLC’s breach of the VSA and 2006 MOU. These costs included labor, subcontracting, and prototype production for the initial Vibe model and the 2011 minor-model changes. In addition, TMC incurred costs in the advanced prototype production of the chassis, body and engine design for multiple TMC designed vehicles, including the Pontiac Vibe. TMC paid for all of these hard costs prior to MLC’s breach.

22. TMC incurred these costs in reliance on MLC’s contractual commitment to continue purchasing Pontiac Vibes from NUMMI. In fact, TMC’s research and development costs would have been recovered from various agreements between NUMMI and TMC, including the royalty paid by NUMMI pursuant to the VLA, had MLC not breached the contract to TMC and NUMMI. Instead, MLC breached the VSA and 2006 MOU leaving TMC with only the TMC Claims for the uncollectable research and development costs.

B. TMC's NUMMI Claim.

23. In addition to leaving TMC with over \$73 million of unrecoverable research and development costs, MLC also refused to support NUMMI's wind down despite contractual obligations to do so. In particular, MLC shirked its legal responsibilities to pay its share of NUMMI's workers' compensation and environmental liabilities attributable to NUMMI's shareholders. In fact, MLC has tried to impede NUMMI's wind down by taking adverse positions regarding NUMMI's asset sales.

24. As a result of MLC's abandonment of NUMMI and the transfer of billions of dollars of institutional knowledge to New GM without any consideration to TMC or NUMMI, TMC's and NUMMI's sole recourse against MLC for the breach of its contractual and statutory obligations to TMC and NUMMI is the filing of a proofs of claim in MLC's bankruptcy case. Yet, MLC was not satisfied to simply leave TMC and NUMMI with hundreds of millions of dollars of unrecoverable costs. MLC filed the MLC Objection to NUMMI's Claim and is attempting to walk away from the NUMMI joint venture without any liability. MLC could not escape liability for these obligations outside of bankruptcy and, thus, it cannot escape paying a pro rata distribution with all other the general unsecured creditors of MLC.

III. MLC's Abandonment of NUMMI.

25. In the months leading up to MLC's bankruptcy, MLC misled NUMMI and TMC by explaining that it "remain[ed] committed to our partnership and NUMMI joint venture." NUMMI Resp. ¶ 25. Moreover, MLC informed NUMMI that it was considering terminating the Pontiac brand and it wanted to "pull together contingency plans in the event the Pontiac brand is discontinued." *Id.* Notwithstanding its prior commitments, on June 26, 2009, MLC reversed course and announced that it intended to withdraw from NUMMI and cease purchasing vehicles from NUMMI in August, 2009. NUMMI Resp. ¶ 31. On August 17, 2009, the final Pontiac

Vibe was produced, becoming the last MLC vehicle to be manufactured at NUMMI. In electing to abandon NUMMI, MLC also abandoned NUMMI's 4,500 workers and a countless number of suppliers and regional businesses that depended on NUMMI. NUMMI Resp. ¶ 33. This was a *purely* economic decision by MLC. MLC Obj. ¶¶ 28 – 30.

ARGUMENT

I. Standard of Review.

26. A proof of claim filed in accordance with the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”) constitutes *prima facie* evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f). An objection to a proof of claim under Section 502 of the Bankruptcy Code is “equivalent to dismissing a claim under Fed. R. Civ. P. 12(b)(6).” *In re Alper Holdings USA, Inc.*, 398 B.R. 736, 748 (S.D.N.Y. 2008). Under FRCP 8(a)(2), a complaint must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). As explained in *Ashcroft v. Iqbal*, “to survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to “state a claim to relief that is plausible on its face.” -- U.S. --, 129 S. Ct. 1937, 1949 (2009). The Court must accept the factual allegations in the complaint as true and “draw inference from those allegations in the light most favorable to plaintiff, and construe the complaint liberally.” *Rescuecom Corp. v. Google Inc.*, 562 F.3d 123, 127 (2d Cir. 2009) (internal quotations and citations omitted). Both TMC’s Claims and NUMMI’s Claim contain ample factual allegations to state a claim for relief against MLC. Accordingly, MLC’s Objection should be denied.

II. The NUMMI Joint Venture Creates a Special Relationship Between MLC and TMC.

27. Under California law⁴, the existence of a joint venture gives rise to a special or fiduciary relationship between the joint venturers. *See Oakland Raiders v. Nat'l Football League*, 32 Cal. Rptr. 3d 266, 273-74 (Cal. Ct. App. 2005); *Celador Int'l Ltd. v. Walt Disney Co.*, 347 F.Supp 2d 846, 853 (C.D. Cal. 2004). NUMMI is a joint venture between TMC and MLC from which MLC has reaped immense benefits. As noted by the FTC, the three principal benefits of the NUMMI joint venture are: (1) an “increase the total number of small cars available in America, thus allowing consumers a greater choice at lower prices, despite present restrictions on Japanese imports;” (2) “the joint venture car will cost less to produce than if GM were forced to rely immediately on some other production source;” and (3) “the joint venture offers a valuable opportunity for GM to complete its learning of more efficient Japanese manufacturing and management techniques.” 103 F.T.C. 374 (Miller III, J., concurring). The FTC added “to the extent the [joint] venture demonstrates the Japanese system can be successfully adapted to the United States, the venture should lead to the development of a more efficient and competitive U.S. industry. Evidence obtained during the Commission's investigation persuasively establishes that a successful experiment at [NUMMI] could serve as a predicate for other domestic auto makers and their unionized employees to work out similar flexibility in work rules and practices.” *Id.*

28. As TMC's joint venture partner, MLC has a “special relationship” with TMC that is unlike routine customer-supplier relationships in the automotive industry. 32 Cal. Rptr. 3d at 273-74. This fiduciary relationship between “joint adventurers” holds the parties “to something

⁴ Pursuant to Section 7.6 of the VSA, the VSA is governed under California law.

stricter than the morals of the market place. Not honesty alone, but the *punctilio of an honor* the most sensitive is then the standard of behavior.” *Wolf v. Superior Court of Los Angeles County*, 130 Cal. Rptr. 2d 860, 863-64 (Cal. Ct. App. 2003) (emphasis added). As a result of the NUMMI joint venture, TMC and MLC forged a special relationship, stricter than the morals of the market, that must be upheld and enforced.

III. TMC And NUMMI Are Entitled To Damages As A Result Of MLC’s Breach Of The Requirements Contracts.

29. The claims for breach of contract have been adequately pled. Under California law, a cause of action for breach of contract requires the following elements: (1) a contract; (2) plaintiff’s performance or excuse for nonperformance; (3) defendant’s breach; and (4) damages to plaintiff. *Durell v. Sharp Healthcare*, 108 Cal. Rptr. 3d 682, 697 (Cal. Ct. App. 2010). TMC’s Claims and NUMMI’s Claim provide sufficient factual allegations to support all four elements of a breach of contract action under California law.

A. The VSA and 2006 MOU Are Enforceable Contracts.

30. The VSA and 2006 MOU are enforceable contracts. An enforceable contract requires the following elements: (1) parties capable of contracting; (2) their consent; (3) a lawful object; and (4) sufficient cause or consideration. Cal. Civ. Code § 1550; *see also* NUMMI Resp., ¶¶ 41, 46; Cal. Com. Code § 2306(1); *Shea-Kaiser-Lockheard-Healy v. Dep’t of Water and Power of City of Los Angeles*, 140 Cal. Rptr. 884, 888-90 (Cal. App. 1977) (quantity estimate enforceable). Here, all four elements are satisfied.

31. Further, the best efforts clause in the 2006 MOU is enforceable. NUMMI Resp., ¶ 41; *Midland Pacific Bldg. Corp. v. King*, 68 Cal. Rptr. 3d 499, 507 (Cal. App. 2007); *Burgermeister Brewing Corp. v. Bowman*, 38 Cal. Rptr. 597, 601 (Cal. App. 1964) (contractual requirement to use best efforts was enforceable); *see also US Ecology, Inc. v. State of California*,

111 Cal. Rptr. 2d 689, 707-08 (Cal. App. 2001) (“question whether a defendant used its best efforts under the circumstances is generally a factual issue”).

B. MLC Breached the VSA and 2006 MOU.

1. MLC Breached the VSA and 2006 MOU by Rejecting Them.

32. MLC rejected the VSA and 2006 MOU pursuant to the Eleventh Omnibus Motion to Reject Executory Contracts and Unexpired Leases and the Ninth Omnibus Motion to Reject Executory Contracts and Unexpired Leases, respectively. *See* Ex. “G” and “H”. Pursuant to Section 365(g) of the Bankruptcy Code, the rejection of an executor contract “constitutes a breach of such contract.” 11 U.S.C. § 365(g). Therefore, there can be no dispute that MLC breached the VSA and 2006 MOU.

33. Upon rejection, the non-debtor parties are entitled to file a claim for rejection damages. 11 U.S.C. § 502(g). Here, TMC timely filed its Proofs of Claim for rejection damages under the VSA and 2006 MOU. *See* Ex. “C”. While MLC may dispute the amount of damages TMC and NUMMI suffered, there can be no dispute that TMC and NUMMI suffered damages.

2. MLC Breached the VSA and 2006 MOU by Cancelling the Purchase of Pontiac Vibes.

34. Not only did MLC breach the VSA and 2006 MOU by virtue of the rejection, but MLC breached its obligation to purchase Pontiac Vibes under the VSA and the 2006 MOU by cancelling the purchase of Pontiac Vibes. NUMMI Resp. ¶ 46 (“MLC was obligated to purchase NUMMI’s vehicles in quantities not ‘unreasonably disproportionate to [that] estimate’ for that time period.”); *see also* Cal. Com. Code § 2306(1); *Shea-Kaiser-Lockheard-Healy*, 140 Cal. Rptr. at 888-90. The Tenth Circuit’s opinion in *Tri-State Generation and Transmission Ass’n, Inc. v. Shoshone River Power, Inc.*, 874 F.2d 1346 (10th Cir. 1989) (“*Tri-State*”), is particularly instructive. In *Tri-State*, the defendant entered into a requirements contract with the plaintiff

whereby the defendant promised to purchase all of its power-electricity needs from the plaintiff co-operative. *Id.* at 1349. After the plaintiff built generation and transmission facilities and obtained loans to service its members' electricity needs, economic conditions dipped dramatically, leading to an oversupply of electric power and stagnant demand. *Id.* at 1350. The defendant thereafter attempted to sell its assets to a third-party, which would have effectively eliminated the defendant's purchase of electric power from the plaintiff. *Id.*

35. In holding that the sale of the defendant's business constituted a breach of the requirements contract, the *Tri-State* court noted the inter-relatedness of the parties and that the plaintiff's investments were made in reliance on the defendant's commitment to purchase its electric power needs from the plaintiff. Although the contract did not forbid the defendant from terminating its business, the court stated that such an obligation was implied in the contract: "We believe that the promise to purchase requirements for a definite term . . . implies that Shoshone will remain in business and maintain requirements throughout the term of the contract, as long as there are sufficient members in Shoshone's system requiring electric power." *Id.* at 1356. The court explained further that the purpose of the contract would be frustrated if the defendant could simply walk away from its requirements promises:

The parties obviously expected that Shoshone would continue purchasing electric power from Tri-State throughout the term of the contract so long as Shoshone had sufficient members requiring electric power. If Shoshone is able to eliminate its requirements by simply transferring its member subscriptions to Pacific, the contract cannot be carried out in the way it was expected. If Shoshone puts itself in a position in which it cannot carry out the all-requirements contract, it breaches the contract. *Id.* at 1357-58.

Finally, the court noted that because of the inter-relatedness of the parties, the defendant realized unique benefits that went beyond the purchase of electric power from the plaintiff, and that by selling its business, the defendant was not "sharing the burden that has come with the benefits it

has received under” the contract and the loan program that the parties were able to participate in as a result of their requirements contract. *Id.* at 1360.

36. Likewise, as detailed herein (¶¶ 8-12, *supra*) and by NUMMI (NUMMI Resp. ¶ 20), NUMMI was a unique joint venture between MLC and TMC which conferred upon MLC significant direct and indirect benefits. Just as in *Tri-State*, TMC and NUMMI made significant investments in reliance on MLC’s commitment to purchase Pontiac Vibes for a definite term. The purpose of NUMMI was frustrated (if not eviscerated) when MLC abandoned NUMMI. MLC cannot simply walk away from its obligations to NUMMI and TMC by terminating the Pontiac Vibe. Instead, MLC must share the burden that has come with the benefits it has received under the VSA and the 2006 MOU.

37. Moreover, MLC cannot rely on the language of Section 3 of the 2006 MOU⁵ or Section 4.2 of the VSA⁶ to escape its obligations to purchase Pontiac Vibes from TMC and NUMMI. The primary goal of contract interpretation under California law is to “give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful.” Cal. Civ. Code § 1636; *see also U.S. Cellular Investment Co. v. GTE Mobilnet, Inc.*, 281 F.3d 929, 934 (9th Cir. 2002) (applying California law); *Spinks v. Equity*

⁵ Section 3 of the 2006 MOU provides: “The Parties understand that, assuming that 225,000 units of the Products are scheduled to be produced in a year, the Products will be allocated between TMC and GMC under the following formula, where each of TMC and GMC will have a right to, but not an obligation to, purchase the Products from NUMMI.

TMC Corolla	at least 160,000 (71.11%)
GMC Vibe	at least 65,000 (28.89%)”

⁶ Section 4.2 of the VSA provides: “...each purchase and sale transaction between the JV Company and GM relating to the Products shall be governed by individual sales contracts, it being agreed within that context that the JV Company has no obligation to supply and GM has no obligation to purchase any Products until the parties enter such a contract.”

Residential Briarwood Apartments, 90 Cal. Rptr. 3d 453, 469 (Cal. Ct. App. 2009). If possible, the parties' intent is to be ascertained "solely from the language of the written contract." *Id.*; see also Cal. Civ. Code § 1638. Here, the parties' intent was to establish a continuous and stable joint venturer to supply vehicles and permit flexibility to account for changing market demand. The parties' intent is clear from the language of the VSA and 2006 MOU: MLC is obligated to purchase Pontiac Vibes from NUMMI through 2012. The VSA recites MLC's commitment to purchase vehicles from NUMMI on a "continuous and stable basis." VSA at § 4.1(b). Under the 2006 MOU, MLC agreed to purchase "at least 65,000" Pontiac Vibes per year from NUMMI and to "ensure that NUMMI will remain viable." 2006 MOU at §§ 1(3) & 7. Also, under the VSA, MLC "acknowledged that the JV Company is making substantial amounts of capital expenditures ... relying on GM's present projection that market demand for the Vehicles will exceed 200,000 per annum." VSA at § 4.1(b). Although the express terms of the VSA and 2006 MOU provide MLC with some flexibility in its purchasing, they do not give MLC sole discretion to purchase any chosen number of Pontiac Vibes. Any other interpretation would lead to an absurd result, and, thus, would be contrary to California law.

38. An interpretation of Section 3 of the 2006 MOU and Section 4.2 of the VSA that permits MLC to escape its commitments under these contracts would also render the above quoted language meaningless. Under California law, the "whole of a contract is to be taken together, so as to give effect to every part, if reasonably practicable, each clause helping to interpret the other." Cal. Civ. Code § 1641. "An interpretation which renders part of the instrument to be surplusage should be avoided." *City of El Cajon v. El Cajon Police Officers' Assoc.*, 56 Cal. Rptr. 2d 723, 727 (Cal. Ct. App. 1996). Here, an interpretation that permits MLC to terminate the Vibe would render many provisions of the VSA and 2006 MOU (not to mention

the entire NUMMI joint venture) surplusage. Thus, such an interpretation should be avoided. Instead, the Court should find that the language of the VSA and 2006 MOU provided MLC with the necessary flexibility to deal with the typically elastic demand of the automobile industry.

39. California law also adopts the “well recognized rule . . . that where a general and a particular provision of a written instrument are inconsistent, the particular controls the general.” *McNeely v. Claremont Mgmt. Co.*, 27 Cal. Rptr. 87, 89 (Cal. Ct. App. 1962); *see also Kashmiri v. Regents of Univ. of Cal.*, 67 Cal. Rptr. 3d 635, 654 (Cal. Ct. App. 2008). Here, 2006 MOU provides that MLC will purchase “at least 65,000 Pontiac Vibes.” This language is definite and specific. In contrast, Section 3 of the 2006 MOU and Section 4.2 of the VSA are far more general. Because, under California law, the specific term controls, MLC breached its obligation to purchase Pontiac Vibes from NUMMI.

40. Lastly, Section 3 of the 2006 MOU and Section 4.2 of the VSA do not provide MLC with a defense for its breach for the following reasons. First, MLC and TMC, as joint venture partners have a special relationship that is stricter than the morals of the market. *See* ¶ 28, *supra*. Therefore, MLC cannot simply ignore its obligations to purchase Pontiac Vibes by and cancelling all orders. Second, MLC, as a party to the contracts, cannot order a “quantity unreasonably disproportionate to any stated estimate.” Cal. Comm. Code §2306(1). It is undisputable that ordering **zero** Pontiac Vibes is “unreasonably disproportionate” to the stated requirement that MLC would order “at least 65,000” Pontiac Vibes that MLC agreed to purchase under the 2006 MOU. In *Simcala, Inc. v. Am. Coal Trade, Inc.*, the Alabama Supreme Court, interpreting the same provision of the Alabama Commercial Code, held that unreasonably disproportionate decreases of orders under a requirements contract constituted a breach, regardless of whether the breaching party acted in good faith. 821 So. 2d 197, 203 (Ala. 2001).

Third, MLC's decision to terminate the Pontiac Vibe and MLC's failure to work with TMC and NUMMI to find a suitable replacement was not in good faith. As detailed in the Comment 2 to Section 2306 of the California Commercial Code, "A shut-down by a requirements buyer for lack of orders might be permissible when a *shut-down merely to curtail losses would not.*" It is indisputable that MLC's termination of the Pontiac Vibe was merely to curtail its losses.

3. MLC Breached the Best Efforts Clause of the 2006 MOU.

41. MLC also breached its obligations under the best efforts clause of the 2006 MOU by failing to work with NUMMI and TMC to rebrand the Vibe or order an alternative vehicle which would keep NUMMI's annual manufacturing volume above the target of 225,000 cars. NUMMI Resp. ¶¶ 17, 21, 40-41. Despite MLC's statements to NUMMI that it "'remain[ed] committed to our partnership and NUMMI joint venture'" MLC elected to cease purchasing Pontiac Vibes and abandon NUMMI and TMC. NUMMI Resp. ¶ 25. MLC's decision to allocate its resources and efforts to focus on other lines of vehicles cannot comport with its obligations to use its "best efforts" to ensure NUMMI's continued viability. *Benson v. Rhino Indus., Inc.*, No. A116543, 2008 Cal. App. Unpub. LEXIS 3358 (Cal App. April 23, 2008).

42. In *Benson*, the Court of Appeals sustained a bench trial finding of breach of a contractual promise to use its "best efforts to ensure reasonable growth in sales of the PRO-TRAK line of products" where the defendant did not use its advertising networks to promote the PRO-TRAK line, pulled employees off of the PRO-TRAK line, assigning them to more successful products, and closed the facility that had primary responsibility for manufacturing the PRO-TRAK line. *Id.* at *10-11. Rejecting the defendant's arguments that it had abandoned the PRO-TRAK line because it was unprofitable, the court instead found that "the real reason for its abandonment appears to be a decision by Rhino to **focus its energy and resources on other more profitable products.**" *Id.* at *12 (emphasis added). This allocation of resources was

incompatible with a contractual promise to exercise its best efforts towards the promotion of the PRO-TRAK product. *Id.* at n.1 (“California courts have repeatedly enforced contracts with ‘best efforts’ clauses”); *see also Gilmore v. Hoffman*, 266 P.2d 833, 837 (Cal. App. 1954).

43. Just as in *Benson*, MLC abandoned the Pontiac Vibe and NUMMI to focus its energy and resources on more profitable products. Moreover, MLC’s half-hearted attempts to “work” with TMC and NUMMI on a contingency plan for NUMMI failed to comply with the best efforts clause of the 2006 MOU. MLC failed to use its best efforts to achieve the annual manufacturing volume necessary for NUMMI’s survival and thus breached the best efforts clause of the 2006 MOU.

44. Of particular relevance to this action, the court in *US Ecology, Inc.* observed that “whether a defendant used its best efforts under the circumstances is generally a factual issue.” 111 Cal. Rptr. 2d at 707. Thus, disallowance of NUMMI’s claim is not appropriate at this stage because factual issues cannot be determined at this stage of the objection process. *See* ¶ 26.

C. TMC Performed Its Contractual Obligations.

45. As detailed in ¶¶ 13 – 19 *supra*, TMC performed its obligations under the 2006 MOU and the VSA. TMC spent hundreds of millions of dollars in research and development for the Pontiac Vibe manufactured by NUMMI and sold by MLC. Only upon MLC’s termination of orders for future Pontiac Vibes did TMC stop its research and development for 2011 mid model year change for the Pontiac Vibe. Therefore, TMC performed its obligations under the contracts and was excused from future performance as a result of MLC’s breach.

D. TMC and NUMMI Are Entitled to Recover Damages From MLC As A Result of its Breach.

46. In reliance on MLC’s commitment in the 2006 MOU to purchase at least 65,000 Pontiac Vibes from NUMMI, TMC and NUMMI expended hundreds of millions of dollars to

research, design and manufacture the Pontiac Vibe for MLC. Had MLC fulfilled its contractual obligations, these costs would have been recovered by NUMMI and TMC. NUMMI Resp. ¶ 44; *see generally Nashville Lodging Co. v. Resolution Trust Corp.*, 59 F.3d 236, 250 (D.C. Cir. 1995) (plaintiff could recover expense incurred during the contractual relationship on account of defendant's promises); *Brandon & Tibbs v. George Kevorkian Accountancy Corp.*, 277 Cal. Rptr. 40 (Cal. App. 1990) (contract damages include those that are foreseeable).

47. Additionally, Section 3300 of the California Civil Code, provides that the measure of damages for a breach of contract is “the amount which will compensate the party aggrieved for all the detriment proximately caused thereby, or which, in the ordinary course of things, would be likely to result therefrom.” Cal. Civ. Code § 3300; *see also Copeland v. Baskin Robbins, U.S.A.*, 96 Cal. App. 4th 1251, 1262-63 (Cal. App. 2002). Reliance damages, such as those asserted by TMC and NUMMI are encompassed in the damages contemplated in Section 3300 of the California Civil Code. *Montoya v. Shah*, 2010 WL 709131, at *7 (Cal. App. March 02, 2010); *see also Nashville Lodging Co.*, 59 F.3d at 250 (“actual direct compensatory damages” include restitution damages). TMC actually spent hundreds of millions of dollars on the research and development of the Pontiac Vibe and future modifications to the Pontiac Vibe. MLC knew that TMC had (and continued to) incurred these costs as MLC approved and collaborated with TMC on the design of the Pontiac Vibes. Thus, TMC's research and development costs related to future Vibe models are clearly foreseeable, compensatory, reliance damages and MLC's breach entitles TMC and NUMMI to seek damages from MLC.

48. As detailed above, the breach of contract claims against MLC contain sufficient factual allegations to overcome a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). Therefore, the MLC Objection must be denied.

IV. MLC Breached The Covenant Of Good Faith And Fair Dealing.

A. The Contracts Contain An Implied Duty of Good Faith and Fair Dealing.

49. It is black letter law in California that MLC had an implied duty of good faith and fair dealing under the VSA and 2006 MOU. NUMMI Resp. ¶ 55; *Communale v. Traders & Gen. Ins. Co.*, 328 P.2d 198, 200 (Cal. 1958); *Ladd v. Warner Bros. Entm't, Inc.*, --- Cal. Rptr. 3d ---, 2010 WL 2044878, at *5 (Cal. App. May 25, 2010) (implied covenant “finds particular application in situations where one party is invested with a discretionary power affecting the rights of another. Such power must be exercised in good faith.”) (quoting *Carma Developers (Cal.), Inc. v. Marathon Dev. Cal.*, 2 Cal. 4th 342 (Cal. 1992)); *Harm v. Frasher*, 5 Cal. Rptr. 367, 417 (Cal. App. 1960) (there “is implied in every contract a covenant by each party not to do anything which will deprive the other parties thereto of the benefits of the contract”.) Here, MLC was invested with discretionary power to affect the rights of TMC and NUMMI and yet MLC intentionally deprived TMC and NUMMI of the benefits under the contracts. Thus, MLC had an implied duty of good faith and fair dealing.

B. MLC Breached its Duty of Good Faith and Fair Dealing.

50. By misleading TMC and NUMMI about Vibe production commitments before unilaterally changing course, MLC breached its duty of good faith and fair dealing, creating a separate cause of action against MLC. NUMMI Resp. ¶¶ 55-57; *see also Storek & Storek, Inc. v. Citicorp Real Estate, Inc.*, 122 Cal. Rptr. 2d 267, 283 n.15 (Cal. App. 2002) (rejecting the proposition that a breach of duty of good faith and fair dealing occurs only when a specific provision of the contract is breached). In fact, courts routinely uphold claims for violations of the implied covenant of good faith and fair dealing, where a party to a requirements contract discontinues a line of business. *See, e.g., Speakman v. Allmerica Fin. Life Ins.*, 367 F. Supp. 2d 122, 138 (D. Mass. 2005); *407 East 61st Garage, Inc. v. Savoy Fifth Ave. Corp.*, 244 N.E. 2d 37,

40 (N.Y. Ct. App. 1968) (“a promise to remain in business will be implied particularly where the promisee has undertaken certain burdens or obligations in expectation of an[d] reliance upon the promisor’s continued activity”). Here, TMC and NUMMI incurred significant research and development and capital expenditures in expectation and reliance on MLC’s agreement to order 65,000 Pontiac Vibes per year from 2008 through 2012. Thus, MLC breached its duty of good faith and fair dealing by abandoning TMC and NUMMI.

51. Moreover, as detailed in NUMMI’s Response, MLC’s refusal to perform under the requirements contract constitutes a breach of its duty of good faith and fair dealing and entitles TMC and NUMMI to recover research and development and capital expenditures, respectively, from MLC. NUMMI Resp. ¶¶ 55-57; *see also Tri-State*, 874 F.2d at 1360 (buyer could not discontinue a requirements contract where the seller incurred debt obligations to build facilities to meet the buyer’s needs). Notably, in *In re Big V Holding Corp.*, the court required a withdrawing member of cooperative based on a requirements contract to “live up to its ... obligations and if not, to compensate remaining members who bear the economic burden associated with a withdrawing member.” 267 B.R. 71, 11 0 (Bankr. D. Del. 2001). The court explained that a requirement contract executed in connection with a joint venture required the defendant to fulfill its contractual duties because the “very purpose behind forming the [joint venture]” was to facilitate the requirements contract. *Id.* at 110. This is precisely the situation between TMC, NUMMI and MLC that MLC seeks to avoid.

C. TMC and NUMMI Are Entitled to Damages As A Result of MLC’s Breach of its Duty of Good Faith and Fair Dealing.

52. There can be no dispute that MLC’s willful breach of the duty of good faith and fair dealing gives rise to damages. *See Thompson v. Friendly Hills Reg’l Med. Ctr.*, 84 Cal. Rptr. 2d 51, 53 (Cal. App. 1999). The factual allegations support the claims against MLC for breach

of the duty of good faith and fair dealing and “state a claim to relief that is plausible on its face.” 129 S. Ct. at 1949. Moreover, a breach of the duty of good faith and fair dealing is a question of fact and cannot be determined in the context of a motion to dismiss under FRCP Rule 12(b)(6). *See Weddington v. United Nat’l Ins., Co.*, No. 07-1733, 2008 U.S. Dist. LEXIS 15610 (N.D. Cal. February 29, 2008).

V. Promissory Estoppel Entitles TMC And NUMMI To Damages From MLC.

53. TMC and NUMMI are entitled to recover the uncollectable research and development costs and capital expenditures, respectively, under the doctrine of promissory estoppel. NUMMI Resp. ¶¶ 58-61; *see also Van Hook v. S. Cal. Waiters Alliance, Local 17*, 323 P.2d 212, 221 (Cal. App. 1958), *Garcia v. World Sav., FSB*, 107 Cal. Rptr. 3d 683, 1040-41 (Cal. App. 2010); *Cooper v. State Farm Mut. Auto Ins. Co.*, 99 Cal. Rptr. 3d 870, 892 (Cal. App. 2009). TMC, in consultation with MLC, designed almost two million vehicles that were sold under the badge of the various MLC brands. For each of these vehicles, TMC had “design authority ... in consultation ... with GM.” 1983 MOU at Pgs 1-2. Further, the 2006 MOU provided that “all changes of Vibe’s specifications which are visible to the customer ... must be discussed ... and agreed upon among the Parties prior to determination of implementation.” 2006 MOU § 4. Thus, there is no doubt that MLC was aware of and approved the extensive research and development costs incurred by TMC in the design of the Pontiac Vibe.

54. Recovery under the doctrine of promissory estoppel is expressly permitted upon the breach of a requirements contract. *Amber Chem. Inc. v. Reilly Indus., Inc.*, No. 06-cv-6090, at *6 (E.D. Cal. Feb. 14, 2007). Furthermore, TMC’s and NUMMI’s reliance damages are the appropriate remedy for a promissory estoppel claim. *Consortium Info. Svcs., Inc. v. Credit Data Svcs., Inc.*, 149 F. App’x 575, 577 (9th Cir. 2005) (applying California law) (the “usual remedy in promissory estoppel cases is enforcement of the promise, and the damages are measured by

the extent of the obligation assumed and not performed.”); *see also Toscano v. Greene Music*, 124 Cal. App. 4th 685, 692-93 (Cal. App. 2004). Reliance damages are precisely what TMC seeks in its claim. TMC relied on the promises of MLC to continue to purchase Vibes from 2008 through 2012. Based on that reliance, TMC expended hundreds of millions of dollars in research and development to design a Vibe for MLC to sell. MLC’s breach left TMC with \$73 million of unrecoverable research and development costs.

55. Similar to the determination of whether MLC breached of the VSA and 2006 MOU or its duties of good faith and fair dealing, the determination of whether promissory estoppel exists is a question of fact. *See Henry v. Weinman*, 321 P.2d 117, 121 (Cal. App. 1958). Thus, a determination on a Rule 12(b)(6) motion to dismiss is inappropriate for this issue.

VI. The Force Majeure Clause Does Not Excuse MLC’s Breach.

56. There was no force majeure. NUMMI Resp. at ¶ 49. Force majeure applies to unforeseen circumstances, such as “typhoons, citizens run[ning] amok, [or] Hannibal and his elephants at the gates.” *Watson Labs, Inc. v. Rhone-Poulenc Rorer, Inc.*, 178 F. Supp. 2d 1099, 1111 (C.D. Cal. 2001) (citing *URI Cogeneration Partners, L.P. v. Bd. of Governors for Higher Educ.*, 915 F. Supp. 1267, 1287 (D.R.I. 1996)) (“*Watson Labs*”). Notably, *Watson Labs* explains that “California law requires (not ‘permits’) that each event claimed to be a ‘force majeure’ be beyond the control of the breaching party.” 178 F. Supp. 2d at 1111 (citing *Nissho-Iwai Co., Ltd. v. Occidental Crude Sales, Inc.*, 729 F.2d 1530 (5th Cir. 1984)) (applying California Law).

57. Here, MLC made an economic decision to discontinue purchasing Vibes from NUMMI. MLC’s economic decision was not beyond its own control. Moreover, economic impracticality is not sufficient to trigger a force majeure clause under California law. *See Butler v. Nepple*, 354 P.2d 239, 244-45 (Cal. 1960) (the “fact that compliance with his contract would involve greater expense than he anticipated would not excuse defendant.”); *Ellison v. City of San*

Buena Ventura, 122 Cal. Rptr. 167, 173 (Cal. App. 1975) (“[i]t is elemental that a person may not escape a voluntarily assumed contractual obligation merely because performance would be more expensive than contemplated unless it arises to the point of impossibility”) (internal citation omitted); *Miranda v. Williams*, No. F054365, 2008 WL 4636445, at *3 (Cal. App. Oct. 21, 2008) (“[t]he impossibility that excuses performance under a contract must be in the nature of the thing to be done and not in the inability of the promisor to do it. Mere unforeseen difficulty or expense does not constitute impossibility and ordinarily will not excuse performance”).

58. In short, MLC’s force majeure defense is completely without merit. MLC’s economic decision to terminate the Pontiac Vibe is not akin to “Hannibal and his elephants at the gates” and is not an excuse for MLC’s breach.

VII. NUMMI Has Asserted that NUMMI Is Entitled To Recover Damages From MLC For Its Failure To Pay Its Share Of NUMMI’s Wind Down Costs.

59. In the NUMMI Response, NUMMI contends that MLC is liable for fifty percent of NUMMI’s wind down deficit. Except as provided below, TMC takes no position on this issue and reserves all rights to assert its own arguments with respect to this contention.

A. MLC, As The Prior Owner of the NUMMI Plant, Is Liable for NUMMI’s Environmental Clean Up Costs.

60. MLC, as the prior owner of NUMMI’s land and plant, is liable for environmental clean up costs required at the NUMMI plant as a result of MLC’s dumping or disposal of hazardous substances at the plant while it was owned and operated by MLC. *See* 42 U.S.C. 9607(a)(2) (“any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of, ... shall be liable for - all costs of removal or remedial action”). The environmental remediation costs constitute a potentially significant component of NUMMI’s wind down costs and MLC, as a prior owner, is

obligated to pay those remediation costs. The facts regarding the potential environmental liability at NUMMI will require the parties to engage in factual investigations to determine the cause and timing of the pollution. Therefore, because determining the appropriate amount of NUMMI's Proof of Claim, which seeks wind down costs such as environmental remediation, will require a factual investigation and determination, NUMMI's Proof of Claim cannot be disallowed in a proceeding similar to a FRCP Rule 12(b)(6) motion to dismiss.

B. MLC, As A Substantial Shareholder of NUMMI, Is Liable for NUMMI's Workers' Compensation Liabilities.

61. MLC is liable for NUMMI's workers' compensation liabilities if NUMMI is unable to cover its workers' compensation costs. Pursuant to Section 3717 of the California Labor Code, if an employer fails to make the required workers' compensation and the California Department of Industrial Relations is required to make that employers' workers' compensation payments, the employer shall be jointly and severally liable for the payments with all substantial shareholders. A substantial shareholder is a shareholder who owns more than fifteen percent (15%) of the corporation. Cal. Labor Code § 3717(b). Thus, MLC, as a fifty percent (50%) shareholder of NUMMI, is jointly and severally liable with NUMMI and TMC for any unpaid workers' compensation payments.

CONCLUSION

62. TMC's Claims and NUMMI's Claim constitute *prima facie* evidence of the validity of the claims. An objection to a proof of claim is analogous to dismissing a claim under FRCP Rule 12(b)(6). Thus, the MLC Objection to NUMMI's Claim must be overruled if NUMMI has stated a claim that is plausible on its face. NUMMI (and TMC) has so pled. Thus, the MLC Objection must be denied. Moreover, the following questions of fact cannot be determined in a motion to dismiss:

- The enforceability of the VSA and 2006 MOU (§§31, *supra*);
- MLC's breach of the best efforts clause of the 2006 MOU (§§44, *supra*);
- NUMMI's (and TMC's) damages as a result of MLC's breach (§§ 47, *supra*);
- MLC's breach of duty of good faith and fair dealing (§§ 52, *supra*);
- Existence of promissory estoppel (§§ 55, *supra*);
- The cause of (and liability for) any environmental damages at NUMMI caused while MLC owned the plant (§§ 60, *supra*).

At the very least, NUMMI should be given an opportunity to amend its claim, and TMC its claims, prior to any dismissal with prejudice.

63. Over 25 years ago, MLC and TMC agreed to establish NUMMI, a ground breaking and unique joint venture for the benefit of both parties. MLC reaped significant benefits from its joint venture with TMC, including billions of dollars of institutional knowledge that MLC transferred to New GM. Despite accepting the benefits of the joint venture for over 25 years, MLC decided to shirk its responsibilities to TMC and NUMMI and is now objecting to NUMMI's Claim. Collectively, TMC and NUMMI invested over \$200 million in reliance of MLC's promise in 2006 to purchase 65,000 Pontiac Vibes per year from 2008 through 2012. MLC, without regard for the significant investments by TMC and NUMMI and its contractual obligations, abruptly ceased ordering Pontiac Vibes and left NUMMI and TMC holding the bag. Since MLC's bankruptcy TMC has provided NUMMI with hundreds of millions of dollars of support in cash and guaranties. ***MLC has done nothing.*** It has rejected many of the contracts between TMC, NUMMI and MLC and sought to avoid any and all obligations it has to both TMC and NUMMI. MLC's actions cannot be tolerated – TMC and NUMMI must be permitted to file and collect upon (with all other unsecured creditors) their claims.

64. Accordingly, TMC respectfully requests that the Court overrule the MLC Objection and either allow NUMMI's (and TMC's) Claim in full or, at a minimum, allow NUMMI and TMC to full hearings to adjudicate their claims.

Dated: November 4, 2010

FOLEY & LARDNER LLP

/s/ Matthew J. Riopelle

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Attorneys for Toyota Motor Corporation

EXHIBIT "A"

VEHICLE SUPPLY AGREEMENT

by and among

NEW UNITED MOTOR MANUFACTURING, INC.,

GENERAL MOTORS CORPORATION

and

TOYOTA MOTOR CORPORATION

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VEHICLE SUPPLY AGREEMENT

This VEHICLE SUPPLY AGREEMENT (this "Agreement") is made and entered into on and as of the 21st day of February, 1984, by and among New United Motor Manufacturing, Inc. (the "JV Company"), a close corporation organized and existing under the laws of the State of California, General Motors Corporation ("GM"), a corporation organized and existing under the laws of the State of Delaware, and Toyota Motor Corporation ("Toyota"), a corporation organized and existing under the laws of Japan;

WITNESSETH:

WHEREAS, the JV Company, which is under the joint control of, but is separate and distinct from, GM and Toyota, was formed for the limited purpose of manufacturing in the United States a specific automotive vehicle not heretofore manufactured and certain components related thereto;

NOW, THEREFORE, the parties hereto agree as follows:

I. DEFINITIONS

1.1. Terms Defined in Shareholders' Agreement: In addition to the terms which have been previously, or are hereafter, defined herein, terms used herein which are defined in Section 1.1 of the Shareholders' Agreement (the "Shareholders'

Agreement"), dated the date hereof, among the parties hereto are used herein as so defined unless otherwise defined in this Agreement.

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II. TERM OF AGREEMENT

~~2.1. Agreement Term: This Agreement shall become binding upon its execution by each of the parties hereto and shall remain in full force and effect for a period of 12 years following the date (the "Production Commencement Date") of commencement of the production of the Vehicles (as that term is hereafter defined). The parties shall execute a certificate fixing the Production Commencement Date as soon as practicable after the Vehicle production has commenced.~~

III. PRODUCTS

3.1. Preliminary Technical Information: Toyota has previously furnished to GM preliminary technical information and specifications for the initial Vehicle (as that term is hereafter defined) to be manufactured by the JV Company for sale to GM.

~~3.2. The Products: The products to be supplied and purchased hereunder shall be certain automotive vehicles manufactured for sale to GM by the JV Company under license from Toyota (the "Vehicles") and optional equipment therefor manufactured or procured by the JV Company (the "Optional Equipment"). The Vehicles and the Optional Equipment (collectively, the "Products") will be more particularly~~

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~~described in technical advance information (the "Technical Advance Information") to be furnished from time to time by the JV Company to GM.~~

3.3. Changes: (a) As Modifications will probably be made to the "Sprinter" or "Corolla" over time in accordance with market demand, Toyota will effect similar changes in the design of the Vehicles if such changes are deemed desirable by the parties. Such changes shall be effected in accordance with Section 3.3(c) hereof.

(b) If model changes or Specification Changes in the Vehicle are necessary, Toyota, GM and the JV Company will agree upon these model changes or Specification Changes. Any such model changes or Specification Changes shall be made in accordance with Section 3.3(c) hereof.

(c) Toyota will present to the JV Company the plan for any Modifications, Specification Changes or model changes concerned. The JV Company will thereafter submit to and negotiate with GM the planned Modifications, Specification Changes or model changes together with the planned price changes. The Modifications, Specification Changes or model changes and the price changes thereof will be made as agreed upon by the JV Company and GM. For purposes of this Section 3.3, the terms "Modifications" and "Specification Changes" mean changes in specifications appearing, or which if made would appear, in the Technical Advance Information.

3.4. Manuals: The JV Company, GM and Toyota shall agree upon a quality manual pursuant to which the JV Company and GM shall measure and inspect the quality of the Products and a purchase procedures manual pursuant to which specific delivery, packaging and other procedures relating to the supply and purchase of the Products shall be set forth.

IV. SUPPLY AND PURCHASE OBLIGATIONS AND ARRANGEMENTS

4.1. General Understanding: (a) The general principles contained in this Section 4.1 will apply to supply and purchase arrangements under this Agreement.

(b) The parties hereto are establishing supply and purchase arrangements under which the JV Company shall supply and GM shall purchase the Products on a continuous and stable basis. It is acknowledged that the JV Company is making substantial amounts of capital expenditures in its facilities relying upon GM's present projection that market demand for the Vehicles will exceed 200,000 units per annum. However, it is further acknowledged that market demand for the Products that can be generated in the areas in which GM expects to sell them will govern the purchase commitments of the parties as to all Products.

(c) In setting forth supply and purchase arrangements under this Article, the JV Company and GM agree that their mutual interests can be served only if orderly procedures are followed, and that a degree of flexibility is necessary in the negotiation

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of the applicable items to accommodate GM's marketing and purchasing requirements and the JV Company's interest in endeavoring to manufacture the Products on a volume basis.

4.2. Individual Sales Contracts: (a) Within the general principles set forth in Section 4.1 hereof, each purchase and sale transaction between the JV Company and GM relating to the Products shall be governed by an individual sales contract, it being agreed within that context that the JV Company has no obligation to supply and GM has no obligation to purchase any Products until the parties enter such a contract. The terms of this Agreement (insofar as applicable) shall apply to each such sales contract.

(b) The parties shall from time to time negotiate and agree upon procedures relating to ordering, delivery, packaging and similar matters involved in the supply and purchase of the Products as provided in Section 3.4 hereof.

4.3. Unit Prices, Etc.: (a) The initial selling price of the Vehicles to be sold by the JV Company to GM during the 1985 model year shall be determined at least 60 calendar days prior to the expected Production Commencement Date by negotiation between the JV Company and GM. This negotiation shall be based upon the production cost estimated by the JV Company 90 calendar days prior to the expected Production Commencement Date, with estimates of such cost to be guided by the feasibility study prepared in 1982 by Toyota and GM and attached hereto as Annex A. In no event, however, shall such initial selling price be higher

than the upper limit or lower than the lower limit, each as set forth in the following sentence. The upper limit shall be determined by adjusting for feature differences the dealer net price (that is, the dealers' port of entry cost as referred to in the Kelley Blue Book New Car Price Manual) less 8% for Toyota's then-current United States model front-wheel drive Corolla equipped comparably to the Vehicles concerned, and the lower limit shall be determined by adjusting for feature differences such dealer net price (that is, the dealers' port of entry cost as referred to in the Kelley Blue Book New Car Price Manual) less 11% of such Corolla. The adjustment for feature differences between such Corolla and the initial Vehicle shall be made by agreement between the JV Company and GM.

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(b) After determination of the initial selling price pursuant to Section 4.3(a) hereof, although there may be exceptions, the selling price for the Vehicles shall be revised and determined for each model year. The new selling price for the Vehicles in each new model year shall be determined by applying to the selling price for the previous model year the Index set forth in Annex B. hereto. If the calculations embodied in such Index occasionally yield a selling price for the Vehicles which is at significant variance with then-current market conditions, the JV Company and GM shall negotiate a more appropriate selling price for the Vehicles.

(c) In the event that Toyota and other members of the Toyota Group shall cease to distribute the front-wheel drive

Corolla in the United States, the JV Company and GM shall negotiate appropriate amendments to this Section 4.3 consistent with the intent and purposes hereof.

(d) The methodology to be employed in pricing the Optional Equipment (both initial and subsequent) will be comparable to that described in Section 4.3(a) through Section 4.3(c) hereof and as described in Section 3.3(c) hereof.

(e) If it is anticipated that continuation of the foregoing methods for determination of the selling prices of the Products would cause those prices to be at such levels as the JV Company would incur losses which could endanger its normal operation, Toyota, the JV Company and GM shall negotiate and take necessary measures.

4.4. Delivery of Products: The Products shall be delivered by the JV Company to GM by physically delivering the same through the gate of the shipping canopy located just west of the Marshalling Area identified in Section 5.1 of the Shareholders' Agreement.

4.5. Acceptance of Products: (a) Within three business days after delivery of the Products, GM shall conduct visual and operational inspections to determine whether the Products conform to the applicable specifications and inspection standards as separately agreed upon by the parties pursuant to Section 3.4 hereof.

(b) GM shall accept all the Products which shall have passed said inspections and return the Products which shall have

failed said inspections to the JV Company with a written notice in a form designated by the JV Company specifying the reasons for such failure in reasonable detail.

(c) If GM fails to return the Products within three business days after their delivery, they shall be deemed accepted by GM.

4.6. Title and Risk of Loss: Title to and risk of loss of the Products shall pass from the JV Company to GM upon the delivery thereof by the JV Company to GM pursuant to Section 4.4 hereof.

4.7. Payment: (a) On each business day, the JV Company shall issue to GM a summary invoice for the Products delivered to GM.

(b) The payment for the Products by GM to the JV Company shall be made promptly after GM receives such summary invoice in accordance with the terms and conditions separately agreed upon by the parties. Such payment shall in any event be made by GM within two business days after GM receives such summary invoice.

(c) Overdue payments, if any, shall bear interest at a rate equal to the rate set forth in Section 7.2 of the Shareholders' Agreement.

4.8. Buyer's Brand: The Products will be marketed by GM under the trademarks of GM.

4.9. Warranties: (a) The JV Company warrants to GM that upon delivery of the Products to GM, GM shall have good and

marketable title to the Products.

(b) THE OBLIGATIONS OF THE JV COMPANY SET FORTH IN THE PRA AND THE WARRANTY SET FORTH IN SECTION 4.9(a) HEREOF ARE EXCLUSIVE AND ARE IN LIEU OF ANY OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(c) Nothing in this Agreement shall affect the rights and obligations of the parties as provided in the PRA. The parties' obligations in respect of any defect or noncompliance with any laws or governmental standards or regulations, actual or alleged, of the Vehicles as accepted by GM under Section 4.5 hereof shall be as set forth in the PRA.

4.10. Compliance with Vehicle Safety Regulations: (a) Toyota shall, as soon as necessary tests have been completed with satisfactory results, issue to the JV Company and GM a certificate to the effect that the Products as designed by Toyota meet the applicable Federal Motor Vehicle Safety Standards (as such term is defined below). The JV Company will not start regular production of the Products until it and GM have received such certificate appropriate to the Products to be produced. In connection therewith, Toyota shall conduct such tests of the Products and provide such information as Toyota may deem necessary, desirable or appropriate to enable the JV Company and, with respect to consumer information requirements under the United States statute entitled the "National Traffic and Motor Vehicle Safety Act of 1966" and all amendments thereto ("Safety

Act"), GM, as the case may be, in reliance upon such information, to make such certifications or provide such consumer information as may be necessary pursuant to applicable federal motor vehicle safety standards ("Federal Motor Vehicle Safety Standards") and rules, regulations and procedures promulgated from time to time by the United States National Highway Traffic Safety Administration of the United States Department of Transportation or any successor administrative agency ("NHTSA") under the Safety Act ("NHTSA Regulations").

(b) GM shall submit to NHTSA the necessary reports and data called for by Section 573.8 of the NHTSA Regulations and any revisions thereto on behalf of the JV Company and shall furnish to the JV Company and Toyota copies of such reports and data.

(c) The JV Company, in reliance upon information furnished by Toyota, shall be responsible for obtaining all necessary safety approvals of any governmental authority of any state or political subdivision thereof or of the United States, including approvals for required labeling, and such renewals as may be required, either directly or through its suppliers, in connection with the Products that the JV Company will manufacture and supply under this Agreement, and the JV Company shall furnish to GM copies of the approvals so obtained. The JV Company will not start regular production of the Vehicles until GM has received from the JV Company copies of all such approvals appropriate to the Products to be produced. In connection with inquiries received from any such authority regarding safety

requirements for any such Products, the JV Company shall, after consultation with GM and Toyota, act on behalf of itself, Toyota and GM and shall keep Toyota and GM advised of the progress of such matters.

(d) The above provisions regarding compliance with Federal Motor Vehicle Safety Standards shall apply to requirements of Title 1 of the Federal Motor Vehicle Cost Savings and Information Act, commonly known as "Bumper Standards".

(e) Toyota recognizes and will comply with the obligations under Section 110(e) of the Safety Act to designate an agent in the United States for service of process.

4.11. Emissions: (a) Toyota shall make all necessary submissions, on behalf of the JV Company, and obtain all necessary certifications for the Vehicles from the United States Environmental Protection Agency or any successor administrative agency ("EPA"). Copies of such certifications shall be given to GM and the JV Company. The JV Company will not start regular production of the Vehicles until it and GM have received copies of such certifications appropriate to the Vehicles to be produced.

(b) GM, based upon information supplied by Toyota, shall furnish owners of the Products the maintenance and use instructions required by Section 207 of the United States statute entitled the "Clean Air Act of 1963" and all amendments thereto ("Clean Air Act") and will furnish copies thereof to Toyota and the JV Company.

(c) All of the provisions above regarding the emissions control standards promulgated from time to time by the EPA under the Clean Air Act and the rules, regulations and procedures promulgated from time to time by the EPA under the Clean Air Act shall also apply to the emissions control requirements and regulations of the State of California.

4.12. Governmental Regulations: The JV Company will use its best efforts, with cooperation of GM and Toyota, to comply with all applicable governmental requirements and regulations.

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V. TECHNICAL ASSISTANCE BY THE
JV COMPANY AND PILOTS, ETC.

5.1. Technical Assistance: If the JV Company's assistance is requested by GM for the purpose of ensuring the performance of new Vehicle warranty service on the Products, the JV Company and GM shall in good faith negotiate on a cost basis for such required assistance, including, but not limited to, the dispatch of the JV Company's personnel or a third party designated by the JV Company to GM.

5.2. Pilots: (a) If GM requests the JV Company, in a reasonably timely manner, to manufacture and supply pilot vehicles for any Vehicle model or series, the JV Company and GM shall in good faith negotiate the terms and conditions applicable to the pilot vehicles desired by GM, provided, however, that the JV Company shall have no obligation to manufacture or supply

such pilot vehicles until agreement is reached by the JV Company and GM with respect thereto.

(b) In every case, the price of each pilot vehicle shall be the same as the price of such Vehicle model or series in commercial production determined or to be determined in accordance with the provisions of Section 4.3 hereof.

(c) GM agrees not to resell pilot vehicles supplied pursuant to this Section 5.2. PILOT VEHICLES WILL BE SOLD TO GM IN AN "AS IS" CONDITION and will be used by GM at its own risk.

VI. MISCELLANEOUS

6.1. Force Majeure: Any delay in or failure of the performance of any party hereunder shall be excused if and to the extent caused by occurrences beyond such party's control, including, but not limited to, acts of God; fire or flood; war; governmental regulations, policies or actions; closure of foreign exchange markets; any labor, material, transportation or utility shortage or curtailment; discontinuance or curtailment of the manufacture of the Products ordered; or any labor trouble in the manufacturing plants of the JV Company in Fremont, California or any of its suppliers.

6.2. Limitations of Liability: Except as provided in the PRA, IN NO EVENT SHALL ANY PARTY TO THIS AGREEMENT BE LIABLE TO ANY OTHER PARTY TO THIS AGREEMENT FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON BREACH OF CONTRACT, BREACH OF EXPRESS OR IMPLIED WARRANTY, TORT, STRICT LIABILITY OR OTHERWISE.

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6.3. Survival: All representations, warranties and indemnities, liabilities and disclaimers and limitations of the foregoing made, furnished or imposed herein or arising hereunder shall survive any termination of this Agreement or dissolution of the JV Company.

VII. GENERAL PROVISIONS

7.1. Assignability: Neither this Agreement nor any right (other than a right to receive the payment of money) or obligation hereunder may be assigned or delegated in whole or in part to any other person or entity.

7.2. Persons Authorized to Act for the Parties: Each change, variation or modification of this Agreement shall be effective only when made in writing signed by an authorized officer or representative of each of the parties.

7.3. Notices: In any case where any notice or other communication is required or permitted to be given under this Agreement (including without limitation any change in the information set forth in this Section) such notice or communication shall be in writing and (i) personally delivered, (ii) sent by postage prepaid registered airmail (which notice or other communication shall be immediately confirmed by a telex marked "Important"), or (iii) transmitted by electronic facsimile transfer marked "Important" (which notice or other communication shall be immediately confirmed by a telex marked "Important") as follows:

If to Toyota, to:

Toyota Motor Corporation
1, Toyota-Cho, Toyota
Aichi 471 Japan
Telex/Answerback: 4528371/TOYOTA J
Facsimile Model: UF 520 III
Facsimile Call No.: 565-80-1116
Attention: General Manager, Overseas Project Office

If to GM, to:

Chevrolet Motor Division
General Motors Corporation
30001 Van Dyke Avenue
Warren, Michigan 48090 U.S.A.
Telex/Answerback: 235547/CHEV CO WARN
Facsimile Model: Rapicom 1500
Facsimile Call No.: 313-492-6842
Attention: General Manager

If to the JV Company, to:

New United Motor Manufacturing, Inc.
45500 Fremont Boulevard
Fremont, California 94537 U.S.A.
Telex/Answerback: (To be supplied)
Facsimile Model: (To be supplied)
Facsimile Call No.: (To be supplied)
Attention: Executive Vice President

All such notices or other communications shall be deemed to have been given or received (i) upon receipt if personally delivered, (ii) on the tenth business day following posting if by postage prepaid registered airmail, and (iii) 24 hours following confirmation by telex with confirmed answerback if notice is given by electronic facsimile transfer.

7.4. Third Persons: Except as contemplated in this Agreement as to the parties hereto, nothing in this Agreement is intended or shall be construed to confer upon or to give any person or entity any legal or equitable rights or remedies under or by reason of this Agreement.

7.5. Governing Language: This Agreement and all other agreements, instruments and notices that are referred to herein or are supplementary hereto shall be prepared or furnished in and governed and controlled by the English language.

7.6. Choice of Law: This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of California, without giving effect to the principles of conflict of laws thereof.

7.7. Entire Agreement, Etc.: This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. To the extent that provisions in any of the Prior Agreements (as that term is hereafter defined) are inconsistent with any provision of this Agreement, this Agreement supersedes all prior agreements and understandings, oral and written, among the parties hereto with respect to the subject matter hereof, including without limitation the Memorandum of Understanding (the "Memorandum"), dated February 17, 1983, as amended, between Toyota and GM and all letter agreements, minutes of meetings and similar documents dated prior to the date hereof to which GM, Toyota or any of their respective representatives are parties (the Memorandum and such letter agreements, minutes and similar documents being referred to herein as the "Prior Agreements").

7.8. Enforcement of this Agreement: Each party to this Agreement, solely in connection with any action or proceeding brought by any other party to this Agreement (on its

own behalf or on behalf of the JV Company) arising out of or related to this Agreement, hereby (i) agrees that any such action or proceeding shall be brought only in a federal or state court of competent subject matter jurisdiction in the State of California (and no such action or proceeding shall be brought in any other state or country) and (ii) consents to personal jurisdiction in any such court provided that service of process shall be duly made. Each party hereby agrees that in any such action or proceeding process may be served upon it by any means authorized by applicable statutes, rules, treaties and/or conventions. In this regard, if such service of process shall be duly made by any means as aforesaid, no party shall contest the same or the personal jurisdiction of any such California court in any court. The parties' obligations under this Section 7.8 shall survive the expiration or termination of this Agreement or the dissolution of the JV Company. Nothing herein shall be construed to mean that any party to this Agreement has hereby submitted to the personal jurisdiction of any such court in connection with any other action or proceeding whatsoever.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be duly executed by their respective duly authorized representatives as of the day and year first above written.

NEW UNITED MOTOR MANUFACTURING,
INC.

By *Fatsuro Toyoda*
President

GENERAL MOTORS CORPORATION

By *B. J. ...*
~~President~~
CHAIRMAN OF THE BOARD

TOYOTA MOTOR CORPORATION

By *Shoichiro Toyoda*
President

Feasibility Study

In the Feasibility Study, Toyota and GM have had discussion on the conditions and procedures for estimating product cost of the JV vehicle and the parties have reached the following conclusions.

I. Basic Conditions

- a. Model 4 Door Sedan DLX
- b. Annual Production Volume 200,000 vehicles

II. Cost Estimate

Cost Structure

Direct Material Cost	Japan Sourced Parts U.S. Sourced Parts Open Parts ... Japan Sourced ... U.S. Sourced Material Cost for Major Body Panels Other Stamping Parts Paint Cost
Manufacturing Cost	Labor Cost ... Hourly Facility Operation Cost ... Indirect Material ... Utility Cost Depreciation
Administration and Other Cost	Labor Cost ... Salary Tax and Insurance Royalty ... Initial ... Running Interest for Investment and Inventory Start-up Cost

III. Conditions and Procedures for Cost Estimate

1) Direct Materials

a. Parts

- Toyota to propose the Basic Concept for Parts Sourcing Classification and to provide GM with a "Parts List" which specifies the sourcing. (All parts to be classified into three sources by Toyota in the List: Japan, U.S. and Open sources.)
- In the next step, "Open" parts to be decided to be either Japan- or U.S.-sourced based on co-quotation by the parties. (attachment **A**)
- Toyota to submit the price of Japan-sourced parts and GM to submit that of U.S.-sourced parts as of June, 1982.
- The prices shall be used only for the Feasibility Study.

b. Major Body Panels

(Cost of major body panels produced by the JV)

- Toyota to provide GM with Technical Information for the parts and then GM to calculate the cost based on Toyota's information. (attachment **B**)

c. Other Stamping Parts

(Cost of small stamping parts attached to the Major stamping parts. (attachment **C**))

- These parts are to be sourced from Japan and Toyota is to estimate the cost.

d. Paint and Others

(Cost of paint and other indirect materials such as Gasoline, Engine Oil, Transmission Oil, L.L.C., Brake Fluid, etc. (attachment **D**))

- Average of Toyota- and GM-estimated costs to be used for the study.

2) Manufacturing Cost

a. Labor Cost (Hourly)

- Toyota to estimate the number of workers of the JV plant based on comparison study of manpower in Wilmington and Takaoka under the following parameters. (attachment ⑤)

Plant Fremont

Line Rate ... 60 jobs per hour

Shift 2 shifts

- GM to estimate annual working hours and hourly rate of the plant to calculate the cost.

b. Facility Operation Cost

- Toyota to specify the factors included in facility operation cost and then GM to estimate the cost. (attachment ⑥)

c. Depreciation

- Toyota to calculate the cost based on investment cost for modification and addition to the Fremont Plant estimated by the Joint Production Team. (attachment ⑦)

3) Administration and Other Cost

a. Labor Cost (Salary)

- Toyota to estimate the number of workers.
- GM to estimate average salary used for the cost estimate.

b. Tax & Insurance

- GM to estimate the amount of property tax and insurance.

c. Royalty

- 3% of U.S. value added to be paid as Running Royalty.

Each party to respectively estimate production cost of the JV vehicle based on the above Feasibility Study.

Agreed Items of Product Cost

	Cost per unit
Direct Materials	
1. Japan Sourced Parts	\$1,973
2. U.S. Sourced Parts	636
3. Open Parts	
• Sourced to Japan	817
• Sourced to U.S.	458
4. Material Cost for Major Body Panels	137
5. Other Stamping Parts	120
6. Paint, Sealer, Gasoline, Engine Oil, T/M Oil, L.L.C., Brake Fluid	70
 Manufacturing Cost	
1. Labor Cost (Hourly)	454
2. Facility Operation Cost	152
3. Depreciation Amortization - New Facilities	206
 Administration and Other Cost	
1. Labor Cost (Salary)	101
2. Tax	27
3. Royalty	84
4. Other Administrative Cost	20

Cost reduction targets, start-up costs, depreciation amortization relating to existing facilities, and interest costs are not reflected above.

JOINT VENTURE CAR COMPONENTS

Fig. No.	Part Name	Qty.	Japan/ U.S./ Open	Japan	U.S.	Japan	U.S.
				SAVED	SAVED	OPEN	OPEN
1-1	Engine Assy, W/Clutch	1	J	750.00			
1-2	Cleaner Assy, Air W/Element	1	J	23.88			
1-	Bolt, Stud	1	J	INC. BELOW			
1-	Nut, Wing W/Washer	1	J	" "			
1-	Bolt, W/Washer	1	J	" "			
1-	Hose, Air Cleaner	1	J	1.62			
1-	Clamp, Hose	1	J	INC. BELOW			
1-	Hose, Air Cleaner, No. 1	1	J	1.58			
1-	Clamp, Hose	1	J	INC. BELOW			
1-	Clamp, Hose	1	J	" "			
1-	Hose, Air Cleaner, No. 2	1	J	2.50			
1-	Bolt, W/Washer	1	J	INC. BELOW			
1-	Hose, Air Cleaner, No. 3	1	J	3.29			
1-	Nut, Lock	2	J	INC. BELOW			
	BOLT, NUT AND CLAMP			.72			
	VALVE ASSY. THERMOSTATIC			3.25			
	VALVE SWITCH			14.02			
	VALVE ASSY. ELECTRIC			1.54			
	BURD CONTROL						
	HOSE, AIR NO. 1						
2-1	Insulator, Engine Mounting, FR	1	J	3.16			
2-2	Bracket, Engine Mounting, FR	1	J	1.06			
2-3	Insulator, Engine Mounting, LH	1	J	3.82			
2-4	Bracket, Engine Mounting, LH	1	J	1.16			
2-5	Insulator, Engine Mounting, RR	1	J	3.40			
2-6	Bracket, Engine Mounting, RR	1	J	1.05			

JOINT VENTURE CAR COMPONENTS

<u>Fig. No.</u>	<u>Part Name</u>	<u>Qty.</u>	<u>Japan/ U.S./ Open</u>	<u>Japan Switch</u>	<u>U.S. Switch</u>	<u>Japan OPEN</u>	<u>U.S. OPEN</u>		
3-1	Radiator Assy	1	0				25.95	Harrison	
3-2	Support, Radiator	2	0				58	C.E.C.	
3-3	Hose Radiator, No. 1	1	0				1.97	C.E.C.	
3-4	Hose Radiator, No. 2	1	0			1.79			
3-4	Hose, Water Inlet	1	0				.07	C.E.C.	
3-5	Clip	4	J	INC. BELOW					
3-6	Hose, Water By-Pass, No. 1	1	J	" "					
3-6	Pipe, Water By-Pass, No. 2	1	J	2.80					
3-6	Pipe, Water By-Pass, No. 1	1	J	2.16					
3-7	Clamp, Hose	2	J	INC. BELOW					
3-8	Fan Assy, V/Motor	1	0				11.91	DELCO PRODUCTS	
3-	Reservetank Assy, Radiator CLIP, HOSE AND CLAMP	1	0	1.30				1.07	C.E.C.
4-1	Pipe Sub-Assy, Exhaust, FR.	1	0				13.87		
4-2	Gasket, Exhaust Pipe	1	J	INC. ON NEXT PAGE					
4-3	Nut	2	J	" " " "					
4-4	Bolt, Washer Based Head Hex.	2	J	" " " "					
4-5	Gasket, Exhaust Pipe	1	J	" " " "					
4-6	Converter Assy, Monolithic	1	0				122.04		
4-7	Bolt, 0	1	J	INC. ON NEXT PAGE					
4-8	Clamp, Air Suction Pipe	1	J	" " " "					

JOINT VENTURE CAR COMPONENTS

<u>Fig. No.</u>	<u>Part Name</u>	<u>Qty.</u>	<u>Japan/ U.S./ Open</u>	<u>Japan SOURCE</u>	<u>U.S. SOURCE</u>	<u>Japan Open</u>	<u>U.S. Open</u>	<u>SOURCE</u>
4-9	Nut, Lock	2	J	inc. below				
4-10	Pipe, Converter Air Inlet	1	O				1.82	C.E.C.
4-11	Bolt, Flange	1	J	inc. below				
4-12	Clamp	1	J	" "				
4-13	Support Sub-Assy, Cat. Con.	1	J	.95				
4-14	Pipe Assy, Exhaust Center	1	O			7.97		
4-15	Gasket, Exhaust Pipe	1	J	inc. below				
4-16	Bolt	2	J	" "				
4-17	Nut, Lock	2	J	" "				
4-18	Pipe Assy, Exhaust Tail	1	O			14.73		
4-19	Bolt, U	1	J	inc. below				
4-20	Clamp, Pipe	1	J	" "				
4-21	Nut	2	J	" "				
4-22	Bracket, Catalytic Con., RH	1	J	" "				
4-23	Bracket, Catalytic Con., LH	1	J	" "				
4-24	Bracket, Exht. Pipe Sup. No. 1	1	J	" "				
4-25	Bracket, Exht. Pipe Sup. No. 2	1	J	" "				
4-26	Bracket, Exht. Pipe Sup. No. 4	1	J	" "				
4-27	Support, Exhaust Pipe, No. 4	4	J	" "				
4-28	Ring, O	2	J	" "				
GASKET, NUT, BOLT, CLAMP.								
BRACKET, SUPPORT AND RING								6.02

METAL STAMPINGS TECHNICAL INFORMATION
36 MAJOR PANELS PRODUCED IN THE JOINT VENTURE STAMPING PLANT

PARTS LIST		PART NAME	MATERIAL	T (mm)	COIL WIDTH X LENGTH (mm)	NP	Material Cost /vehicle
PAGE	FIG. NO						
30	1	PANEL, HOOD	(AS35RB)	0.8	1450 x 1210	1	7.67
	1	PANEL, HOOD INNER	SPCC	0.65	1450 x 1230	1	5.17
	6	PANEL, FRONT FENDER RH	(ASP 2)	0.7	1325 x 730	1	4.07
	7	PANEL, FRONT FENDER LH	do.	do.	do.	do.	4.07
32	2	PANEL, DASH	SPCC	0.8	1450 x 860	1	4.26
33	1	MEMBER, FRONT SIDE RH	(ASP 1)	1.6	1000 x 1010	2	4.67
	2	MEMBER, FRONT SIDE LH	do.	do.	do.	do.	4.67
	3	MEMBER, RR FLOOR SIDE FRONT RH	SAPH45	2.0	1000 x 592	2	2.98
	4	MEMBER, RR FLOOR SIDE FRONT LH	do.	do.	do.	do.	2.98
	3	MEMBER, RR FLOOR SIDE REAR RH	SAPH45	1.2	675 x 480	2	1.02
	4	MEMBER, RR FLOOR SIDE REAR LH	do.	do.	do.	do.	1.02
34	4	PANEL, COWL TOP OUTER	SPCC	0.7	900 x 1560	2	2.21
	4	PANEL, COWL TOP INNER	(SPMY)	0.7	1000 x 1650	2	2.65
35	7	PAN, FRONT FLOOR	SPCC	0.75	1450 x 1370	1	6.36

Note: T = Plate Thickness

NP = Number of Products taken out of the material

METAL STAMPINGS TECHNICAL INFORMATION
36 MAJOR PANELS PRODUCED IN THE JOINT VENTURE STAMPING PLANT

PARTS LIST		PART NAME	MATERIAL	T (mm)	COIL WIDTH X LENGTH (mm)	NP	Material Cost /vehicle
PAGE	FIG. NO.						
35	11	PAN, REAR FLOOR	(SPMY)	0.7	1450 x 1800	1	8.35
36	15	PANEL, ROCKER OUTER RH	(ASP 1)	1.0	1050 x 1830	3	3.81
	16	PAENL, ROCKER OUTER LH	do.	do.	do.	do.	3.81
	17	PANEL, QUARTER RH	(ASP 2)	0.75	1450 x 2100	2	6.80
	18	PANEL, QUARTER LH	(ASP 3)	0.75	1450 x 2100	2	6.80
38	1	PANEL, ROOF	SPCC	0.85	1275 x 1585	1	7.56
39	1	PANEL, LUGGAGE COMPARTMENT OUTER	(SAFC35 RB)	0.75	1450 x 1000	1	4.90
	1	PANEL, LUGGAGE COMPARTMENT INNER	(SPMY)	0.7	1500 x 1000	1	4.80
40	1	PANEL, FRONT DOOR INSIDE RH	SPCC	0.7	700 x 1160	1	2.54
	2	PANEL, FRONT DOOR INSIDE LH	do.	do.	do.	do.	2.54
	1	BEAM, FR DOOR SIDE IMPACT PROTECTION	APFC60	1.4	975 x 450	1	2.91
	2	do.	do.	do.	do.	do.	2.91
	1	PANEL, FRONT DOOR OUTSIDE RH	(AS35RB)	0.7	675 x 1090	1	2.71
	2	PANEL, FRONT DOOR OUTSIDE LH	do.	do.	do.	do.	2.71

Note: T = Plate Thickness

NP = Number of Products taken out of the material

METAL STAMPINGS TECHNICAL INFORMATION
 36 MAJOR PANELS PRODUCED IN THE JOINT VENTURE STAMPING PLANT

PARTS LIST		PART NAME	MATERIAL	T (mm)	COIL WIDTH X LENGTH (mm)	NP	Material Cost /vehicle
PAGE	FIG. NO.						
43	1	PANEL, RR DOOR INSIDE RH	SPCC	0.7	725 x 1050	1	2.43
	2	PANEL, RR DOOR INSIDE LH	do.	do.	do.	do.	2.43
	1	BEAM, RR DOOR SIDE IMPACT PROTECTION	APFC60	1.2	980 x 691	2	1.92
	2	do.	do.	do.	do.	do.	1.92
	1	PANEL RR DOOR OUTSIDE RH	(AS35RB)	0.7	700 x 962	1	2.54
	2	do.	do.	do.	do.	do.	2.54
48	2	TANK, FUEL, UPPER	(TMY)	0.8	825 x 930	1	3.31
	2	TANK, FUEL, POWER	do.	1.0	700 x 940	1	3.55
Total							137.59

Note: T = Plate Thickness
 NP = Number of Products taken out of the material

Page	Fig. No.	Sub-Assy	Main Part Name (Total : 36 Parts)	Other Parts
30	1	Hood Sub-Assy	Panel, Hood Panel, Hood Inner	Hook Sub-Assy, Hood Lock Other Small Parts
	6	Fender Sub-Assy, FR RH	Panel, FR Fender RH	Extension FR Fender RR R/F RH Other Small Parts
	7	Fender Sub-Assy, FR LH	Panel, FR Fender LH	Extension FR Fender RR R/F LH Other Small Parts
32	2	Panel Sub-Assy, Dash	Panel, Dash	Sheet Dash Panel Insulator, No.1 Other Small Parts
33	1	Member Sub-Assy, FR Side RH	Member, FR Side RH	Plate FR Side Member FR RH Plate FR Side Member RR RH Brace Lwr Arm Bracket RH, Reinforcement FR Side Member No.2 RH Other Small Parts
	2	Member Sub-Assy, FR Side LH	Member, FR Side LH	Support Battery Carrier Plate FR Side Member FR LH Plate FR Side Member RR LH Brace Lwr Arm Bracket LH Reinforcement FR Side Member No.2 LH Other Small Parts

Page	Fig. No.	Sub-Assy	Main Part Name	Other Parts
33	3	Member Sub-Assy, RR Floor Side RH	Member, RR Floor Side, FR RH Member, RR Floor Side RR RH	Bracket RR Strut Bar RH Reinforcement Belt Anchor No.1 RH Other Small Parts
	4	Member Sub-Assy, RR Floor Side LH	Member, RR Floor Side, FR LH Member, RR Floor Side, RR LH	Bracket RR Strut Bar LH Reinforcement Belt Anchor No.1 LH Other Small Parts
34	4	Panel Assy, Cowl Top	Panel, Cowl Top Outer	Stopper Sub-Assy, Hood, RH
			Panel, Cowl Top Inner	Reinforcement Sub-Assy, Hood Lock MT Panel, Cowl Top Side RH Panel, Cowl Top Side Inner RH Panel, Cowl Top Side LH Panel, Cowl Top Side Inner LH Other Small Parts
35	7	Pan, FR Floor		
	11	Pan Sub-Assy, RR Floor	Pan, RR Floor	Extension RR Floor Pan RH Extension RR Floor Pan LH Other Small Parts

Page	Fig No.	Sub-Assy	Main Part Name	Other Parts
36	15	Panel Sub-Assy, Rocker, Outer RH	Panel, Rocker, Outer RH	Reinforcement Rocker Panel RH Other Small Parts
	16	Panel Sub-Assy, Rocker, Outer LH	Panel, Rocker, Outer LH	Reinforcement Rocker Panel LH Other Small Parts
	17	Panel Sub-Assy, Quarter RH	Panel, Quarter RH	Duct Sub-Assy, Quarter Vent RH Support RR Bumper Side RH Other Small Parts
	18	Panel Sub-Assy, Quarter LH	Panel, Quarter LH	Duct Sub-Assy, Quarter Vent LH Support RR Bumper Side LH Other Small Parts
38	1	Panel Sub-Assy, Roof	Panel, Roof	Panel Windshield Header Inner Frame Back Window Upr Other Small Parts
39	1	Panel Sub-Assy, Luggage Compartment, Door	Panel, Luggage Compartment, Door Outer Panel, Luggage Compartment, Door Inner	Reinforcement Luggage Compartment Door Other Small Parts
40	1	Panel Sub-Assy, FR Door RH	Panel, FR Door, Inside RH Beam, FR Door Side Impact Protection Panel, FR Door, Outside RH	Frame Sub-Assy, FR Door Window RH Panel FR Door Hinge Side RH Other Small Parts

Page	Fig. No.	Sub-Assy	Main Part Name	Other Parts
40	2	Panel Sub-Assy, FR Door LH	Panel, FR Door Inside LH Beam, FR Door Side-Impact Protection Panel, FR Door Outside LH	Frame Sub-Assy, FR Door Window LH Panel FR Door Hinge Side LH Other Small Parts
43	1	Panel Sub-Assy, RR Door RH	Panel, RR Door Inside RH Beam RR Door Side-Impact Protection RH Panel, RR Door Outside RH	Frame Sub-Assy, RR Door Window RH Panel RR Door Hinge Side RH Other Small Parts
	2	Panel Sub-Assy, RR Door LH	Panel, RR Door Inside LH Beam, RR Door Side-Impact Protection LH Panel, RR Door Outside LH	Frame Sub-Assy, RR Door Window LH Panel RR Door Hinge Side LH Other Small Parts
48	2	Tank Sub-Assy, Fuel	Tank, Fuel Upr Tank, Fuel Lwr	Tube Sub-Assy, Fuel Tank Breather Retainer Fuel Gage Other Small Parts
Total				\$120

Paint Cost and Indirect Materials Cost

(specifiable utilization rate for a vehicle)

		Cost per vehicle	
		Toyota	GM
<u>PAINING MATERIALS</u>			
PHOSPHATE	(1) DEGREASING	.22	
	(2) PHOSPHATE	.68	
PRIMER	(1) ELPO(ED)	8.35	
	(2) SOLVENT(thinner)		
MID COAT	(1) PRIMER-SURFACER	3.23	
	(2) SOLVENT(thinner)	1.38	
TOP COAT	(1) 50% HI-SOLID ENAMEL (note 1)	30.64	
(color:red)	(2) SOLVENT(thinner)		
CHIP RESISTANT COATING	(1) VINYL CHLORIDE PLASTISOL (underfloor, wheel-house)	.80	
	(2) POLYESTER RESIN COATING MATERIAL (rocker panel)		
		45.30	60.29
<u>INDIRECT MATERIALS (ASSEMBLY)</u>			
GASOLINE		1.80	20.02
ENGINE OIL (10W-30-SEQ)		2.22	
TRANSMISSION OIL (JWS 2318)		1.53	
LLC 50%		2.19	
BRAKE FLUID		.52	
SEALER		7.00	
Total		60.56	80.31

note 1 : Unit prices for the paint samples which Mr. Nakai asked you on July 18 to send to his office

Average
\$70.44

MANNING & LABOR COST ESTIMATION

payroll related (incl. overtime) & benefits

		Manpower		Ave.Hrly. Rate (monthly slry.)	Hrs./yr.	
		(T)	(G)			
DIRECT	HOURLY	Manufacturing Dept.			} \$18.71	1,880 ^{hs}
		Workers: Stamping	80			
		Body	480			
		Painting	340			
		Assembly	820			
		Transportation:				
		Stamping	10			
		Body	100			
		Painting	-			
		Assembly	224			
		Inspection:				
		Stamping	6			
		Body	40			
		Painting	12			
Assembly	90					
Maintenance:						
Stamping	50					
Body	100					
Painting	56					
Assembly	34					
INDIRECT		Inspection Dept.	50		}	
		Power Plant & Facility Maintenance	90			
		HOURLY TOTAL	2,582			
INDIRECT	SALARY	Manager & Supervisor	20		} (\$4,010)	/
		Manufacturing Dept.	62			
		Inspection Dept.	30			
		Administration (A)	106			
		Administration (B)	200			
		SALARY TOTAL	418			
GRAND TOTAL		3,000				

CONTENTS: Administration (A)..... Safety & Health, Scheduling, Quality Control, Material (Mfg. related)
 Administration (B)..... Personnel, Financial, Purchasing, Data Processing, Car Distribution & Scheduling, Public Information, etc.
 Inspection Dept. Engineering, Inspection & Audit
 Manpower of (T)..... Estimated manpower based on the proposed data which Mr. Nakai had handed to your production team on August 4 and 5.

REQUEST FOR DATA OFFERING OF FACILITY OPERATION COST

For the purpose of cost estimation of a JV vehicle, please sum up all, (but labor cost, depreciation expense, tax and insurance), of the facility operation cost of the Fremont plant.

If you have any items which you can hardly classify them to any of Energy, Indirect nor Maintenance cost, please add them up to the column of "OTHERS" with identifying its names.

PREMISES

PLANT: Fremont

PRODUCTION VOLUME: 200,000 JOBS/YEAR

PRODUCT: TVX

DATA: Estimated data of Fremont plant in annual base

CONTENTS OF EACH COST: Refer to the following

COST ELEMENTS	PROCESS	CONTENTS
ENERGY COST	Stamping Body Painting Assembly	electricity, natural gas, water
INDIRECT MATERIAL COST	Stamping Body Painting Assembly	processing oil, detergent oil, lubricating oil, hydraulic oil, gloves, assembly tools(consumable), etc. welding electrode tip, welding rod, welding wire, solder, adhesive, carbon dioxide, argon gas, gloves, etc. butan gas, kerosine, cleaning thinner, chemicals, maintenance expense for hangers, etc. adhesive, gloves, assembly tools(consumable), etc.
MAINTENANCE COST	Stamping Body Painting Assembly	expense for periodic inspection, preventive maintenance, overhaul (1) payment for subcontract workers (2) facility parts cost, if jobs are done by company workers
OTHERS		

* Please do not include materials such as PAINT, GASOLINE, ENGINE OIL, etc. which we had already asked you to offer.

FACILITY OPERATION COSTS

	<u>Stamping</u>	<u>Assembly</u>	<u>Total</u>		
	<u>\$/Per Unit</u>			Fix-	Vari-
				ed	able
<u>Utility Costs</u>					
Electricity		20			
Gas		17			
Water		6			
Other					
Total Utilities	<u>3.84</u>	<u>43</u>	<u>46.84</u>	<u>5</u>	<u>38</u>
<u>Indirect Material</u>					
Supplies	0.80	12	12.96	-	12
Expense Tools	0.16				
Maintenance	2.28	30	32.28	3	27
Scrap	<u>1.41</u>	<u>12</u>	<u>13.41</u>		<u>12</u>
Total Indirect Material	<u>4.65</u>	<u>54</u>	<u>58.65</u>	<u>3</u>	<u>51</u>
<u>Other</u>					
Housekeeping	2.18	23		2	21
Data Processing	0.27	21		21	
Taxes					
Insurance	9.00	18	27	18	
Other					
Total Other	<u>11.45</u>	<u>62</u>	<u>73.45</u>	<u>41</u>	<u>21</u>
TOTAL	<u><u>19.94</u></u>	<u><u>159</u></u>	<u><u>178.94</u></u>	<u>49</u>	<u>110</u>
Excl. Taxes, Insurance, Other (178.94 - 27)			151.94	159	

INVESTMENT IN THE JOINT VENTURE PLANT (FOR THE DEPRECIATION COST ESTIMATION)

The following investments are the result of our last discussion on August 4 and 5.

	STAMPING			BODY			PAINTING			ASSEMBLY			TOTAL	
	INVEST.	UL	DEP. COST /VEHICLE	INVEST.	UL	DEP. COST /VEHICLE	INVEST.	UL	DEP. COST /VEHICLE	INVEST.	UL	DEP. COST /VEHICLE	INVEST.	DEP. COST /VEHICLE
BUILDING	\$1,000	YR. 30	\$ 5.51										\$1,000	\$
ATTACHED STRUCTURE	9,876	15	3.29										9,876	3.29
MACHINES	64,476	7	46.05	62,429	8	39.01	46,133	8	28.83	19,005	8	11.88	192,043	125.77
TOOLS (note 2)	15,120	4	18.90	41,804	4	\$2.26							56,924	71.16
TOTAL	122,529		73.75	104,233		91.27	46,133		28.83	19,005		11.88	291,900	205.73

note 1 ----- utilities, cranes, scrap-system
 note 2 ----- (stamping) die, checking fixtures, try-out
 (body) multi-spot, small-sub-assembly-line, checking fixtures, try-out
 - UL stands for USEFUL LIFE.

INDEX

The ten best-selling models among the sub-compacts will be the models which constitute the market-basket index. The models shall be revised at the start of every model year on the basis of model volume in the U.S.A, using the latest R. L. Polk registration data for the previous 12 months.

For reference, the ten best-selling models in 1982 were as follows:

Chevrolet Cavalier	Mercury Lynx
Chevrolet Chevette	Nissan Sentra
Ford Escort	Subaru DL
Honda Accord	Toyota Corolla
Honda Civic	Volkswagen Rabbit

The "Index" shall be the weighted average rate of wholesale price fluctuations of these models from the prior model year to the current model year, weighting the Toyota Corolla at 30% versus 70% for all other comparable models combined without regard of model volumes in the U.S.A.

For this purpose, the wholesale price shall be adjusted by eliminating the value of equipment changes and product improvements in comparison with the previous year's models. To this end, the JV Company will evaluate and determine the value of equipment changes and product improvements, taking into account the opinions of Toyota and GM.

When competitive models are replaced by new models, or additional competitive models are brought in, neither the old model nor the new or additional model will be included in the calculation of the Index for the model year when such model changes take place. It will, however, be included in the calculation of the Index for subsequent model years.

第3次修正 2 文言変更

AMENDMENT
TO
VEHICLE SUPPLY AGREEMENT

by and among

NEW UNITED MOTOR MANUFACTURING, INC.,

GENERAL MOTORS CORPORATION

and

TOYOTA MOTOR CORPORATION

AMENDMENT
TO
VEHICLE SUPPLY AGREEMENT

This Amendment is entered into this 31st day of March, 1986 among New United Motor Manufacturing, Inc. ("JV Company"), General Motors Corporation ("GM") and Toyota Motor Corporation ("Toyota").

WHEREAS, the parties executed the Vehicle Supply Agreement on February 21, 1984; and

WHEREAS, the parties now wish to make the appropriate amendments to the Vehicle Supply Agreement;

NOW, THEREFORE, the parties hereto agree as follows:

1, Addition in Section 4.1: The following sub-section shall be and is hereby added in Section 4.1 of the Vehicle Supply Agreement:

"(d) The provisions of this Section 4.1 and any individual sales contract made under Section 4.2 hereof shall be subject to and within the limitation of the relevant provisions of the Agreement on Manufacture of Toyota-Specific Vehicles, dated March 31, 1986, among the parties hereto."

2. Amendment to Section 4.4: Section 4.4 of the Vehicle Supply Agreement shall be and is hereby amended to read in its entirety as follows:

"4.4. Delivery of Products: The Products shall be delivered to GM by the physical delivery of the same outside the Foreign Trade Subzone of the JV Company."

3. Amendment to Section 4.5: Section 4.5 of the Vehicle Supply Agreement shall be and is hereby amended to read in its entirety as follows:

"4.5. Acceptance of Products: (a) GM shall, immediately after tendering of the Products by the JV Company, conduct visual and operational inspections in the Foreign Trade Subzone of the JV Company to determine whether the Products conform to the applicable specifications and inspection standards as separately agreed upon by the parties pursuant to Section 3.4 hereof.

(b) GM shall accept all the Products which shall have passed said inspections. GM shall provide a written notice in a form designated by the JV Company for those Products which shall have failed said inspection. This written notice shall specify the reason for such failure in reasonable detail. These Products shall be repaired by the JV Company at no charge to GM.

(c) The Products which have passed said inspections and have been moved to a point outside the Foreign Trade Subzone through the gate of the shipping canopy located just west of the Marshalling Area identified in Section 5.1 of the Shareholders' Agreement shall be deemed to have been accepted by GM.

(d) The JV Company shall at its cost repair or correct any discrepancies in the Products attributable to the JV Company if (i) they are discovered while the Products are within the confines of the Marshalling Area, and (ii) they are notified to the JV Company within a three business day period after acceptance of the Products."

4. Amendment to Section 4.7: Sub-sections 4.7(a) and 4.7(b) of the Vehicle Supply Agreement shall be and are hereby deleted and the following sub-section shall be and is hereby substituted for said two sub-sections:

"(a) The payment for the Products by GM to the JV Company shall be made as follows: Payment for the Products delivered prior to the commencement of second shift on day one shall be made on business day three, and payment for the Products delivered after the commencement of second shift on such day one and prior to the commencement of second shift on day two shall be made on business day four."

5. Addition to New Section 6.4: The following section shall be and is hereby added after Section 6.3 of the Vehicle Supply Agreement:

"6.4. Nondisclosure of Information: The JV Company and GM agree that any confidential information related to product planning, prices of the Products, systems and planning for vehicle ordering, distribution and option selections, and quality related information furnished by GM to the JV Company shall not be disclosed by the JV Company to Toyota or any third party, except that the JV Company may disclose such information to Toyota only when necessary for the management and operation of the JV Company, and in accordance with the Order issued by the Federal Trade Commission, In the Matter of General Motors Corporation, et.al., Docket No. C-3132."

第4次
修正
附
(28)

6. Other Terms: It is understood that, except as expressly amended hereby, the Vehicle Supply Agreement shall remain unchanged.

The parties have executed this Amendment on the date first above written.

NEW UNITED MOTOR MANUFACTURING, INC.

By Tatsuro Toyoda
Tatsuro Toyoda, President

GENERAL MOTORS CORPORATION

By J. R. Edman
J. R. Edman, Vice President
and Group Executive,
Finance Group

TOYOTA MOTOR CORPORATION

By Hiroshi Okuda
Hiroshi Okuda, Director

SECOND AMENDMENT TO
VEHICLE SUPPLY AGREEMENT

TOYOTA MOTOR CORPORATION ("Toyota"), a corporation organized and existing under the laws of Japan, NEW UNITED MOTOR MANUFACTURING, INC. (the "JV Company"), a close corporation organized and existing under the laws of the State of California, and GENERAL MOTORS CORPORATION ("GM"), a corporation organized and existing under the laws of the State of Delaware, hereby agree to amend the Vehicle Supply Agreement, dated February 21, 1984, (the "Agreement") and the Amendment to Vehicle Supply Agreement, dated March 31, 1986, (the "First Amendment") as follows:

1. Article IV of the Agreement, entitled "Supply and Purchase Obligations and Arrangements," as amended in the First Amendment, is hereby further amended by adding the following paragraph:

"4.13 CAFE Regulations:

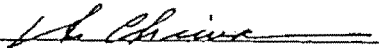
The obligations of the parties with respect to U.S. fuel economy laws are as stated in the Letter of Understanding dated April 24, 1989 among Toyota, the JV Company and GM."


2. This Second Amendment shall be effective as of April 24, 1989.

IN WITNESS WHEREOF, the parties have caused three copies of this Second Amendment to be signed by their duly authorized representatives.

TOYOTA MOTOR CORPORATION

GENERAL MOTORS CORPORATION

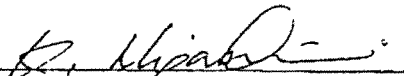
By: 

By: 

Title: Director

Title: Assistant Treasurer

NEW UNITED MOTOR MANUFACTURING, INC.

By: 

Title: President

**THIRD AMENDMENT TO
VEHICLE SUPPLY AGREEMENT**

TOYOTA MOTOR CORPORATION ("Toyota"), a corporation organized and existing under the laws of Japan, NEW UNITED MOTOR MANUFACTURING, INC. (the "JV Company"), a close corporation organized and existing under the laws of the State of California, and GENERAL MOTORS CORPORATION ("GM"), a corporation organized and existing under the laws of the State of Delaware, hereby agree to amend the Vehicle Supply Agreement, dated February 21, 1984, (the "Agreement"), the Amendment to Vehicle Supply Agreement, dated March 31, 1986, and the Second Amendment to Vehicle Supply Agreement, dated April 24, 1989, as follows:

1. Article 4.3(b) is hereby deleted and substituted with the following paragraph:

"The selling price for the Vehicles shall be revised and determined for each model year. The new selling price for the Vehicles in each new model year shall be determined by applying to the selling price for the previous model year the Index set forth in Annex B hereto."

2. Annex B of the Agreement is hereby deleted and substituted with the following:

"Annex B

Index

As a general principle, the ten best-selling models among the subcompacts will be the models which constitute the marketbasket index. At the beginning of a new model cycle for the JV car, the parties may agree to change the models in the marketbasket to include other subcompacts or compacts. Unless there are exceptional circumstances, the models so included shall remain in the marketbasket throughout the model cycle of the JV car. From time to time, upon mutual agreement, the parties will review the components of the marketbasket formula to ensure that the formula reflects current market conditions.

For reference, the ten best-selling subcompact models in 1992 were as follows:

Cavalier	Mustang
Civic	Probe
Corolla	Sentra
Escort	Sundance
Excel	Tercel

The 'Index' shall be the weighted average rate of wholesale price fluctuations of these models from the prior model year to the current model year, weighing the Toyota Corolla at 30% versus 70% for all other comparable models combined without regard of model volumes in the U.S.A.

For this purpose, the wholesale price shall be adjusted by eliminating the value of equipment changes and product improvements in comparison with the previous year's models. To this end, the JV Company will evaluate and determine the value of equipment changes and product improvements, taking into account the opinions of Toyota and GM. Incentives will not be included in the calculation.

When competitive models are replaced by new models, or additional competitive models are brought in, neither the old model nor the new or additional model will be included in the calculation of the Index for the model year when such model changes take place. It will, however, be included in the calculation of the Index for subsequent model years."

3. This Third Amendment shall be effective as of August 26, 1992.

IN WITNESS WHEREOF, the parties have caused three copies of this Third Amendment to be signed by their duly authorized representatives.


TOYOTA MOTOR CORPORATION

GENERAL MOTORS CORPORATION

By:



K. Kato
Managing Director

By:


M. T. Hogan
Executive Director of
Planning, North American
Operations

NEW UNITED MOTOR MANUFACTURING, INC.

By:


O. Kimura
President

67

FOURTH AMENDMENT TO
VEHICLE SUPPLY AGREEMENT

NEW UNITED MOTOR MANUFACTURING, INC., a corporation organized and existing under the laws of the State of California ("JV Company"), GENERAL MOTOR CORPORATION, a corporation organized and existing under the laws of the State of Delaware ("GM"), and TOYOTA MOTOR CORPORATION, a corporation organized and existing under the laws of Japan ("Toyota"), hereby agree to amend the VEHICLE SUPPLY AGREEMENT dated February 21, 1984, as amended on March 31, 1986, April 24, 1989 and August 26, 1992 ("Agreement"), as follows:

1. Section 2.1. of the Agreement, entitled "Agreement Term," is hereby deleted and replaced by the following Section:

"2.1. Agreement Term: This Agreement shall become binding upon its execution by each of the parties hereto and shall remain in full force and effect until the dissolution of JV Company."
2. Section 3.2 of the Agreement, entitled "The Products" is hereby deleted and replaced by the following Section:

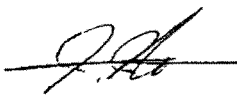
"3.2 The Products: The products to be supplied and purchased hereunder shall be certain automotive vehicles manufactured for sale to GM by the JV Company under license from Toyota which are variations of Toyota's front-wheel drive "Sprinter" ("Vehicles" or "GM-Specific Vehicles") and optional equipment therefor manufactured or procured by the JV Company (the "Optional Equipment"). The Vehicles and the Optional Equipment (collectively, the "Products") will be more particularly described in technical advance information (the "Technical Advance Information") to be furnished from time to time by the JV Company to GM. Any additional automotive vehicle manufactured for sale to GM by the JV Company under license from Toyota will be the subject of a separate agreement between GM, Toyota and the JV Company."

3. This Amendment shall be effective as of February 1, 1997.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed in duplicate by their duly authorized representatives.

NEW UNITED MOTOR
MANUFACTURING, INC.


GENERAL MOTORS CORPORATION

By: 

Iwao Itoh
President

By: _____
Paul W. Schmidt
Executive in Charge
NAO Finance

TOYOTA MOTOR CORPORATION

By: 

Koichiro Noguchi
Director

3. This Amendment shall be effective as of February 1, 1997.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed in duplicate by their duly authorized representatives.

NEW UNITED MOTOR
MANUFACTURING, INC.

GENERAL MOTORS CORPORATION

By: _____
Iwao Itoh
President

By: *P. W. Schmidt*
Paul W. Schmidt
Executive in Charge
NAO Finance

TOYOTA MOTOR CORPORATION

By: _____
Koichiro Noguchi
Director

EXHIBIT “B”

Memorandum of Understanding

This Memorandum of Understanding, dated as of March 22, 2006, sets forth the basic understanding among Toyota Motor Corporation ("TMC"), General Motors Corporation ("GMC") and New United Motor Manufacturing, Inc. ("NUMMI") (collectively, the "Parties") regarding the production and pricing of new car models to be produced at NUMMI from January 2008 to December 2012 (collectively, the "Products"), to help ensure that all Parties remain viable.

1. Production Volume of the Products:

- (1) The Parties have agreed that the Products consist of Corolla for TMC and Vibe for GMC. The Parties have further agreed that NUMMI will start production of new models of Corolla and Vibe in January 2008 (collectively, the "SOP").
- (2) The Parties understand the importance of realizing annual production volume of 230,000 units of the Products. Both TMC and GMC will make best effort to maximize the production volume during the model life in consideration of maintaining the stability of operations at NUMMI.
- (3) The Parties understand that, assuming that 225,000 units of the Products are scheduled to be produced in a year, the Products will be allocated between TMC and GMC under the following formula, where each of TMC and GMC will have a right to, but not an obligation to, purchase the Products from NUMMI.

TMC Corolla	at least 160,000 (71.11%)
GMC Vibe	at least 65,000 (28.89%)

- (4) TMC recognizes that irrespective of the planned or actual production volume of the Product in 2008, GMC desires to have 72,000 units of Vibe allocated to GMC, under the following reasons:
 - GMC is committing extensive marketing resources to maximize the opportunity for a successful launch of Vibe in order to maximize the targeted volume, and
 - NUMMI represents the single plant manufacturing Vibe for GMC.
- (5) The Parties agree that, each fall, they will decide the planned production volume of the Products at NUMMI for the subsequent three calendar years and that, each spring they will review and modify such planned production volume if appropriate. In the event that it is decided among the Parties that NUMMI's planned production volume of the Products is not 225,000 units, then that planned production volume will be allocated proportionately between TMC and GMC based on the allocation formula mentioned in paragraph (3) above. However, a final allocation plan will be established that is mutually agreeable to the Parties, consistent with the spirit of the Joint Venture.

2. Transfer Pricing of the Products

(1) NUMMI's Contribution Margin

The Parties recognize the importance of adequate contribution margin to support NUMMI's viability. The Parties agree to set the weighted average amount of NUMMI's initial contribution margin of the Products at \$2,368 per vehicle, based on the annual production volume of 225,000 units of the Products, and other assumptions mutually agreed among the Parties as of March 2006.

The Parties understand that NUMMI will make its best efforts to achieve the \$100 per vehicle uncommitted stretch target cost reduction (reflected in contribution margin of \$2,368 per vehicle), either prior to or after the SOP, based on initiatives not yet identified. The Parties will periodically review NUMMI's progress related to this cost reduction

stretch target and determine what additional steps, if any, are required among the Parties prior to the SOP. Any shortfall in NUMMI's cost reduction efforts, up to \$100 per vehicle, will be shared equally by GMC and TMC, following discussion and agreement by the Parties. It is recognized that after the SOP, reductions in domestic material and material related variable costs (i.e., the annual price review) for producing the Products will be retained by NUMMI in the form of increased contribution margin.

(2) Vibe Transfer Pricing

GMC and NUMMI agree that the initial transfer price of each trim level and each option for the 2009 Vibe shall be based on the annual production volume of 65,000 units of Vibe and the specifications as of March 2006, and are indicated in the schedule attached hereto.

If vehicle contents or available options of the Vibe are changed in the future, the Parties agree to discuss and agree upon the transfer price impact of such changes.

(3) Corolla Transfer Pricing

TMC and NUMMI agree that after adjusting for specification changes from Vibe they will determine the initial transfer prices of Corolla from NUMMI to TMC or its designated marketing unit so that the weighted average amount of NUMMI's contribution margin for Corolla shall not be less than that of Vibe.

3. Transfer Price Adjustment Mechanism

- (1) The Parties have agreed that the market basket formula as the annual adjustment method of transfer prices of Vibe for each model year remains suspended. The Parties understand that substantial changes in the market conditions make the market basket formula inconsistent with the continued viability of NUMMI and the profitability of the sales of the Products. Notwithstanding the forgoing, the Parties agree that they will, from time to time, discuss to adopt an annual adjustment method (including the market basket formula) to ensure the Parties can continue viable business.
- (2) TMC and NUMMI agree that the annual adjustment of transfer price of Corolla will be based on the result of Vibe's method.

4. Product Changes

It is understood that over the product lifecycle, product enhancements will be made. All changes of Vibe's specifications which are visible to the customer, and/or which affect vehicle performance in such a manner that would be apparent to the customer, must be discussed with estimated transfer price changes and agreed upon among the Parties prior to determination of implementation. Final transfer price will be negotiated prior to implementation.

5. GM Design Parts

There are several parts which GMC has been assigned engineering and design responsibility. The Parties agree that those particular parts will be out of scope of the royalty to TMC and that GMC, NUMMI and TMC will collectively identify and review its transfer price to GMC. TMC, NUMMI and GMC acknowledge that such agreement has been already reflected in the transfer price indicated in the schedule attached hereto.

6. Model Life of Vibe and Corolla

The Parties agree that the expected model life of Vibe and Corolla shall run from January 2008 through December 2012. The Parties agree that future consideration and discussion will take place regarding the potential for extending the model life of the Products beyond December 2012. Should the need arise to lengthen or shorten the expected model life, the Parties will discuss and determine countermeasures. Expected mid minor model change of Vibe will take place commencing with the 2011 model. As for additional minor model changes to the Products, if any, the timing of them may be made as separately agreed upon among the Parties.


7. Annual Review

The Parties understand that changes in the market conditions for the Products might make the contents described in this Memorandum of Understanding inconsistent with the continued viability of NUMMI and the profitability on sales of the Products. Therefore, the Parties agree that they will annually review all the contents described herein to ensure that NUMMI will remain viable, and that the results from NUMMI's operations continue to be acceptable for TMC and GMC.

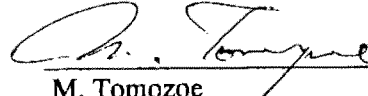
IN WITNESS WHEREOF, the Parties through their authorized representatives have executed this Memorandum of Understanding as of the date first above written.

General Motors Corporation

Toyota Motor Corporation



T. Clarke

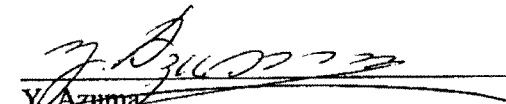


M. Tomozoe

Date 3/28/06

Date 3-15-2006

New United Motor Manufacturing, Inc.



Y. Azuma

Date 3-17-06

TRANSFER PRICING VIBE 162L

Category	Katashiki	Grade	Price	ZZE142L BHMNKA USA BASE 1.8L 5MT	AZE141L BHMNKA USA BASE 2.4L 5MT	AZE141L BHPNKA USA AWD 4A/T	AZE144L BHPNKA USA AWD 4A/T	AZE146L BHMNKA USA GT 5MT	AZE146L BHPNKA USA GT 4A/T	ZZE142L BHMNKA CAN BASE 1.8L 5MT	AZE141L BHMNKA CAN BASE 2.4L 5MT	AZE141L BHPNKA CAN BASE 2.4L 4A/T	AZE144L BHPNKA CAN AWD 4A/T	AZE146L BHMNKA CAN GT 5MT	AZE146L BHPNKA CAN GT 4A/T
BASE 1.8L 5MT			10,725.00	1	1	1	1	1	1	1	1	1	1	1	1
VOLUME CHANGE ADJUSTMENT			32.00	1	1	1	1	1	1	1	1	1	1	1	1
FLOOR MAT PRICE ADJUSTMENT			-2.10	1	1	1	1	1	1	1	1	1	1	1	1
WHEEL CAP PRICE ADJUSTMENT			-1.38	1	1	1	1	1	1	1	1	1	1	1	1
4A/T			548.00	1	1	1	1	1	1	1	1	1	1	1	1
2.4L ENGINE			275.00	1	1	1	1	1	1	1	1	1	1	1	1
FOLD FLAT FRONT SEAT & TABLE			50.00	1	1	1	1	1	1	1	1	1	1	1	1
AWD			950.00	1	1	1	1	1	1	1	1	1	1	1	1
GT MT see below			1,032.00												
GT AT see below			1,071.00												
ENGINE BLOCK HEATER			20.88												
WIND SHIELD MOLDING (Cold Area Pkg)			0.00												
CRUISE CONTROL			137.00												
215/45R17 TIRE & 7J ALUMINIUM WHEEL			337.82												
ROOF RAIL			132.00												
SUN ROOF & MOON ROOF			461.57												
ANTI-THEFT SYSTEM (ALARM + IMMOBILIZER)			139.00												
ANTI-THEFT SYSTEM (ALARM)			92.00												
IMMOBILIZER			38.70												
POWER DOOR LOCK			135.00												
POWER DOOR LOCK SHIFT CONNECTED			139.20												
WIRELESS DOOR LOCK			70.00												
POWER WINDOW			198.00												
VARIABLE INTERMITTENT WIPER			9.00												
FRONT FOG & DRIVING LAMP			86.00												
PWR OUTSIDE REAR VIEW MIRROR			20.00												
AIR CONDITIONER & CLEAN AIR FILTER			552.00												
SMOKERS PACKAGE			4.75												
FLOOR BOARD WITH STORAGE			1.00												
SIDE & CURTAIN SHIELD AIR BAG			301.00												
AUDIO MP3			20.00												
PREMIUM AUDIO MP3 7SP			364.00												
LEATHER STEERING WHEEL w/AUDIO CONTROL			223.00												
XM RADIO			587.00												
PREMIUM AUDIO MP3 XM 7SP															
LEATHER STEERING WHEEL w/AUDIO CONTROL															

note) Penetration %
are median of
approximated ranges

Pen %	\$
100.00%	10,725.00
100.00%	32.00
100.00%	-2.10
85.00%	-1.17
89.50%	490.48
85.00%	233.75
85.00%	42.90
20.00%	190.00
1.50%	15.48
13.50%	144.59
30.00%	6.20
30.00%	0.00
85.00%	116.45
20.50%	69.21
38.50%	50.82
60.00%	276.94
21.00%	29.19
21.50%	19.78
19.00%	7.35
8.82%	11.91
75.18%	104.65
84.00%	58.80
84.00%	166.32
85.00%	7.65
61.50%	52.89
84.00%	16.80
90.00%	496.80
23.00%	1.09
90.00%	0.90
86.00%	258.88
9.00%	1.80
40.50%	147.42
1.95%	4.35
11.05%	64.68
Average T/P	
	13,841.56

<GT Contents>

215/45R18 Tire & 7.5 J Aluminium Wheel	515.00
Upscale Seat Surface Material with Leather Insert	240.00
Front Door Trim Synthetic Leather	12.00
Leather Shift Lever & Knob	40.00
Double Wishbone Rear Suspension	84.00
Exhaust Tail Pipe Diffuser	30.00
Colored Rear Spoiler	26.00
Colored Front Spoiler	33.00
Rear Bumper Lower Grille	22.00
Colored Rocker Molding	30.00
A/T ONLY SW Tronix (=Sequential)	39.00

EXHIBIT “C”

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK 2010 JUL 30 P 4: 08		PROOF OF CLAIM
Name of Debtor: Motors Liquidation Company (f/k/a/ General Motors Corporation)		Case Number: 09-50026 (REG)
<small>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</small>		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Toyota Motor Corporation		<input checked="" type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. <div style="text-align: right;">66241, 69722,</div> Court Claim Number: 70208 <small>(if known)</small>
Name and address where notices should be sent: c/o Foley & Lardner LLP, Matthew J. Riopelle 402 W. Broadway, Suite 2100 San Diego, CA 92101 Telephone number: 619-234-6655		
Name and address where payment should be sent (if different from above): Same		Filed on: 11/30/2009, 12/21/2009, & 3/31/2009
Telephone number:		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
1. Amount of Claim as of Date Case Filed: \$ 73,798,976.28 <small>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.</small> <small>If all or part of your claim is entitled to priority, complete item 5.</small> <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(5). <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507 (a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507 (a)(): _____ Amount entitled to priority: \$ _____ <small>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
2. Basis for Claim: Breach of Contracts/Rejection Damages <small>(See instruction #2 on reverse side.)</small>		
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ <small>(See instruction #3a on reverse side.)</small>		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, If any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ 73,798,976.28		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain: _____		

Date: 7/29/2010	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. <i>Gregory Monahan, ILDA Legal-Div. Inc. Judge/Clara/Prose</i>	FOR COURT USE ONLY Y. P 4: 08 U.S. B. COURT
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Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 357

Toyota Motor Corporation (“TMC”)¹, is a party to that certain Vehicle Supply Agreement (“VSA”)², originally dated February 21, 1984, as amended, and that certain Memorandum of Understanding (“MOU”) dated March 22, 2006 with Motors Liquidation Company (f/k/a General Motors Corporation) (“MLC”) and New United Motor Manufacturing, Inc. (“NUMMI”, together with TMC and MLC, the “Parties”) hereby submits this amended proof of claim for breach of contract and rejection damages under the VSA and MOU (“Amended R&D Proof of Claim”). The purpose of this Amended R&D Proof of Claim is to consolidate the Original R&D Claims (defined below) asserted in the Original R&D Proofs of Claim (defined below) into a single Amended R&D Claim (defined below). This Amended R&D Proof of Claim hereby incorporates by reference the basis for its Original R&D Claim contained in the Original R&D Proofs of Claim.³ Moreover, this Amended R&D Proof of Claim shall relate back to the date of filing the Original Proofs of Claim, as applicable.

The VSA governs the sale of vehicles from NUMMI to MLC and TMC and various other rights and obligations of the Parties. The MOU sets forth the basic understanding among the

¹ Yukihiisa Minezawa, the signatory of this Proof of Claim, is the Group Manager of Group No. 1, International Legal Affairs Department, Legal Division of Toyota Motor Corporation. In this capacity, Mr. Minezawa is authorized to sign this Proof of Claim on behalf of Toyota Motor Corporation. Mr. Minezawa’s address is: No.1 Toyota-cho, Toyota-City, Aichi-Prefecture, 471-8571 Japan and his telephone number is: +81-565-23-0441.

² Due to the confidential and proprietary information contained within the VSA and MOU, TMC has not attached the VSA or MOU to this Amended R&D Proof of Claim. The Debtor has a copy of these contract and a party in interest may request a copy of the VSA or MOU from TMC’s counsel listed on this Amended R&D Proof of Claim, if the requesting party executes a confidentiality agreement.

³ To the extent any such basis is not explicitly stated herein, it is the intention of TMC that the basis for the Original R&D Claim be incorporated herein and this Amended R&D Proof of Claim shall be deemed to include such basis.

Parties regarding the production and pricing of new car models to be produced at NUMMI from January 2008 to December 2012.

On November 30, 2009, TMC filed a proof of claim (Proof of Claim No. 66241) for its breach of contract claim against MLC under the VSA for research and development costs (“R&D Costs”) rendered unrecoverable due to MLC’s decision to cease purchasing Pontiac Vibes from NUMMI, despite a contractual obligation to continue to purchase vehicles from NUMMI (“VSA Proof of Claim”). A true and correct copy of the VSA Proof of Claim is attached hereto as **Exhibit “1”**. On March 31, 2010, MLC filed an amended proof of claim (Proof of Claim No. 70208) to amend the VSA Proof of Claim to include rejection damages as a result of MLC’s rejection of the VSA (“Amended VSA Proof of Claim”). A true and correct copy of the Amended VSA Proof of Claim is attached hereto as **Exhibit “2”**.

In addition, on December 21, 2009, TMC filed a proof of claim (Proof of Claim No. 69722) for rejection damages claim against MLC for the same R&D Costs rendered unrecoverable due to MLC’s rejection of the MOU (“MOU Proof of Claim”, together with the VSA Proof of Claim and the Amended VSA Proof of Claim, the “Original R&D Proofs of Claim”). A true and correct copy of the MOU Proof of Claim is attached hereto as **Exhibit “3”**.

The Original R&D Proofs of Claim asserted a claim of fifty six million four hundred fifty seven thousand one hundred forty two dollars and eighty five cents (\$56,457,142.85) based on R&D Costs expended for the Pontiac Vibe for: (i) the sales period from January 2008 to December 2012; and (ii) the planned model change in 2010 (“Original R&D Claim”). The Original R&D Claim was converted from four billion nine hundred forty million (4,940,000,000) Japanese Yen to U.S. Dollars based on the November 25, 2009 Telegraphic Transfer Buying Rate of The Bank of Tokyo-Mitsubishi UFJ, Ltd. of 87.5 Yen to 1 U.S. Dollar.

Since filing the Original R&D Proofs of Claim, TMC has performed a detailed review of the exact amount of R&D costs incurred in connection with the research and development of the Pontiac Vibe. TMC has determined that the actual R&D Costs are equal to seventy three million seven hundred ninety eight thousand nine hundred seventy six dollars and twenty eight cents (\$73,798,976.28) ("Actual R&D Claim"). The Actual R&D Claim was converted from six billion six hundred ninety four million three hundred five thousand one hundred thirty eight (6,694,305,138) Japanese Yen to U.S. Dollars based on the on the June 15, 2010 Telegraphic Transfer Buying Rate of The Bank of Tokyo-Mitsubishi UFJ, Ltd. of 90.71 Yen to 1 U.S. Dollar.

TMC is filing this Amended R&D Proof of Claim to amend and supersede the Original R&D Proofs of Claim. TMC is simultaneously herewith filing its "Notice of Engr of Amended Proof of Claim and Notice of Withdrawal of Proof of Claim Nos. 66241, 69722 and 70208" ("Notice of Withdrawal") A true and correct copy of the Notice of Withdrawal is attached hereto as **Exhibit "4"**. Pursuant to the Notice of Withdrawal, TMC is withdrawing the Original Proofs of Claim in reliance on its agreement with MLC that the Amended Proof of Claim will relate back to the date of the Original R&D Proofs of Claim, as applicable. Moreover, MLC has agreed that it will not object to the timing of the Amended R&D Proof of Claim, unless such objection relates to the timing of the filing of the Original R&D Proofs of Claim.

To the extent that the Actual R&D Claim asserted herein is deemed a priority claim under Section 507(a) of the Title 11 of the United States Code ("Bankruptcy Code"), TMC reserves the right to assert any such priority against MLC. TMC also reserves the right to assert any and all rights to setoff and/or recoupment to which it may be entitled under the VSA, MOU or applicable law.

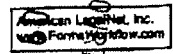
Moreover, this Amended R&D Proof of Claim form is not intended to assert any administrative expense claims under Section 503 of the Bankruptcy Code. To the extent that the Actual R&D Claim asserted herein is determined to constitute an administrative expense, TMC shall assert and pursue the Actual R&D Claim in accordance with applicable law and amend this Amended R&D Proof of Claim form as necessary. The filing of this Amended R&D Proof of Claim form shall not constitute a waiver of any administrative expense claims that TMC may have against MLC arising under the VSA, MOU or applicable law. Further, TMC reserves the right to assert any setoff or recoupment rights with regard to such administrative expense claims pursuant to the VSA or MOU.

EXHIBIT “1”

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK		PROOF OF CLAIM
Name of Debtor: Motors Liquidation Company (f/k/a/ General Motors Corporation)		Case Number: 09-50026 (REG)
<small>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</small>		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Toyota Motor Corporation		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where notices should be sent: c/o Foley & Lardner LLP, Matthew J. Riopelle 402 W. Broadway, Suite 2100 San Diego, CA 92101 Telephone number: 619-234-6655		
Name and address where payment should be sent (if different from above): Same		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
Telephone number: _____		
1. Amount of Claim as of Date Case Filed: <u>\$56,457,142.85</u>		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a), if any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5). <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507(a)(____): _____ Amount entitled to priority: \$ _____ <small>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
If all or part of your claim is secured, complete items 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete items 5. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		
2. Basis for Claim: <u>Breach of Contract</u> <small>(See instruction #2 on reverse side.)</small>		
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ <small>(See instruction #3a on reverse side.)</small>		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of this case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ <u>56,457,142.85</u>		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
Date: 11/30/2009	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Group Manager of International Yutaka Mnezawa	

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 1571c

Legal Affairs, Legal Div



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FILED
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U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Yukihisa Minezawa, the signatory of this Proof of Claim, is the Group Manager of Group No. 1, International Legal Affairs Department, Legal Division of Toyota Motor Corporation. In this capacity, Mr. Minezawa is authorized to sign this Proof of Claim on behalf of Toyota Motor Corporation. Mr. Minezawa's address is: No.1 Toyota-cho, Toyota-City, Aichi-Prefecture, 471-8571 Japan and his telephone number is: +81-565-23-0441.

Toyota Motor Corporation ("TMC"), is a party to that certain contract entitled the Vehicle Supply Agreement ("VSA")¹ with Motors Liquidation Company (f/k/a General Motors Corporation) ("MLC") and New United Motor Manufacturing, Inc. ("NUMMI", together with TMC and MLC, the "Parties"). The VSA governs the sale of vehicles from NUMMI to MLC and TMC and various other rights and obligations of the Parties.

TMC hereby asserts a claim (the "Claim") against MLC for research and development costs ("R&D Costs") rendered unrecoverable due to MLC's decision to cease purchasing Pontiac Vibe from NUMMI, despite a contractual obligation to continue to purchase vehicles from NUMMI. The Claim of fifty six million four hundred fifty seven thousand one hundred forty two dollars and eighty five cents (\$56,457,142.85) is based on R&D Costs expended for the Pontiac Vibe for: (i) the sales period from January 2008 to December 2012; and (ii) the planned model change in 2010. The Claim was converted from four billion nine hundred forty million Japanese Yen (\$4,940,000,000) to U.S. Dollars based on the November 25, 2009 Telegraphic Transfer Buying Rate of The Bank of Tokyo-Mitsubishi UFJ, Ltd. of 87.5 Yen to 1 U.S. Dollar. To the extent that the Claim asserted herein is deemed a priority claim under Section 507(a) of the Bankruptcy Code, TMC reserves the right to assert any such priority against MLC. TMC also reserves the right to assert any and all rights to setoff and/or recoupment to which it may be entitled under the VSA or applicable law.

This Proof of Claim form is not intended to assert any administrative expense claims under Section 503 of Title 11 of the United States Code ("Bankruptcy Code"). To the extent that

¹ Due to the confidential and proprietary information contained within the VSA, TMC has not attached the VSA to this Proof of Claim. The Debtor has a copy of this contract and a party in interest may request a copy of the VSA from TMC's counsel listed on the Proof of Claim, if the requesting party executes a confidentiality agreement.

the Claim asserted herein is determined to constitute an administrative expense, TMC shall assert and pursue the Claim in accordance with applicable law and amend this Proof of Claim form as necessary. The filing of this Proof of Claim form shall not constitute a waiver of any administrative expense claims that TMC may have against MLC arising under the VSA or applicable law. Further, TMC reserves the right to assert any setoff or recoupment rights with regard to such administrative expense claims pursuant to the VSA.

EXHIBIT “2”

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK		PROOF OF CLAIM
Name of Debtor: Motors Liquidation Company (f/k/a/ General Motors Corporation)		Case Number: 09-50026 (REG)
<small>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</small>		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Toyota Motor Corporation		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ (if known) Filed on: _____
Name and address where notices should be sent: c/o Foley & Lardner LLP, Matthew J. Riopelle 402 W. Broadway, Suite 2100 San Diego, CA 92101 Telephone number: 619-234-6655		
Name and address where payment should be sent (if different from above): Same		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
Telephone number:		
1. Amount of Claim as of Date Case Filed: \$ 56,457,142.85		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B) <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5). <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8) <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(____). Amount entitled to priority: \$ _____ <small>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5.		
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		
2. Basis for Claim: Rejection Damages <small>(See instruction #2 on reverse side)</small>		
3. Last four digits of any number by which creditor identifies debtor: _____ Ja. Debtor may have scheduled account as: _____ <small>(See instruction #3a on reverse side.)</small>		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate: _____ % Amount of arrearage and other charges as of time case filed included in secured claim, If any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ 56,457,142.85		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING If the documents are not available, please explain.		
Date: 12/18/2009	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Group Manager of International Legal Affairs, Legal Div. Yukihisa Mizumura	

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both 18 U.S.C. §§ 152 and 3571

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DEC 21 2009

EPIC BANKRUPTCY SERVICES, INC.
American LegalNet, Inc.
www.FormsWorkflow.com

Toyota Motor Corporation (“TMC”), is a party to that certain Memorandum of Understanding (“MOU”)¹ dated March 22, 2006 with Motors Liquidation Company (f/k/a General Motors Corporation) (“MLC”) and New United Motor Manufacturing, Inc. (“NUMMI”, together with TMC and MLC, the “Parties”). The MOU sets forth the basic understanding among the Parties regarding the production and pricing of new car models to be produced at NUMMI from January 2008 to December 2012.

On or about November 30, 2009, the United States Bankruptcy Court for the Southern District of New York entered an order approving MLC’s Ninth Omnibus Motion to Reject Executory Contracts and Unexpired Leases (“Rejection Order”). Pursuant to the Rejection Order, the MOU was rejected effective November 30, 2009. TMC² hereby asserts a rejection damages claim (the “Claim”) against MLC for research and development costs (“R&D Costs”) rendered unrecoverable due to MLC’s rejection of the MOU³.

The Claim of fifty six million four hundred fifty seven thousand one hundred forty two dollars and eighty five cents (\$56,457,142.85) is based on R&D Costs expended for the Pontiac Vibe for: (i) the sales period from January 2008 to December 2012; and (ii) the planned model

¹ Due to the confidential and proprietary information contained within the MOU, TMC has not attached the MOU to this Proof of Claim. The Debtor has a copy of this contract and a party in interest may request a copy of the MOU from TMC’s counsel listed on the Proof of Claim, if the requesting party executes a confidentiality agreement.

² Yukihiisa Minezawa, the signatory of this Proof of Claim, is the Group Manager of Group No. 1, International Legal Affairs Department, Legal Division of Toyota Motor Corporation. In this capacity, Mr. Minezawa is authorized to sign this Proof of Claim on behalf of Toyota Motor Corporation. Mr. Minezawa’s address is: No.1 Toyota-cho, Toyota-City, Aichi-Prefecture, 471-8571 Japan and his telephone number is: +81-565-23-0441.

³ On or about November 30, 2009, TMC filed Proof of Claim Number 66241 asserting a claim for the same R&D Costs based on its reliance on the Vehicle Supply Agreement between the Parties. This Claim is not a duplicate claim of Number 66241 because it sets forth a separate and distinct basis for recovery of the R&D Costs.

change in 2010. The Claim was converted from four billion nine hundred forty million Japanese Yen (¥4,940,000,000) to U.S. Dollars based on the November 25, 2009 Telegraphic Transfer Buying Rate of The Bank of Tokyo-Mitsubishi UFJ, Ltd. of 87.5 Yen to 1 U.S. Dollar. To the extent that the Claim asserted herein is deemed a priority claim under Section 507(a) of the Bankruptcy Code, TMC reserves the right to assert any such priority against MLC. TMC also reserves the right to assert any and all rights of setoff and/or recoupment to which it may be entitled under the MOU or applicable law.

This Proof of Claim form is not intended to assert any administrative expense claims under Section 503 of Title 11 of the United States Code ("Bankruptcy Code"). To the extent that the Claim asserted herein is determined to constitute an administrative expense, TMC shall assert and pursue the Claim in accordance with applicable law and amend this Proof of Claim form as necessary. The filing of this Proof of Claim form shall not constitute a waiver of any administrative expense claims that TMC may have against MLC arising under the MOU or applicable law. Further, TMC reserves the right to assert any setoff or recoupment rights with regard to such administrative expense claims pursuant to the MOU.

EXHIBIT “3”

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK PROOF OF CLAIM

Name of Debtor: Motors Liquidation Company (f/k/a/ General Motors Corporation) Case Number: 09-50026 (REG)

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property): Toyota Motor Corporation

Name and address where notices should be sent: c/o Foley & Lardner LLP, Matthew J. Riopelle 402 W. Broadway, Suite 2100 San Diego, CA 92101 Telephone number: 619-234-6655

Name and address where payment should be sent (if different from above): Same

Telephone number:

1. Amount of Claim as of Date Case Filed: \$ 56,457,142.85 If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

2. Basis for Claim: Breach of Contract/Rejection Damages (See instruction #2 on reverse side.)

3. Last four digits of any number by which creditor identifies debtor: 3a. Debtor may have scheduled account as: (See instruction #3a on reverse side.)

4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: Real Estate Motor Vehicle Other Describe: Value of Property: \$ Annual Interest Rate % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ Basis for perfection: Amount of Secured Claim: \$ Amount Unsecured: \$ 56,457,142.85

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

Check this box to indicate that this claim amends a previously filed claim.

Court Claim Number: 66241 (if known)

Filed on: 11/30/2009

Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

Check this box if you are the debtor or trustee in this case.

5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim.

Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).

Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507 (a)(4).

Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5).

Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7).

Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).

Other - Specify applicable paragraph of 11 U.S.C. §507 (a)().

Amount entitled to priority: \$

*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

Date: 3/30/2010 Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Legal Div. Group Manager of International Lease Rep., Yukihisa Mizutani

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Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

Toyota Motor Corporation (“TMC”), is a party to that certain contract entitled the Vehicle Supply Agreement (“VSA”)¹ with Motors Liquidation Company (f/k/a General Motors Corporation) (“MLC”) and New United Motor Manufacturing, Inc. (“NUMMI”, together with TMC and MLC, the “Parties”). The VSA governs the sale of vehicles from NUMMI to MLC and TMC and various other rights and obligations of the Parties.

On November 30, 2009, TMC filed a proof of claim for its claim (the “Claim”) against MLC for research and development costs (“R&D Costs”) rendered unrecoverable due to MLC’s decision to cease purchasing Pontiac Vibes from NUMMI, despite a contractual obligation to continue to purchase vehicles from NUMMI. The Claim of fifty six million four hundred fifty seven thousand one hundred forty two dollars and eighty five cents (\$56,457,142.85) is based on R&D Costs expended for the Pontiac Vibe for: (i) the sales period from January 2008 to December 2012; and (ii) the planned model change in 2010. The Claim was converted from four billion nine hundred forty million (4,940,000,000) Japanese Yen to U.S. Dollars based on the November 25, 2009 Telegraphic Transfer Buying Rate of The Bank of Tokyo-Mitsubishi UFJ, Ltd. of 87.5 Yen to 1 U.S. Dollar.

On or about March 2, 2010, the Bankruptcy Court for the Southern District of New York entered an order approving MLC’s Eleventh Omnibus Motion to Reject Executory Contracts and Unexpired Leases (“Rejection Order”). Pursuant to the Rejection Order, the VSA was rejected

¹ Due to the confidential and proprietary information contained within the VSA, TMC has not attached the VSA to this Proof of Claim. The Debtor has a copy of this contract and a party in interest may request a copy of the VSA from TMC’s counsel listed on the Proof of Claim, if the requesting party executes a confidentiality agreement.

effective March 2, 2010. TMC² hereby amends the basis for its Claim to include rejection damages incurred due to MLC's breach of the VSA.

To the extent that the Claim asserted herein is deemed a priority claim under Section 507(a) of the Title 11 of the United States Code ("Bankruptcy Code"), TMC reserves the right to assert any such priority against MLC. TMC also reserves the right to assert any and all rights to setoff and/or recoupment to which it may be entitled under the VSA or applicable law.

This Proof of Claim form is not intended to assert any administrative expense claims under Section 503 of the Bankruptcy Code. To the extent that the Claim asserted herein is determined to constitute an administrative expense, TMC shall assert and pursue the Claim in accordance with applicable law and amend this Proof of Claim form as necessary. The filing of this Proof of Claim form shall not constitute a waiver of any administrative expense claims that TMC may have against MLC arising under the VSA or applicable law. Further, TMC reserves the right to assert any setoff or recoupment rights with regard to such administrative expense claims pursuant to the VSA.

² Yukihsa Minezawa, the signatory of this Proof of Claim, is the Group Manager of Group No. 1, International Legal Affairs Department, Legal Division of Toyota Motor Corporation. In this capacity, Mr. Minezawa is authorized to sign this Proof of Claim on behalf of Toyota Motor Corporation. Mr. Minezawa's address is: No.1 Toyota-cho, Toyota-City, Aichi-Prefecture, 471-8571 Japan and his telephone number is: +81-565-23-0441.

EXHIBIT “4”

FOLEY & LARDNER LLP
Katherine R. Catanese (*admitted pro hac vice*)
Victor A. Vilaplana (*admitted pro hac vice*)
Matthew J. Riopelle (*admitted pro hac vice*)
402 West Broadway, Suite 2100
San Diego, CA 92101
Telephone: (619) 234-6655
Facsimile: (619) 234-3510

Attorneys for Toyota Motor Corporation

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

-----X
In re: : Chapter 11
: :
MOTORS LIQUIDATION COMPANY, *et al.*, : Case No. 09-50026 (REG)
f/k/a General Motors Corp., *et al.* :
: (Jointly Administered)
Debtors :
: :
-----X

**TOYOTA MOTOR CORPORATION'S NOTICE OF FILING OF AMENDED PROOF
OF CLAIM AND NOTICE OF WITHDRAWAL OF PROOF OF CLAIM NOS. 66241,
69722 AND 70208**

PLEASE TAKE NOTICE that pursuant to its agreement with Motors Liquidation Company (filed in General Motors Corp.) ("MLC"), Toyota Motor Corporation, by and through its undersigned counsel, has filed a proof of claim ("Amended Proof of Claim") to amend and supersede the following proofs of claim: Proof of Claim No. 66241 filed on November 30, 2009, Proof of Claim No. 69722 filed on December 21, 2009 and Proof of Claim No. 70208 filed on March 31, 2009 ("Original Proofs of Claim").

TMC is withdrawing the Original Proofs of Claim in reliance on its agreement with MLC that the Amended Proof of Claim will relate back to the date of the Original Proofs of Claim, as applicable. Moreover, MLC has agreed that it will not object to the timing of the Amended Proof of Claim, unless such objection relates to the timing of the filing of the Original Proofs of

Claim. Neither the Amended Proof of Claim nor anything contained herein shall be deemed to affect any other proofs of claim filed by TMC in MLC's bankruptcy case.

Dated: July 30, 2010

FOLEY & LARDNER LLP

/s/ Katherine R. Catanese

Katherine R. Catanese (*admitted pro hac vice*)

Victor A. Vilaplana (*admitted pro hac vice*)

Matthew J. Riopelle (*admitted pro hac vice*)

402 West Broadway, Suite 2100

San Diego, CA 92101

Telephone: (619) 234-6655

Facsimile: (619) 234-3510

Attorneys for Toyota Motor Corporation

EXHIBIT “D”

21

TOYOTA MOTOR CORPORATION-
GENERAL MOTORS CORPORATION

MEMORANDUM OF UNDERSTANDING

FEBRUARY 17, 1983

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3/

TOYOTA MOTOR CORPORATION (Toyota) and GENERAL MOTORS CORPORATION (GM) agree to establish a joint venture (JV) for the limited purpose of manufacturing in the United States a specific automotive vehicle not heretofore produced, and related components described below. In so doing, it is the intent of both parties to provide such assistance to the JV as is considered appropriate to the enhancement of the JV's success. The JV will be limited in scope to this vehicle and this agreement is not intended to establish a cooperative relationship between the parties in any other business.

The purpose of this Memorandum is to summarize the current understanding of Toyota and GM regarding the basic parameters of this limited manufacturing arrangement.

Product

The vehicle to be manufactured by the JV will be derived from Toyota's new front-wheel drive Sprinter. Body styles will include a 4-Door Sedan and (6-12 months later) a 5-Door Liftback. Toyota will retain design authority over the vehicle, in consultation as to vehicle appearance with GM, the purchaser. As modifications will probably be made to the

Sprinter or Corolla over time in accordance with market demand, Toyota will effect similar changes to the JV vehicle if such changes are deemed desirable by the parties. Vehicle certification will be handled by Toyota, with assistance provided by the JV and GM as agreed upon by the parties. 5

Manufacturing

The JV will begin production of the GM-specific vehicle as early as possible in the 1985 Model Year with nominal capacity of approximately 200,000 units per annum at GM's former assembly facility in Fremont, California. 10

As part of the technical assistance stated hereinafter, Toyota will take the initiative, in consultation with GM, in designing the Fremont manufacturing layout and coordinating the related acquisition and installation of its machinery, equipment and tooling. [In this regard, if GM deems it necessary for orders to be placed for construction of buildings, JV machinery, equipment and tooling prior to the establishment of the JV (to facilitate a timely introduction of the initial JV vehicle in the 1985 Model Year)] GM may do so in its own name directly or through Toyota, //and the parties agree to share equally any capital expenditures or cancellation charges arising from such orders. The only exceptions to the above are as follows: In the event the JV is not established 15 20

July 31, 1988

as a result of unfavorable U.S. governmental review of the matters set forth in this Memorandum or, following consultations between the senior management of Toyota and GM, as a result of either party notifying the other on or prior to one hundred twenty (120) days following the signing of this Memorandum of Understanding by the parties that such party is not satisfied with the prospects for developing an acceptable employe relations structure, GM shall bear 100% of the cost of such expenditures and charges.

GM's annual requirements are presently expected to exceed 200,000 units per annum. Both parties will, therefore, assist the JV in increasing its production to the maximum extent possible within the available capacity. Requirements for capacity beyond the first module will be the subject of a separate study.

The JV may later produce a variation of the JV vehicle for Toyota. Toyota and GM may also agree for GM to source the GM-specific vehicle from Toyota assembly plants in Japan, freeing JV capacity for Toyota's full or partial production of Toyota-specific vehicles.

Purchase of Production Materials

The JV will purchase its production materials from those sources providing the least possible cost, consistent

with its standards for product quality and vendor reliability of supply. Based on this principle, Toyota and GM have agreed upon a tentative sourcing approach, under which specific components to be purchased from Toyota, GM and other outside vendors have been separately identified. Components to be manufactured by the JV, mainly major stampings, have also been identified.

Marketing

All GM-specific vehicles produced by the JV will be sold directly to GM or its designated marketing units for resale through GM's dealer network. If any variation of the JV vehicles should be produced by the JV for Toyota, such vehicles would be sold directly to Toyota or its designated marketing unit for resale through Toyota's dealer network. Neither Toyota nor GM will consult the other with respect to the marketing of JV products, or any other products, through their respective marketing organizations.

Vehicles sold by the JV should be priced by the JV to provide a reasonable profit for the JV, Toyota, and GM. To accomplish this, production costs must be kept as low as possible through the combined best efforts of the JV, Toyota, GM and other major suppliers. In this regard, the parties have been conducting extensive studies detailing how each can work to minimize JV expenses.

The initial JV selling price of the JV vehicle to be sold to GM during the 1985 Model Year will be determined at least 60 days prior to the start of production by negotiation between the JV and GM. This negotiation will be based on the production cost estimated 90 days prior to the expected start of production by the JV, with estimates of said cost to be guided by the feasibility study. In no event, however, will the said initial JV selling price be higher than the upper limit nor lower than the lower limit, each as defined below. The upper limit shall be determined by adjusting for feature differences the Dealer Net Price less 8% of Toyota's then current U.S. model front-wheel drive Corolla equipped comparably with the JV vehicle concerned, and the lower limit shall be determined by adjusting for feature differences the Dealer Net Price less 11% of said Corolla. The adjustment for feature differences will be made by agreement between the JV and GM.

Thereafter, although there may be exceptions, the JV vehicle selling price will be revised and determined for each model year. The new selling price for the new model year will be determined by applying to the selling price for the previous model year the Index as defined in Exhibit A. Since the calculations embodied in the Index may occasionally yield a selling price which is at significant variance with then

current market conditions, the JV and GM will in such cases negotiate a more appropriate selling price.

If model changes or specification changes of the vehicle manufactured by the JV are necessary, Toyota, GM and the JV will agree upon these model changes or specification changes. Toyota will present to the JV the plan for the model changes or specification changes concerned. Then, the JV will submit to and negotiate with GM the planned model changes and specification changes together with the planned price changes. These model changes and specification changes will be made as agreed upon by the JV and GM.

The methodology to be employed in pricing optional equipment available on the JV vehicle (both initial and subsequent) will be comparable to that described in the three preceding paragraphs.

The initial prices of Toyota and GM components purchased by the JV will be determined 90 days or more prior to the start of production by negotiation between the JV and component suppliers after the determination of the specifications of the JV vehicle. Identification of the respective sources of supply and determination of the initial component prices will be guided by the feasibility study, with adjustments made for changes in specifications and appropriate economics.

Thereafter, the prices of components will be reviewed semi-annually. The new prices will be determined by negotiation between the JV and component suppliers.

If it is anticipated that continuation of the above-mentioned methods for determination of the prices of the JV vehicles to be sold by the JV and of components to be purchased by the JV would cause those prices to be at such levels as the JV would incur the losses which could endanger the normal operation of the JV, Toyota, GM and the JV shall negotiate and take necessary measures.

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As a fundamental principle, Toyota and GM shall each be free to price and free to market the respective vehicles purchased from the JV without restrictions or influence from the other.

Operating Responsibility

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The JV will be jointly controlled by an equal number of Toyota and GM directors, in line with Toyota and GM ownership. Toyota will designate the JV president as the chief executive officer and chief operating officer. Toyota and GM will assign to the JV other operating officers as the JV president and JV directors may request, but the parties recognize that the question of which party shall designate the JV officers in charge of financial affairs, labor relations and certain other operations has not yet been agreed upon.

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Quality Assurance

New vehicle warranty expense and administration will be the responsibility of the purchaser of the JV vehicle. The JV shall maintain product liability insurance for the benefit of the JV, the parties and other persons in such amounts as the parties may deem prudent, and the premium costs for such product liability insurance will be borne by the JV. In each product liability lawsuit involving a JV vehicle, the JV and each of the parties will communicate and cooperate with each other in all respects in investigating the facts surrounding the case and in litigating the matter. Each of the parties will refrain from taking adversarial positions against each other. To the extent possible under the JV's product liability insurance arrangements, the JV shall be the entity having the right to control such product liability lawsuits. However, the relative financial share of settlement or adverse judgment costs relating to such product liability claims or losses which are not covered by such product liability insurance shall be apportioned 60% to Toyota and 40% to GM. Matters relating to JV vehicle recall campaigns (including fines and costs of corrective actions) shall be the subject of further study and negotiation between the parties.

Technical Assistance

Toyota will grant to the JV the license to manufacture the vehicle developed by Toyota, and in exchange for this license, the JV will pay a reasonable royalty to Toyota as may be agreed upon by the parties. Toyota and GM will license the necessary industrial property rights to the JV, and in exchange for these rights, the JV will pay reasonable license fees to Toyota and/or GM as may be agreed upon by the parties. Toyota and GM will also provide technical assistance to the JV on a cost basis plus reasonable markup.

As part of the technical assistance, GM agrees to assist Toyota and the JV in completing compliance tests for safety, emissions and other areas, as agreed upon by the parties.

Purchase/Sale of Equity Interest

Toyota and GM (including, subject to the approval of the other party, their wholly or majority-owned subsidiaries) will each hold a 50% equity interest in the JV. Neither party may transfer its equity interest in the JV to a third party without the written consent of the other. The above notwithstanding, the JV will terminate not later than 12 years after start of production. The methodology for disposition of Toyota and GM equity interests prior to or upon JV termination

will be incorporated in the JV documentation. Any surplus or deficit of the JV as at termination of the JV will be shared equally by Toyota and GM, in line with Toyota and GM ownership. Other issues relating to JV termination will be separately discussed.

Financing

Both Toyota and GM will contribute cash and/or fixed assets to the JV in exchange for equity interests. The amount to be contributed as equity will depend upon the JV's total projected capital requirements. In the event that either lenders or lessors insist that payments made by the JV be subject to appropriate guarantees, Toyota and GM agree either to provide such guarantees based on their pro rata share of the JV or to temporarily advance funds to the JV on their own account (also on a pro rata basis). To the extent permitted by creditors, Toyota and GM further agree that any security interests held by the parties in the JV assets will be shared equally.

Future Difficulties

If it is anticipated that the establishment or continuation of the JV would become difficult or infeasible due to any legal, political or labor-related reason which may arise

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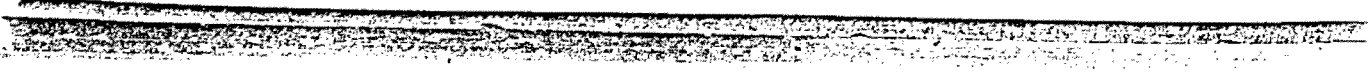
in the United States, the parties will in good faith discuss the measures to be taken concerning the JV and endeavor to find appropriate solutions.

Agreements to be Concluded

Depending upon the specific organizational form, various agreements will be concluded among Toyota and GM (including subsidiaries thereof) and the JV. These will include the following: Partnership Agreement or Shareholders Agreement and Articles of Incorporation; Vehicle Supply Agreement (JV to GM); Toyota Component Supply Agreement (Toyota to JV); GM Component Supply Agreement (GM to JV); Toyota Service Parts Agreement (Toyota to JV and/or GM); Technical Assistance and License Agreement; Realty and Other Asset Sale and/or Lease Agreements; Product Responsibility Agreement; and other documents related to the foregoing.

Since it is extremely important that the JV begin production as early as possible in the 1985 Model Year, Toyota and GM commit their best efforts to completing such documentation by May 15, 1983. In any event, both parties agree to immediately begin the detailed production process planning necessary for conversion of the Fremont plant. Except as set forth in the separate provisions for JV buildings, machinery, equipment and tooling referred to in the

July 81
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"Manufacturing" section above, expenses incurred by either party which directly benefit the JV will be properly recorded and, if mutually agreed, will be subsequently rebilled to the JV.

Transaction Review

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The agreements reached between the parties relate only to the manufacturing JV described above and do not establish any special relationship between Toyota and GM who continue to be competitors in the United States and throughout the world. Toyota and GM further acknowledge that there are no implied obligations or restrictions other than those expressly set forth.

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This Memorandum of Understanding is subject to review by the governments of Japan and the United States. Both parties commit to use their best efforts to obtain favorable reviews. Until execution of all formal documentation, satisfaction by the parties with the results of any government reviews which are undertaken, and satisfaction by the parties with the prospects for developing an acceptable employee relations structure, each party reserves the right to terminate

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negotiations without liability to the other and the JV shall not be established. However, except as separately set forth in the "Manufacturing" section, the parties shall share equally the expenses and costs incurred by the parties which would, but for such termination, be rebilled to the JV. 5

Governing Language

This Memorandum of Understanding shall be executed in both an English and a Japanese version, but the parties agree that in the event of a conflict between the meaning of the English text and the Japanese text, the English text shall control. 6

TOYOTA MOTOR CORPORATION

By


Eiji Toyoda, Chairman of the Board

Dated: February 17, 1983

GENERAL MOTORS CORPORATION

By


Roger B. Smith, Chairman of the Board

EXHIBIT AMARKET BASKET INDEX

The ten best selling models among the sub-compacts will be the models which constitute the basket. The models shall be revised at every model year on the basis of model volume in the U.S., using the latest R. L. Polk registration data for the previous 12 months.

For reference, the ten best selling models at present are as follows:

Chevrolet Cavalier	Mercury Lynx
Chevrolet Chevette	Nissan Sentra
Ford Escort	Subaru DL
Honda Accord	Toyota Corolla
Honda Civic	Volkswagen Rabbit

The "Index" shall be the weighted average rate of wholesale price fluctuations of these models from the prior model year to the current, weighting Corolla at 30% versus 70% for all other comparable models combined without regard of model volumes in the U.S.

For this purpose, the wholesale price shall be adjusted by eliminating the value of equipment changes and product improvements in comparison with the previous year models. To this end, the JV will evaluate and determine the value of equipment changes and product improvements, taking into account the opinions of Toyota and GM.

When competitive models are replaced by new models, or additional competitive models are brought in, neither the old model nor the new or additional model will be included in the calculation of the Index for the model year when such model changes take place. It will, however, be included in the calculation of the Index for subsequent model years.

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/TOYOTA MOTOR CORPORATION/
GENERAL MOTORS CORPORATIONFIRST AMENDMENT
TO
MEMORANDUM OF UNDERSTANDING
OF
FEBRUARY 17, 1983

This Amendment is entered into this 20th day of June, 1983 between Toyota Motor Corporation ("Toyota") and General Motors Corporation ("GM").

1. Reference is made to the Memorandum of Understanding ("Memorandum"), dated February 17, 1983, between Toyota and GM and pertaining to the establishment of a joint venture for the limited purpose of manufacturing in the United States a specific automotive vehicle and related components.

2. The Memorandum is amended in the following two respects:

(a) Under the caption "Manufacturing", page 3, lines 5 and 6, delete the phrase "one hundred twenty (120) days following the signing of this Memorandum of Understanding by the parties" and substitute "July 31, 1983".

(b) Under the caption "Agreements to be Concluded", page 11, second paragraph, line 4, delete "May 15," and substitute "July 31,".

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3. Toyota and GM confirm the Memorandum as modified by this Amendment.

The parties have executed this Amendment on the date first above written.

TOYOTA MOTOR CORPORATION

By: 

Eiji Toyoda,
Chairman of the Board

GENERAL MOTORS CORPORATION

By: 

Roger B. Smith,
Chairman of the Board

EXHIBIT “E”

SHAREHOLDERS' AGREEMENT

by and among

TOYOTA MOTOR CORPORATION,

GENERAL MOTORS CORPORATION

and

NEW UNITED MOTOR MANUFACTURING, INC.

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SHAREHOLDERS' AGREEMENT

This SHAREHOLDERS' AGREEMENT (this "Agreement") is made and entered into on and as of the 21st day of February, 1984 by and among New United Motor Manufacturing, Inc. (the "JV Company"), a close corporation organized and existing under the laws of the State of California, General Motors Corporation ("GM"), a corporation organized and existing under the laws of the State of Delaware, and Toyota Motor Corporation ("Toyota"), a corporation organized and existing under the laws of Japan;

WITNESSETH:

WHEREAS, the JV Company was organized as a close corporation pursuant to the General Corporation Law of California (the "GCL") on December 23, 1983;

WHEREAS, the JV Company, which has a separate and distinct existence from each of its Shareholders, which are the other parties to this Agreement, was organized for the limited purpose of manufacturing in the U.S.A. a specific automotive vehicle not heretofore manufactured and certain components related thereto; and

WHEREAS, the parties hereto desire to make an agreement relating to the management and control of the JV Company

as authorized and contemplated by Sections 186 and 300(b) of the GCL and for certain other purposes;

NOW, THEREFORE, the parties hereto agree as follows:

I. DEFINITIONS

1.1. Defined Terms: In addition to the terms defined elsewhere herein, as used herein the following terms shall have the following meanings when used herein with initial capital letters:

(a) "Articles" means the Articles of Incorporation of the JV Company, as amended from time to time.

(b) "By-Laws" means the By-Laws of the JV Company, as amended from time to time.

(c) "GM Affiliates" means any one or more of the corporations the majority of the voting shares of which are owned of record by GM.

(d) "GM Group" means collectively GM and all GM Affiliates.

(e) "GM Group Shareholder" means a Shareholder which is a member of the GM Group.

(f) "Other Agreements" means (i) the Subscription Agreement, dated the date hereof, among the JV Company, GM and Toyota (the "Subscription Agreement"), (ii) the Vehicle Supply Agreement, dated the date hereof, among the JV Company, GM and Toyota (the "Vehicle Agreement"), (iii) the Product

Responsibility Agreement, dated the date hereof, among the JV Company, GM and Toyota (the "PRA"), (iv) the Vehicle License Agreement (the "Vehicle License Agreement"), dated the date hereof, among the JV Company, GM and Toyota, (v) the Service Parts License Agreement (the "Service Parts License Agreement"), dated the date hereof, between GM and Toyota, and (vi) the Memorandum on Technical Assistance (the "Technical Assistance Memorandum"), dated the date hereof, between GM and Toyota.

(g) "Series A Directors" means members of the Board of Directors of the JV Company who are elected or designated by the holder or holders of Series A Shares pursuant to Section 3.2(c) of this Agreement.

(h) "Series A Shares" means the 10,000 shares of Common Stock, without par value, issued or to be issued by the JV Company initially to Toyota, designated Series A Shares in the Articles.

(i) "Series B Directors" means members of the Board of Directors of the JV Company who are elected or designated by the holder or holders of Series B Shares pursuant to Section 3.2(c) of this Agreement.

(j) "Series B Shares" means the 10,000 shares of Common Stock, without par value, issued or to be issued by the JV Company initially to GM, designated Series B Shares in the Articles.

(k) "Shareholders" means the shareholders of the JV Company.

(l) "Toyota Affiliates" means any one or more of the corporations the majority of the voting shares of which are owned of record by Toyota.

(m) "Toyota Group" means collectively Toyota and all Toyota Affiliates.

(n) "Toyota Group Shareholder" means a Shareholder which is a member of the Toyota Group.

(o) "Vehicles" means automotive vehicles to be manufactured for sale to GM by the JV Company under the license of Toyota.

1.2. Incorporation by Reference: Any provision of the By-Laws required by Section 300(b), or any successor provision, of the GCL to be set forth in a shareholders' agreement to be valid and enforceable is incorporated herein by this reference as if fully set forth herein.

1.3. Effect of Articles and By-Laws: Subject to Section 300(c), or any successor provision, of the GCL, if there exists any conflict between the provisions of the Articles or the By-Laws of the JV Company and the provisions of the GCL, the former shall prevail.

II. TERM OF AGREEMENT

2.1. Term: This Agreement shall become binding upon its execution by each of the parties hereto and shall remain in full force and effect until the earlier of the (a) expiration of the period of existence of the JV Company as set forth in Article 7 of the Articles (the "Corporate Term") and (b) dissolution of the JV Company pursuant to Section 8.1 hereof, provided, however, that subject to Article VIII hereof, notwithstanding the provisions of Article 7 of the Articles with respect to the period of existence of the JV Company, the Shareholders shall dissolve the JV Company after 12 years have elapsed from the date of the start of production (the "Production Commencement Date") of Vehicles pursuant to the Vehicle Agreement if such 12-year period shall end before December 31, 1997. The parties shall execute a certificate fixing the Production Commencement Date as soon as practicable after Vehicle production is commenced.

III. THE JV COMPANY

3.1. Organization and Purpose: (a) The limited purpose of the JV Company shall be to manufacture in the United States a specific automotive vehicle (the "JV Vehicle"), not heretofore produced, which will be derived from Toyota's new front-wheel drive Sprinter and certain related components.

(b) It is contemplated that the JV Company will begin to manufacture Vehicles as early as possible in the 1985 model

year with nominal capacity of approximately 200,000 units per annum. GM's annual requirements are presently expected to exceed 200,000 Vehicles per annum and, accordingly, Toyota and GM shall assist the JV Company in increasing its production to the maximum extent possible within the available capacity. The requirements for capacity beyond the first module shall be the subject of a separate study by the Shareholders. The JV Company may later manufacture for Toyota a variation of the JV Vehicle which shall be sold directly to Toyota or its designated marketing unit for resale through Toyota's dealer network. GM and Toyota may also agree for GM to source the GM-specific vehicle from Toyota's assembly plants in Japan in order to free capacity at the JV Company's Fremont, California plant for full or partial manufacture of a Toyota-specific vehicle.

(c) The JV Company is hereby granted a royalty-free license under any patent held by Toyota or GM and, accordingly, no royalties will be payable by the JV Company, GM or Toyota in respect of any of their United States and foreign patents because of the manufacture, use or sale by any of them of vehicles, materials, components or parts manufactured by or supplied to the JV Company pursuant to (i) the Vehicle Agreement, (ii) any of the agreements contemplated by the letter agreement referred to in Section 6.3 hereof, or (iii) any arrangement which may be entered into under Section 3.1(b) hereof. The preceding sentence shall not apply to vehicles manufactured by GM or Toyota.

(d) Each of GM and Toyota hereby grants to the other a non-exclusive, paid-up, irrevocable license, with no right to sublicense except to their respective suppliers, under or with respect to any United States or foreign patent or pending application for patent existing on the date hereof which is owned by or has been made by or in the name of GM or Toyota, as the case may be, and which may be reasonably necessary for the manufacture or sale of service parts for use in the repair, service or equipping of the motor vehicles manufactured by the JV Company.

3.2. Directors: (a) The provisions of this Section 3.2 shall apply to the election or designation of directors of the JV Company.

(b) There shall be an equal number of Series A Directors and Series B Directors.

(c) In furtherance of the provisions of Article 5 of the Articles, the Series A Directors shall be elected or designated by the affirmative vote or written consent of the holder or holders of a majority of the Series A Shares, and the Series B Directors shall be elected or designated by the affirmative vote or written consent of the holder or holders of a majority of the Series B Shares.

(d) A director may be removed without cause by the affirmative vote or written consent of the holder or holders of a majority of the series of shares which last elected the person

being removed. The term of office of the director in question shall end at the time written evidence of such vote or consent is delivered to the JV Company.

(e) Vacancies on the Board of Directors, whether resulting from removal, resignation, death or otherwise, shall be filled by the affirmative vote or written consent of the holder or holders of a majority of the series of shares which last elected such person being replaced.

(f) An alternate director may be appointed by each member of the Board of Directors in accordance with the applicable provisions of the By-Laws.

3.3. Waiver of Provisional Director: (a) Subject to Section 300(c), or any successor provision, of the GCL, no Shareholder, director or officer of the JV Company shall bring an action for appointment of a provisional director or any other neutral manager, by whatever name called, under Section 308, or any successor provision, of the GCL or under any other applicable statute or legal doctrine.

(b) This Section constitutes an express agreement of the parties pursuant and subject to Section 300(c) of the GCL waiving all provisions of law, including but not limited to Section 308, or any successor provision, of the GCL, authorizing or permitting the appointment of a provisional director or other neutral manager in any conditions or under any circumstances whatsoever, to the end that no provisional director or other

neutral manager shall ever be appointed for the JV Company.

3.4. Certain Transactions: Notwithstanding Section 310, or any successor provision, of the GCL, any contracts or transactions between the JV Company and any member of the Toyota Group or the GM Group of which one or more of the directors or alternate directors of the JV Company are directors shall be valid even if such contracts or transactions are approved by the Board of Directors of the JV Company (a) with the common directors or alternate directors (i) being present, included for purposes of determining the presence of a quorum at the meeting, participating in the discussion of the contracts or transactions or voting thereon or (ii) participating in the written action and (b) without the disclosure to the Board of Directors of the JV Company of the fact of such common directorships.

3.5. Officers: Notwithstanding the provisions of Section 312(b), or any successor provision, of the GCL or any other provision of law or agreement of the parties, the President of the JV Company shall be elected or designated by and serve at the pleasure of a majority of the Series A Directors. All other officers shall be selected by and serve at the pleasure of the President. Toyota and GM shall each endeavor to assign to the JV Company such personnel as the President may request.

3.6. Other Limitations: (a) Except for the purposes contemplated by this Agreement in connection with the operations of the JV Company, nothing in this Agreement or in any of the

Other Agreements, any agreement contemplated by the letter agreement referred to in Section 6.3 hereof or any other agreement or instrument to which the Shareholders signatory hereto are parties shall create any cooperative or special relationship between Toyota or its Affiliates, on the one hand, and GM or its Affiliates, on the other hand, which entities presently are and will continue to be competitors.

(b) No Shareholder shall have, nor hold itself out as having, any authority or agency to act on behalf of any other Shareholders or any of its Affiliates in any capacity or in any manner except as specifically authorized in this Agreement or in any of the Other Agreements or any agreement contemplated by the letter agreement referred to in Section 6.3 hereof or any other agreement or instrument to which the Shareholders signatory hereto are parties, and no Shareholder shall become liable by reason of any representation, action or omission of any other Shareholder contrary to the provisions of this Agreement or of any of the Other Agreements or any agreement contemplated by the letter agreement referred to in Section 6.3 hereof. Without limiting the generality of the foregoing, no Shareholder shall have any liability or obligation for any liabilities or obligations of any other Shareholder or any of its Affiliates with respect to any matter outside the scope of this Agreement or of any of the Other Agreements or any agreement contemplated by the letter agreement referred to in Section 6.3 hereof.

(c) None of the Shareholders or any of its or their Affiliates will, by virtue of the execution of this Agreement or any of the Other Agreements or any agreement contemplated by the letter agreement referred to in Section 6.3 hereof, be foreclosed or limited, in any manner, from the design, manufacture, purchase, sale or other distribution of any products that it may elect to design, manufacture, sell or distribute under its own trademarks or trade names or otherwise, and each of the Shareholders and any of its or their Affiliates may design, manufacture, purchase, sell or otherwise deal in any product, whether or not competitive with Vehicles or other products manufactured by the JV Company, anywhere in the world, provided that such activities are not the proximate cause of any breach of any such entity's obligations under this Agreement or any of the Other Agreements or any agreement contemplated by the letter agreement referred to in Section 6.3 hereof.

(d) As used in this Section 3.6 and in Section 3.7 hereof, the term "Affiliate" means any person or entity that directly, or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with any other person or entity, and the term "Control" means the power, whether by stock or other ownership, contract or otherwise, to direct the business of any other person or entity.

3.7. General Statements: None of the Shareholders nor any of its Affiliates will consult any other Shareholder or any of its or their Affiliates with respect to its marketing of any

products, including without limitation any product which is the subject of any of the Other Agreements or any agreement contemplated by the letter agreement referred to in Section 6.3 hereof, except only (a) to the extent, if any, provided in any agreement as to products which are to be sold to the JV Company pursuant to the component supply agreements and to GM pursuant to the service parts supply agreements as contemplated by the letter agreement referred to in Section 6.3 hereof, (b) negotiation of any other supply agreement in which the Shareholders or any of their respective Affiliates are in the relationship of seller and buyer, and (c) as contemplated by Section 3.8 hereof or Section 4.3(e) of the Vehicle Agreement. Each Shareholder and its Affiliates shall be free to price and free to market any products which may be purchased by it or them from the JV Company without restrictions or influence from any of the other Shareholders or its or their Affiliates or from the JV Company. Nothing in this Agreement or any of the Other Agreements or any agreement contemplated by the letter agreement referred to in Section 6.3 hereof shall create any implied obligations or restrictions among the Shareholders or their respective Affiliates relating to the subject matter of this Section 3.7.

3.8. Future Difficulties: If, after the date hereof, Toyota or GM, as the case may be, in good faith shall conclude that (a) the continuation of the JV Company may be difficult or infeasible due to a deadlock in the Board of Directors of the JV

Company or any legal or political reason which may arise in the U.S.A. after the date hereof or (b) any United States or Japanese governmental action shall be taken which may have a material adverse effect upon the JV Company, or upon GM or Toyota in connection with their dealings with the JV Company, then GM and Toyota shall in good faith discuss the measures to be taken concerning the JV Company and endeavor to find appropriate solutions.

IV. RESTRICTIONS ON SHARE TRANSFERS,
EXPENSES, DEBT POLICY, ETC.

4.1. Qualified Shareholders; Permitted Transfers:

(a) Neither the holder or holders of Series A Shares nor the holder or holders of Series B Shares may transfer or sell any shares except as provided in Article 6 of the Articles, and then only if the proposed transferee shall duly execute and deliver an instrument in form reasonably satisfactory to the other Shareholders, which instrument when so executed shall constitute an amendment to this Agreement pursuant to which such transferee shall be deemed to have become a party to and entered into this Agreement. No Shareholder shall encumber any of its shares of the JV Company by any means whatsoever without the prior written consent of all of the other Shareholders.

(b) Before a Toyota Group Shareholder loses its status as a Toyota Affiliate, Toyota shall acquire or, with the prior

written consent of GM, cause another Toyota Affiliate to acquire all shares of the JV Company owned by such Toyota Group Shareholder. Before a GM Group Shareholder loses its status as a GM Affiliate, GM shall acquire or, with the prior written consent of Toyota, cause another GM Affiliate to acquire all shares of the JV Company owned by such GM Group Shareholder.

(c) In furtherance of Article 6(c) of the Articles, if, at any time, a Shareholder ceases to be qualified as such pursuant to this Section 4.1 or pursuant to the Articles, it shall cease to be a Shareholder without further action for any purpose except to transfer its shares to a corporation that is so qualified.

4.2. JV Company Debt Policy: It is the intention of the Shareholders that the JV Company will fund that portion of its cash and working capital requirements not funded by capital contributions of the Shareholders pursuant to the Subscription Agreement through borrowings or other financing mechanisms on the basis of the JV Company's own credit in a normal and prudent manner without requiring guarantees by the Shareholders. In the event that either lenders or lessors insist that payments to be made or obligations to be performed by the JV Company be subject to appropriate guarantees, Toyota and GM agree either to provide such guarantees or temporarily to advance funds to the JV Company on their own account, in each case in proportion to the respective holdings of shares of capital stock of the JV Company

of the Toyota Group and the GM Group, respectively. To the extent permitted by creditors, any security interests held by GM and Toyota in the assets of the JV Company shall be shared by GM and Toyota in proportion to the respective holdings of shares of capital stock of the JV Company of the Toyota Group and the GM Group, respectively.

4.3. JV Company Expenses: Except as otherwise provided in any agreement or instrument to which the parties signatory hereto are parties, the JV Company shall be responsible for the payment of all of its own expenses.

4.4. Corporate Average Fuel Economy: (a) For purposes of this Section 4.4, "Federal Fuel Economy Laws and Regulations" means the following laws and regulations of the United States of America: (i) Title V of the Motor Vehicle Information and Cost Savings Act, entitled "Improving Automotive Efficiency", (ii) Part I of the Energy Tax Act of 1978, entitled "Gas Guzzler Tax", (iii) all motor vehicle fuel economy regulations and procedures promulgated by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, (iv) all motor vehicle fuel economy regulations promulgated by the Environmental Protection Agency in Title 40 of the Code of Federal Regulations, (v) all motor vehicle fuel

economy regulations promulgated by the Internal Revenue Service in Title 26 of the Code of Federal Regulations, and (vi) all amendments to any of the foregoing and any new legislation, regulations or governmental procedures for similar purposes:

(b) Subject to any mandatory requirements of applicable law to the contrary, in the event that GM (or its designated marketing units) or Toyota (or its designated marketing units) as a purchaser of automotive vehicles from the JV Company, shall be entitled to or have any rights and responsibilities under Federal Fuel Economy Laws and Regulations, such rights and responsibilities shall be proportionately allocated between them based upon the number of automotive vehicles purchased from the JV Company in each calendar year by, respectively, GM (and its designated marketing units) and Toyota (and its designated marketing units). If so requested in writing by any such purchaser, Toyota shall provide such purchaser fuel consumption data relating to such vehicles and the JV Company shall provide such purchaser with a copy of documents in its possession, if any, which are required by Federal Fuel Economy Laws and Regulations. If any other document or information is requested, Toyota, GM and the JV Company shall discuss whether such request can be met and, if so, the relevant terms and conditions thereof, with the understanding that the JV Company, GM and Toyota shall cooperate with such purchaser to the extent reasonably practicable without unreasonable burden. Without limiting the generality of the foregoing,

the JV Company shall permit Toyota or GM to file on its behalf all reports, petitions and applications required or permitted by Federal Fuel Economy Laws and Regulations and prepared in good faith by Toyota or GM, as the case may be.

(c) Notwithstanding anything to the contrary set forth in this Agreement, the JV Company or Toyota shall not be required for any purpose (i) to alter or not to alter the designs, specifications or other related matters for automotive vehicles, (ii) to deviate from the sourcing policies set forth in Section 6.1 hereof, (iii) except as provided in Section 4.4(b) hereof, to do anything whatsoever to enable any purchaser to have any particular rights and responsibilities under Federal Fuel Economy Laws and Regulations, or (iv) to refrain from doing anything detrimental to any particular purchaser's rights and responsibilities under Federal Fuel Economy Laws and Regulations, provided, however, that nothing herein contained shall be construed to authorize the JV Company or Toyota to do anything specifically designed to harm any business interest of any purchaser hereunder.

4.5. GM's Technical Assistance: To the extent that GM and the JV Company may mutually agree therefor, GM shall provide technical assistance to the JV Company on a cost basis. As part of such technical assistance, GM shall upon request assist Toyota and the JV Company in completing compliance tests for safety, emissions and other areas as agreed upon by the parties.

V. CERTAIN REAL ESTATE MATTERS

5.1. Marshalling Area: (a) GM hereby grants to members of the Toyota Group, independent distributors of Toyota automotive vehicles and, subject to the prior written approval of GM, any designee of Toyota (collectively, "Permitted Designees") a nonexclusive license to use the parcel of land outlined in red on the map attached hereto as Annex A, together with the buildings and improvements thereon, owned by GM (the "Marshalling Area"), for the purpose of receiving, inspecting and processing Toyota-specific automotive vehicles, optional equipment and parts supplied by the JV Company to Toyota or its Permitted Designee, if any. GM shall not grant any other license to use the Marshalling Area during the term of the license as provided in Section 5.1(b) hereof to any person or entity other than persons or entities selected by GM for any purpose deemed by GM in its sole discretion to be related to GM's use of the Marshalling Area in a fashion reasonably consistent with the license granted pursuant to the immediately preceding sentence. For such period as Toyota or its Permitted Designees are using the Marshalling Area, Toyota will, together with GM (if the Marshalling Area is also being used by GM or a permitted licensee of GM other than Toyota or its Permitted Designees), cause the Marshalling Area to be kept in an orderly condition, and will provide adequate security therefor. Further, during such period, (i) each of GM and Toyota shall bear its fair share of expenses, including

without limitation all maintenance, repair, insurance, taxes, assessments and operating and similar expenses, relating to the use, operation and maintenance of the Marshalling Area, (ii) if GM in its capacity of owner of the Marshalling Area suffers any liability, loss or damage resulting from death or injury to persons or property which results from the use of the Marshalling Area by Toyota or any of its Permitted Designees or any of its or their agents, employes or invitees pursuant to the license granted in this Section 5.1(a), Toyota shall indemnify and hold harmless GM from such liability, loss or damage, and (iii) each of Toyota (and its Permitted Designees) and GM (and its permitted licensees) shall use the Marshalling Area in a manner which will not unreasonably interfere with the other's use thereof. Upon expiration of the license referred to above, Toyota shall remove, or negotiate a transfer to GM of, any improvements to, or machinery and equipment installed by Toyota or Permitted Designees of Toyota under this Section 5.1(a) upon, the Marshalling Area, and leave the same in an orderly condition. Toyota and its Permitted Designees shall have the right to permit the license granted hereunder, or any part thereof, to be used by an automobile carrier performing contract services for Toyota or Permitted Designees of Toyota, or any other person or entity which in the reasonable opinion of Toyota or Permitted Designees

of Toyota is necessary in order to enable Toyota or such Permitted Designees to carry out the operations contemplated by it or them hereunder.

(b) The license granted pursuant to Section 5.1(a) hereof shall commence and become effective if and at such time as the production of Toyota-specific automotive vehicles pursuant to Section 3.1(b) hereof commences and shall remain in full force and effect for so long as Toyota deems it necessary to use the Marshalling Area, provided that such license shall in any event expire upon the dissolution of the JV Company.

(c) In connection with the delivery of the Deed as provided in Section 1.2(b) of the Subscription Agreement, GM, Toyota and the JV Company shall duly execute and deliver the License Agreement in the form of Annex B hereto.

5.2. Adjacent Area: GM shall not dispose of any real property owned by it and located adjacent to the property of the JV Company in Fremont, California granted or to be granted to the JV Company pursuant to the Subscription Agreement until three years have elapsed after the Production Commencement Date. Thereafter, if GM wishes to dispose of any part or all of such real property, GM shall first notify the JV Company and shall, at the request of the JV Company, discuss with the JV Company the terms of disposition.

VI. PURCHASE AND SUPPLY ARRANGEMENTS

6.1. Sourcing: Subject to the provisions of any agreement contemplated by the letter agreement referred to in Section 6.3 hereof, the JV Company shall purchase its components, parts, production materials, supplies and services from those suppliers providing the lowest possible cost consistent with the JV Company's standards for quality and reliability of supply.

6.2. Sales: As a general proposition, automotive vehicles sold by the JV Company should be priced by the JV Company to provide a reasonable profit for the JV Company, Toyota and GM. Sales of Vehicles and optional equipment therefor to GM shall be governed by the provisions of the Vehicle Agreement.

6.3. Certain Additional Agreements: The JV Company, GM and Toyota shall negotiate and enter into various agreements relating to, among other things, the purchase and sale of certain components and certain service parts for Vehicles and the sale or lease of certain machinery and equipment in accordance with a separate letter agreement, dated the date hereof, among the JV Company, GM and Toyota, provided, however, that the failure to enter into any such agreement by any particular date shall not affect the obligations of any Shareholder to make any capital contribution or payment for shares subscribed for pursuant to the Subscription Agreement.

VII. DEFAULT

7.1. Default: A Shareholder which has failed, refused or neglected to perform any one or more of its obligations hereunder shall be deemed to be in default under this Agreement.

7.2. Default Upon Subscription Payments and Interest Thereon: Each cash contribution provided for in the Subscription Agreement which is not made when due shall constitute a debt due and payable to the JV Company by the Shareholder obligated to make or pay the same and shall be enforceable by the JV Company and any non-defaulting Shareholder on behalf of, and in the name of, the JV Company. A defaulting Shareholder shall pay interest to the JV Company on each such cash contribution at a rate equal to (a) the greater of (i) 10% per annum and (ii) the rate which is five percentage points in excess of the discount rate, including any surcharge thereon, on 90-day commercial paper in effect at the United States Federal Reserve Bank in San Francisco, California, or, if lesser than the amount so computed, (b) the maximum rate permitted by law, in either case from the date upon which payment of such cash contribution was due to the date of actual payment thereof. If GM or Toyota fails to provide any guarantee or temporary advance required by Section 4.2 hereof, such party shall promptly reimburse the JV Company for all excess borrowing and other costs incurred by it by reason of such failure.

VIII. DISSOLUTION AND LIQUIDATION

8.1. Events of Dissolution: (a) Notwithstanding the provisions of Section 2.1 hereof, the JV Company shall be dissolved:

(i) if and when Toyota and GM agree in writing to dissolve the JV Company;

(ii) on or after the day on which 90 calendar days shall have elapsed from the day on which Toyota or GM, as the case may be, becomes entitled to elect to dissolve the JV Company by reason of the occurrence of one of the following events and has given to the other a written notice of its election so to dissolve the JV Company:

(A) when either Toyota or GM fails to fulfill its obligation to make a capital contribution pursuant to the Subscription Agreement or to provide a guarantee for or a temporary advance of funds to the JV Company pursuant to Section 4.2 hereof, the non-defaulting party may elect to dissolve the JV Company;

(B) when either a Toyota Group Shareholder or a GM Group Shareholder attempts to transfer or encumber any share of the JV Company in violation of the provisions of Article 6 of the Articles or Section 4.1 hereof, GM, if the attempted transfer or encumbrance is by a Toyota Group Shareholder, or Toyota, if the attempted transfer or encumbrance is by a GM Group Shareholder, may elect to dissolve the JV Company; or

(C) when, without the other party's prior written consent, any of the following events occurs with respect to either Toyota or GM, GM, if such event occurs with respect to Toyota, or Toyota, if such event occurs with respect to GM, may elect to dissolve the JV Company:

(1) institution of proceedings for relief as a debtor under laws for the relief of debtors or filing of a petition in bankruptcy or insolvency;

(2) entering into any arrangement, assignment, reorganization or composition with creditors or for the benefit of creditors;

(3) a general suspension of payments;

(4) filing of a petition for appointment of a receiver, liquidator or trustee for its business or properties;

(5) filing of a petition or other documents for winding up or dissolution; or

(6) any completed merger, consolidation, reorganization, tender offer or similar business combination transaction in which GM or Toyota, as the case may be, is not the acquiring, surviving or resulting corporation.

(b) GM acknowledges that pursuant to the By-Laws of the JV Company the President of the JV Company has the sole authority with respect to the execution and alteration of

collective bargaining agreements and working and employment conditions. Notwithstanding any contrary provisions of the By-Laws, this Agreement or any other agreement or instrument, but in all events subject to Section 300(c), or any successor provision, of the GCL, if and when, in the exclusive judgment of the President of the JV Company, there shall exist an unsatisfactory relationship between the JV Company and the representatives of any of its employes, the President of the JV Company may decide the actions to be taken by the JV Company. Such actions may include, without limitation, suspending the business and operations of the JV Company; provided, however, that any approvals, elections or other actions referred to in or contemplated by Sections 1900 or 1901, or any successor provisions, of the GCL may be given, made or taken only with the prior written approval of GM and Toyota.

(c) In the event that any of the events enumerated in Section 8.1(a)(ii) hereof occurs, the defaulting or violating party may cure the default or violation within the 90-day notice period set forth in Section 8.1(a)(ii) hereof. Upon the cure of such default or violation within said period, the notice of election to dissolve the JV Company shall be deemed withdrawn by the non-defaulting or non-violating party and neither party may dissolve the JV Company on the basis of such default or violation.

(d) Before either Toyota or GM gives a written notice of its election to dissolve under Section 8.1(a)(ii) hereof, it shall first attempt to discuss with the other the possibility of

the purchase by a member or members of the GM Group or the Toyota Group of the JV Company shares owned by all Shareholders that are not members of the GM Group or the Toyota Group, as the case may be, having the right to elect to dissolve the JV Company.

(e) Nothing in this Section 8.1 shall limit any party's rights to enforce any provision of this Agreement by an action at law or in equity, nor shall any election to dissolve the JV Company pursuant to this Section 8.1 relieve any party of any liability for any prior or subsequent breach of this Agreement.

8.2. Liquidation and Distribution Following

Dissolution: In case of dissolution of the JV Company, whether under Sections 2.1 or 8.1 hereof, the assets of the JV Company shall, subject to any mandatory and non-waivable laws governing priorities in liquidation, be distributed first to the payment to the Shareholder or Shareholders which fulfilled its or their obligation to make a capital contribution pursuant to the Subscription Agreement or to provide a guarantee for or a temporary advance of funds to the JV Company pursuant to Section 4.2 hereof of such amount as will equalize such Shareholder or Shareholders with the other Shareholder or Shareholders in terms of financial contributions to the JV Company, and the JV Company shall be wound up and liquidated in accordance with applicable mandatory law.

8.3. One Liquidator: If the JV Company is dissolved by reason of the occurrence of an event described in Subparagraphs (A), (B) and (C) of Section 8.1(a)(ii) hereof, the Shareholder or Shareholders that were not in default, were not the subject of the event or did not commit the act described therein shall have the sole authority to wind up the JV Company's affairs and supervise its liquidation.

IX. REPRESENTATIONS AND WARRANTIES, ETC.

9.1. By Toyota: Toyota represents and warrants to GM that each of this Agreement and the Other Agreements to which it is a party is a valid and binding obligation of Toyota and that it knows of no impediment which is likely to impair the full and punctual performance of each of its obligations hereunder, thereunder or under any of the agreements contemplated by the letter agreement referred to in Section 6.3 hereof.

9.2. By GM: GM represents and warrants to Toyota that each of this Agreement and the Other Agreements to which it is a party is a valid and binding obligation of GM and that it knows of no impediment which is likely to impair the full and punctual performance of each of its obligations hereunder, thereunder or under any of the agreements contemplated by the letter agreement referred to in Section 6.3 hereof.

9.3. Survival: All representations, warranties and guarantees, indemnities and liabilities made or furnished

herein or arising hereunder shall survive any termination of this Agreement or dissolution of the JV Company.

X. GENERAL PROVISIONS

10.1. Assignability: Except to the extent resulting from a permitted transfer of shares pursuant to this Agreement and the Articles, neither this Agreement nor any right (other than a right to receive the payment of money) or obligation hereunder may be assigned or delegated in whole or in part to any other person or entity.

10.2. Persons Authorized to Act for the Parties: Except as contemplated by Section 4.1 hereof, each change, variation or modification of this Agreement shall be effective only when made in writing signed by an authorized officer or representative of each of the parties.

10.3. Notices: In any case where any notice or other communication is required or permitted to be given under this Agreement (including without limitation any change in the information set forth in this Section) such notice or communication shall be in writing and (i) personally delivered, (ii) sent by postage prepaid registered airmail (which notice or other communication shall be immediately confirmed by a telex marked "Important"), or (iii) transmitted by electronic facsimile transfer marked "Important" (which notice or other communication shall be immediately confirmed by a telex marked "Important") as follows:

If to Toyota, to:

Toyota Motor Corporation
1, Toyota-Cho, Toyota
Aichi 471 Japan
Telex/Answerback: 4528371/TOYOTA J
Facsimile Model: UF 520 III
Facsimile Call No.: 565-80-1116
Attention: President

If to GM, to:

General Motors Corporation
3044 West Grand Boulevard
Detroit, Michigan 48202 U.S.A.
Telex/Answerback: 425543/GM COMM DET
Facsimile Model: RAPICOM 1500
Facsimile Call No.: 313-556-6188
Attention: Chairman of the Board

If to the JV Company, to:

New United Motor Manufacturing, Inc.
45500 Fremont Boulevard
Fremont, California 94537 U.S.A.
Telex/Answerback: (To be supplied)
Facsimile Model: (To be supplied)
Facsimile Call No.: (To be supplied)
Attention: President

All such notices or other communications shall be deemed to have been given or received (i) upon receipt if personally delivered, (ii) on the tenth business day following posting if by postage prepaid registered airmail, and (iii) 24 hours following confirmation by telex with confirmed answerback if notice is given by electronic facsimile transfer.

10.4. Third Persons: Except as contemplated in this Agreement as to the parties hereto and GM Affiliates and Toyota Affiliates and except as contemplated in Sections 4.4 and 5.1 hereof, nothing in this Agreement is intended or shall be con-

strued to confer upon or to give any person or entity any legal or equitable rights or remedies under or by reason of this Agreement.

10.5. Governing Language: This Agreement and all other agreements, instruments and notices that are referred to herein or are supplementary hereto shall be prepared or furnished in and governed and controlled by the English language.

10.6. Choice of Law: This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of California, U.S.A., without giving effect to the principles of conflict of laws thereof.

10.7. Entire Agreement, Etc.: This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. To the extent that provisions in any of the Prior Agreements (as that term is hereafter defined) are inconsistent with any provision of this Agreement, this Agreement supersedes all prior agreements and understandings, oral and written, among the parties hereto with respect to the subject matter hereof, including without limitation the Memorandum of Understanding (the "Memorandum"), dated February 17, 1983, as amended, between Toyota and GM and all letter agreements, minutes of meetings and similar documents dated prior to the date hereof to which GM, Toyota or any of their respective representatives are parties (the Memorandum and such letter agreements, minutes and similar documents being referred to herein as the "Prior Agreements").

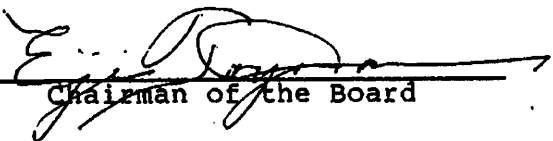
10.8. Enforcement of this Agreement: Each party to this Agreement, solely in connection with any action or proceeding brought by any other party to this Agreement (on its own behalf or on behalf of the JV Company) arising out of or related to this Agreement, hereby (i) agrees that any such action or proceeding shall be brought only in a federal or state court of competent subject matter jurisdiction in the State of California (and no such action or proceeding shall be brought in any other state or country) and (ii) consents to personal jurisdiction in any such court provided that service of process shall be duly made. Each party hereby agrees that in any such action or proceeding process may be served upon it by any means authorized by applicable statutes, rules, treaties and/or conventions. In this regard, if such service of process shall be duly made by any means as aforesaid, no party shall contest the same or the personal jurisdiction of any such California court in any court. The parties' obligations under this Section 10.8 shall survive the expiration or termination of this Agreement or the dissolution of the JV Company. Nothing herein shall be construed to mean that any party to this Agreement has hereby submitted to the personal jurisdiction of any such court in connection with any other action or proceeding whatsoever.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be duly executed on its behalf as of the day and year first above written.

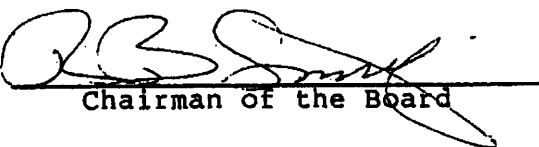
NEW UNITED MOTOR MANUFACTURING,
INC.

By 
President

TOYOTA MOTOR CORPORATION

By 
Chairman of the Board

GENERAL MOTORS CORPORATION

By 
Chairman of the Board

Annex A

Marshalling Area

SOUTHERN PACIFIC COMPANY

NUMBERED COURSES

REF. NO.	BEARING	DISTANCE
T 1	N10°19'47"W	15.00
T 2	N87°51'15"W	3.37
T 3	N81°44'55"E	13.78
T 4	N88°20'7"E	89.03
T 5	N21°39'3"E	89.11
T 6	N81°18'13"W	41.99
T 7	N89°42'4"E	34.82
T 8	N88°21'7"E	41.32
T 9	N88°21'57"E	38.80
T 10	N 3°38'3"E	132.34
T 11	N88°21'57"E	101.88
T 12	N88°21'57"E	76.00
T 13	N88°21'57"E	88.48

CURVE NO.	CURVE DATA	DELTA	LENGTH
C 1	300.00	8°14'7"	128.34
C 2	420.00	42°22'5"	310.57

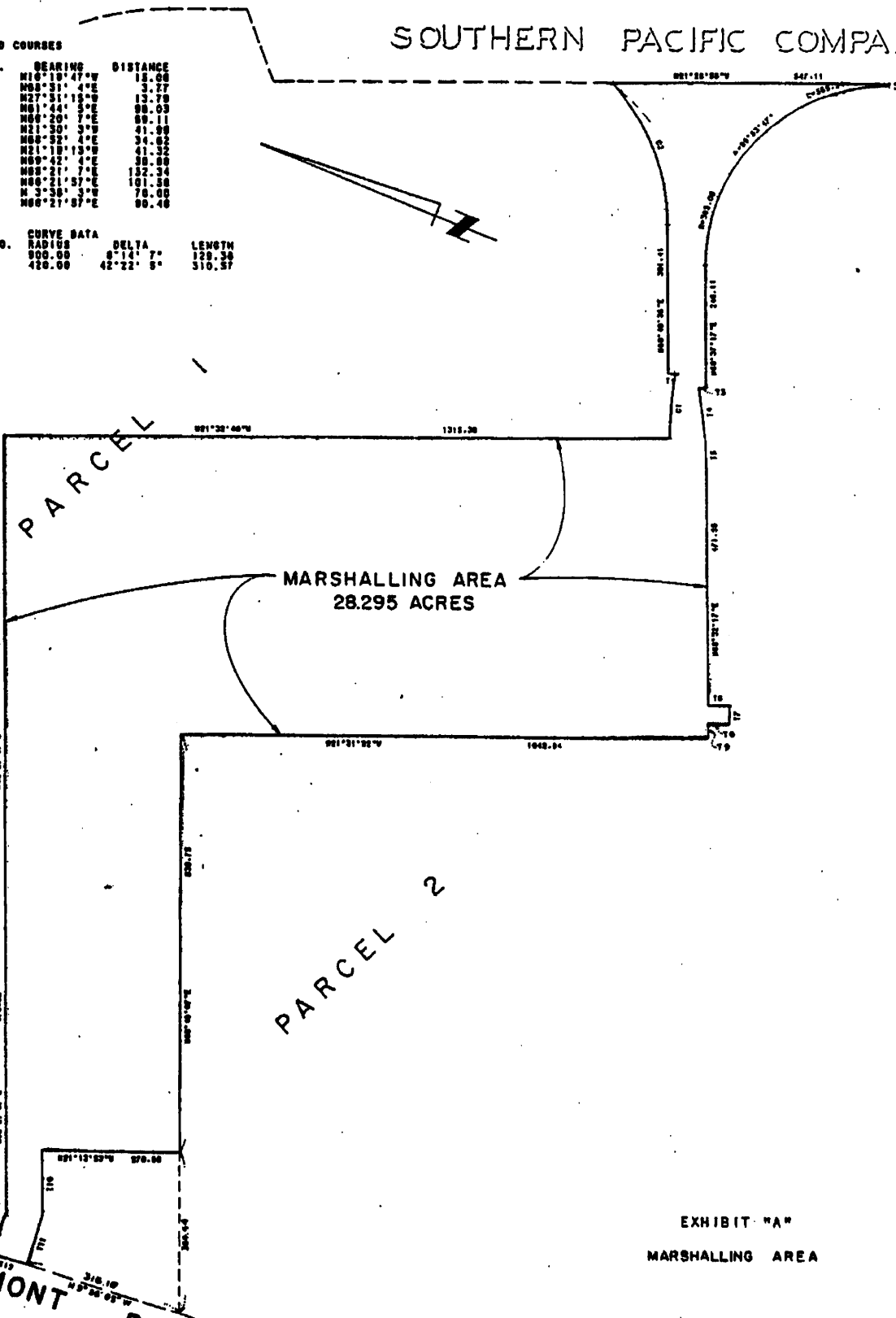


EXHIBIT "A"
MARSHALLING AREA

FREMONT, ALAMEDA COUNTY, CALIFORNIA

SCALE 1" = 200'

DECEMBER 16, 1983

Annex B

Form of License Agreement

AMENDMENT TO SHAREHOLDERS' AGREEMENT

TOYOTA MOTOR CORPORATION ("Toyota"), a corporation organized and existing under the laws of Japan, GENERAL MOTORS CORPORATION ("GM"), a corporation organized and existing under the laws of the State of Delaware, and NEW UNITED MOTOR MANUFACTURING, INC. (the "JV Company"), a close corporation organized and existing under the laws of the State of California, hereby agree to amend the Shareholders' Agreement, dated February 21, 1984, (the "Agreement") as follows:

1. The following sentence is hereby added to the end of Paragraph 3.1 (a) of the Agreement:

"The JV Company may also establish additional capacity to assemble annually up to 100,000 light duty pick-up trucks derived from Toyota's current Hilux model or a successor model of comparable specifications."

2. The second sentence of Paragraph 4.2 of the Agreement is hereby amended by adding at the beginning of that sentence the following phrase: "Except as otherwise provided in the Letter of Understanding dated April 24, 1989, among Toyota, the JV Company and GM...."

3. The first sentence of Paragraph 4.4 (b) of the Agreement is hereby deleted and substituted with the following two sentences:

"Subject to contrary requirements of applicable law, the party purchasing motor vehicles from the JV Company (GM, Toyota or their respective marketing units) shall enjoy any rights and bear any responsibilities under Federal Fuel Economy Laws and Regulations with respect to all such motor vehicles purchased from the JV Company by such party. The JV Company shall maintain accurate records indicating the country of origin of all components and materials included in such motor vehicles, shall provide such records to the purchaser of such motor vehicles, and shall retain such records for such time as may be required by Federal Fuel Economy Laws and Regulations."

4. Paragraph 6.1 of the Agreement is hereby amended by adding after the phrase "Section 6.3 hereof" the following phrase:

"and the Letter of Understanding dated April 24, 1989, among Toyota, the JV Company and GM"

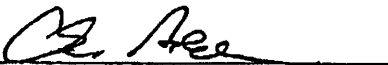
5. This Amendment shall be effective as of April 24, 1989.

IN WITNESS WHEREOF, the parties have caused three copies of this
Amendment to be signed by their duly authorized representatives.

TOYOTA MOTOR CORPORATION

GENERAL MOTORS CORPORATION


By: 

By: 

Title: Director

Title: Assistant Treasurer

NEW UNITED MOTOR MANUFACTURING, INC.

By: 

Title: President

SECOND AMENDMENT TO SHAREHOLDERS' AGREEMENT

TOYOTA MOTOR CORPORATION ("Toyota"), a corporation organized and existing under the laws of Japan, GENERAL MOTORS CORPORATION ("GM"), a corporation organized and existing under the laws of the State of Delaware, and NEW UNITED MOTOR MANUFACTURING, INC. (the "JV Company"), a close corporation organized and existing under the laws of the State of California, hereby agree to amend the Shareholders' Agreement, dated February 21, 1984, as amended on April 24, 1989, (the "Agreement"), as follows:

1. The last sentence of Paragraph 3.3(a) of the Agreement is hereby deleted.
2. The following sentence is hereby added to the end of Paragraph 3.1(a) of the Agreement:

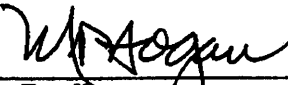
"The JV Company may also maintain a capacity to assemble annually 150,000 light duty pick-up trucks derived from Toyota's current Hilux model or a successor model of comparable specifications."
3. This Second Amendment shall be effective as of August 26, 1992.

IN WITNESS WHEREOF, the parties have caused three copies of this Second Amendment to be signed by their duly authorized representatives.

TOYOTA MOTOR CORPORATION

GENERAL MOTORS CORPORATION

By: 
K. Kato
Managing Director

By: 
M. T. Hogan
Executive Director of
Planning, North American
Operations

NEW UNITED MOTOR MANUFACTURING, INC.

By: 
O. Kimura
President

THIRD AMENDMENT TO
SHAREHOLDERS' AGREEMENT

TOYOTA MOTOR CORPORATION, a corporation organized and existing under the laws of Japan ("Toyota"), GENERAL MOTORS CORPORATION, a corporation organized and existing under the laws of the State of Delaware ("GM"), and NEW UNITED MOTOR MANUFACTURING, INC., a corporation organized and existing under the laws of the State of California ("JV Company") hereby agree to amend the SHAREHOLDERS' AGREEMENT dated February 21, 1984, as amended on April 24, 1989 and August 26, 1992 ("Agreement"), as follows:

1. Section 1.1(f) of the Agreement, entitled "Other Agreements," is hereby amended by adding the following at the end thereof:

", as the same may be amended from time to time."

2. Section 1.1 of the Agreement, entitled "Defined Terms," is hereby amended to delete and replace subparagraph (o) with the following subparagraphs:

"(o) "Vehicles" means automotive vehicles manufactured by the JV Company under the license of Toyota for GM or Toyota or their respective designated marketing units."

3. Section 2.1 of the Agreement, entitled "Term," is hereby deleted and replaced by the following Section:

"2.1. Term: This Agreement shall become binding upon its execution by each of the parties hereto and shall remain in full force and effect until the dissolution of the JV Company pursuant to Section 8.1. hereof or until the parties agree to terminate this Agreement, whichever is earlier."

4. Sections 3.1(a) and (b) of the Agreement, entitled "Organization and Purpose," are hereby deleted and replaced with the following Section 3.1(a), and Section 3.1(c) is renumbered as 3.1(b):

"3.1. Organization and Purpose:

(a) The limited purpose of the JV Company shall be to manufacture in the United States those specific Vehicles agreed upon in writing by GM and Toyota and related automotive parts and components."

5. Section 3.5 of the Agreement, entitled "Officers," is hereby deleted and replaced with the following Section:

"3.5. Officers: Notwithstanding the provisions of Section 312(b), or any successor provision, of the GCL or any other provision of law or agreement of the parties, the President of the JV Company shall be elected or designated by and serve at the pleasure of a majority of the Series A Directors. All other officers shall be selected or designated by the President, after consultation with one or more Series A Directors and one or more Series B Directors, and shall serve at the pleasure of the President. Toyota and GM shall each endeavor to assign to the JV Company such personnel as the President may request."

6. Section 7.2 of the Agreement, entitled "Default Upon Subscription Payments and Interest Thereon," is hereby deleted and replaced by the following Section:

"7.2. Default Upon Subscription Payments and Interest Thereon: Each cash contribution provided for in the Subscription Agreement which is not made when due shall constitute a debt due and payable to the JV Company by the Shareholder obligated to make or pay the same and shall be enforceable by the JV Company and any non-defaulting Shareholder on behalf of, and in the name of, the JV Company. A defaulting Shareholder shall pay interest to the JV Company on each such cash contribution at a rate equal to the lesser of (a) the reference/prime rate of the Bank of America, San Francisco office plus one-half of one percent or (b) the maximum rate permitted by law, in either case from the date upon which payment of such cash contribution was due to the date of actual payment thereof. If GM or Toyota fails to provide any guarantee or temporary advance requirement by Section 4.2 hereof, such party shall promptly reimburse the JV Company for all excess borrowing and other costs incurred by it by reason of such failure."

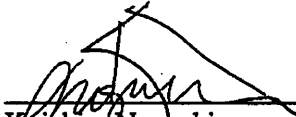
7. This Amendment shall be effective as of February 1, 1997.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed in triplicate by their duly authorized representatives.

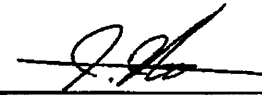
TOYOTA MOTOR CORPORATION

NEW UNITED MOTOR
MANUFACTURING, INC.

By:


Korchiro Noguchi
Director

By:


Iwao Itoh
President

GENERAL MOTORS CORPORATION

By:

Paul W. Schmidt
Executive in Charge
NAO Finance

7. This Amendment shall be effective as of February 1, 1997.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed in triplicate by their duly authorized representatives.

TOYOTA MOTOR CORPORATION

NEW UNITED MOTOR
MANUFACTURING, INC.

By: _____

Koichiro Noguchi
Director

By:  _____

Iwao Itoh
President

GENERAL MOTORS CORPORATION

By:  _____

Paul W. Schmidt
Executive in Charge
NAO Finance

EXHIBIT “F”

VEHICLE LICENSE AGREEMENT

by and among

TOYOTA MOTOR CORPORATION,

NEW UNITED MOTOR MANUFACTURING, INC.

and

GENERAL MOTORS CORPORATION

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VEHICLE LICENSE AGREEMENT

This VEHICLE LICENSE AGREEMENT ("Agreement") is made and entered into on and as of the 21st day of February, 1984, by and among Toyota Motor Corporation, a corporation organized and existing under the laws of Japan ("Toyota"), New United Motor Manufacturing, Inc., a close corporation organized and existing under the laws of the State of California (the "JV Company"), and General Motors Corporation, a corporation organized and existing under the laws of the State of Delaware ("GM");

WITNESSETH:

WHEREAS, the JV Company, which is under the joint control of but is separate and distinct from GM and Toyota, was formed for the limited purpose of manufacturing in the United States a specific automotive vehicle not heretofore manufactured and certain components related thereto;

NOW, THEREFORE, the parties hereto agree as follows:

I. DEFINITIONS

1.1. Defined Terms: In addition to the terms which have been previously, or are hereafter, defined herein, terms used herein which are defined in Section 1.1 of the Shareholders'

Agreement (the "Shareholders' Agreement"), dated the date hereof, among the JV Company, GM and Toyota are used herein as so defined when used herein with initial capital letters unless otherwise defined in this Agreement. In addition, the following terms shall have the following meanings when used herein with initial capital letters:

(a) "Agreement Term" means the term of this Agreement as defined in Section 4.3 hereof.

(b) "Licensed Vehicles" means the front-wheel drive motor vehicles including its subsequent model changes which shall be developed by Toyota for the JV Company based on Toyota's "Sprinter" model, including without limitation optional equipment therefor. The body style of the Licensed Vehicles shall include a four-door sedan and a five-door liftback subject to review to be made at the time of model changes.

(c) "Non-Toyota Parts" means the parts, components and materials which may be manufactured or purchased by the JV Company from any person or entity other than Toyota (any such person or entity being referred to herein as a "Non-Toyota Supplier") for use in manufacturing the Licensed Vehicles.

II. TECHNICAL INFORMATION, LICENSE, ETC.

2.1. Technical Information: During the Agreement Term, Toyota shall, to the extent reasonably necessary for the

manufacture of the Licensed Vehicles and/or the manufacture or purchase of the Non-Toyota Parts by the JV Company, furnish the JV Company such technical information, data and other like information which Toyota possesses at the time of this Agreement or may hereafter develop or acquire and which are within the categories identified in Annex A attached hereto ("Technical Information"). The JV Company acknowledges that all Technical Information is Toyota's trade secret and agrees that it shall observe the nondisclosure covenants applicable to it contained in Section 4.1 hereof with respect thereto.

2.2. Grant of License: (a) Toyota hereby grants to the JV Company an irrevocable and nonexclusive license ("License") to use Technical Information for the purposes specified in Section 2.1 hereof during the Agreement Term.

(b) The License shall be nondivisible, nontransferable, nonassignable and shall not include a right or privilege to grant a sublicense. Nothing in this Section 2.2(b) shall affect the JV Company's rights under Section 2.3 hereof.

(c) Except as mentioned in Section 4.1(b) hereof, nothing herein shall be construed to grant the JV Company any license to use Technical Information to manufacture any service parts for the Licensed Vehicles or otherwise.

2.3. Purchases from Third Parties: (a) The JV Company may, to the extent reasonably necessary, furnish Non-

Toyota Suppliers Technical Information to purchase from them Non-Toyota Parts, provided that the JV Company observes the covenants applicable to it in Section 4.1 hereof.

(b) Nothing in this Agreement shall be deemed or construed to create any relationship, contractual or otherwise, between Toyota and Non-Toyota Suppliers. Except as otherwise provided in Section 4.2(b) hereof or in the PRA, the JV Company shall fully indemnify and hold Toyota harmless from and against all losses, damages, claims, costs and expenses, including attorney's fees, which may be sought by Non-Toyota Suppliers or may arise from any act or omission to act by the JV Company or Non-Toyota Suppliers.

2.4. Royalty: (a) In consideration of the License, the JV Company shall pay Toyota royalties, the amount of which shall be calculated in accordance with the provisions of Section 2.5 hereof and shall be paid as provided in Section 2.6 hereof.

(b) The JV Company may withhold from the royalty payments hereunder any present or future withholding taxes which the JV Company is required to withhold and pay over to taxing authorities in the United States for the account of Toyota, provided that the JV Company, on behalf of and in the name of Toyota, shall pay such taxes and arrange to furnish Toyota with proper certificates for such payments from such authorities to

enable Toyota to obtain tax credit therefor against its Japanese taxes.

(c) Any handling fees or other similar expenses incurred in remitting royalties shall not be deducted by the JV Company in remitting royalties to be paid under this Agreement.

2.5. Calculation of Royalty: (a) The JV Company shall pay Toyota royalties equal to 3% of the aggregate amount of "U.S. Vehicle Content". For purposes of this Agreement, "U.S. Vehicle Content" means the excess of (i) the JV Company's aggregate gross sales proceeds from the sale of the Licensed Vehicles accruing in any calendar quarter during the Agreement Term over (ii) the sum of (A) the aggregate of the amounts accruing as the purchase prices of all components and materials for the Licensed Vehicles purchased by the JV Company from Toyota in such calendar quarter and (B) all costs and expenses of delivery of such components and materials to the JV Company's designated port of entry in the United States, including without limitation all such costs and expenses of or relating to freight, insurance, customs, customs handling and brokerage, and terminal and wharfage charges, provided that in the event that the aggregate amount referred to in clause (ii) hereof exceeds the amount referred to in clause (i) hereof in any such calendar quarter, such excess amount shall be carried over to any subsequent calendar quarter for the calculation of the royalty hereunder.

(b) If any amount referred to in Section 2.5(a)(ii) hereof is in any currency other than U.S. Dollars, such amount shall be converted into U.S. Dollars using the last quoted purchase exchange rate at the Bank of Tokyo in Tokyo, Japan on the date of shipment of the components and materials concerned.

(c) The JV Company shall keep records and supporting documentation necessary to verify the calculation of the royalty hereunder and Toyota may at any time during normal business hours inspect such records and documentation for the purpose of verifying the calculation of royalty payments hereunder, provided, however, that no such inspection right shall exist with respect to royalty payments certified pursuant to Section 2.6 hereof more than three years prior to the date of any request to inspect such records and documentation.

(d) Notwithstanding any other provision of this Agreement, any computation of royalty payments hereunder shall be conclusive and binding upon the parties hereto and not be subject to challenge hereunder or otherwise unless such computation shall be so challenged within three years from the date of the certified statement prepared by the JV Company pursuant to Section 2.6 hereof.

2.6. Payment of Royalty: The JV Company shall, within 30 calendar days after the end of each calendar quarter, furnish to Toyota at an address to be designated by Toyota as provided herein the JV Company's certified statement showing the

calculation of the amount of royalties accruing hereunder during such calendar quarter, and the JV Company shall remit the accrued royalties hereunder in U.S. Dollars within 60 calendar days of the end of each calendar quarter during the Agreement Term by bank wire transfer to a bank account to be designated by Toyota for such purpose.

III. TECHNICAL ASSISTANCE

3.1. Furnishing of Technical Assistance: To the extent reasonably necessary to enable the JV Company to manufacture the Licensed Vehicles, Toyota shall use its best efforts to render to the JV Company technical assistance. The following is a nonexclusive list of examples of the types of such technical assistance to be rendered by Toyota to the JV Company hereunder:

- (a) Prototype vehicles;
- (b) Know-how and services concerning plant design (process planning, building design, layout, equipment planning and similar matters);
- (c) Services concerning equipment procurement and installation;
- (d) Process samples and white body;
- (e) Dispatch of instructors; and
- (f) Training of the personnel of the JV Company in Japan.

3.2. Actual Implementation of Technical Assistance:

Any technical assistance under Section 3.1 hereof shall be actually implemented after the parties agree on the nature of such technical assistance and terms and conditions relating to rendering of such technical assistance, provided that the amount to be paid therefor shall be determined on a cost basis.

3.3. Payment for Technical Assistance: Payments for technical assistance under Article III hereof shall be made as follows:

(a) The JV Company shall remit the amount payable under Article III hereof to Toyota by bank wire transfer within seven days after actual receipt by the JV Company of Toyota's invoice (including that sent by telex or facsimile) therefor.

(b) The JV Company may withhold from the amount payable to Toyota for technical assistance hereunder any present or future withholding taxes (if any) which the JV Company is required to withhold and pay over to taxing authorities in the United States for the account of Toyota, provided that the JV Company, on behalf of and in the name of Toyota, shall pay such taxes and arrange to furnish Toyota with proper certificates for such payments from such authorities to enable Toyota to obtain tax credit therefor against its Japanese taxes.

(c) Any handling fees or other similar expenses incurred in remitting payments for technical assistance shall not be deducted by the JV Company in remitting such payments.

(d) All payments under Article III hereof shall be made in Japanese Yen, unless Toyota shall instruct that such payments be made in U.S. Dollars.

IV. GENERAL PROVISIONS

4.1. Nondisclosure of Information: (a) Any Technical Information furnished by Toyota hereunder, whether in writing, verbally or in any other form, is Toyota's trade secret and, except as contemplated in Sections 2.3 and 4.1(d) hereof, the JV Company shall not, without Toyota's prior written consent, disclose or divulge any such Technical Information to any third party.

(b) Subject to the terms of Section 4.1(d) hereof, unless otherwise permitted by Toyota (which permission as to service parts to be manufactured by the JV Company for sale to GM is granted pursuant to Section 2.2(b) of the Service Parts License Agreement, provided that nothing herein shall affect Toyota's rights against GM under such Service Parts License Agreement in the event of any breach thereof by GM), the JV Company shall use Technical Information solely for the purposes set forth in Section 2.1 hereof and for no other

purpose. If requested by Toyota during the Agreement Term, the JV Company shall, at its sole expense, return Technical Information in tangible form previously provided to the JV Company by Toyota hereunder which Technical Information, as a result of product changes and similar causes, is no longer reasonably necessary for the JV Company.

(c) The JV Company shall take all reasonably necessary precautions in order to prevent unauthorized disclosure of the Technical Information to third parties, including without limitation maintaining all tangible Technical Information in a secure location when not in use. The JV Company shall also obtain from all of its employees, officers, directors, Non-Toyota Suppliers and others to whom any such Technical Information is disclosed, and others whom the JV Company reasonably believes have actual access thereto, a nondisclosure and nonuse agreement containing standard provisions in the U.S.A. in respect of matters such as those referred to in this Section 4.1(c).

(d) To the extent that it would otherwise be lawfully permitted to do so, the JV Company may disclose Technical Information to GM, provided, however, that GM shall have agreed in writing in favor of the JV Company and Toyota to maintain such Technical Information in substantially the same manner as GM maintains its most confidential proprietary information so as to prevent the disclosure thereof to third parties.

4.2. Liability: (a) Subject to the provisions of the PRA, it is acknowledged that Toyota has only extended to the JV Company a mere permission to use Technical Information and that the JV Company assumes all risks and responsibilities as to its use of Technical Information and technical assistance and the results thereof.

(b) Toyota represents and warrants that, to the knowledge of responsible Toyota officials to date, there is no reason to believe that the manufacture, use or sale of the Licensed Vehicles will constitute an infringement of any patent held by any third party. Should any patent infringement claim arise, the parties will mutually cooperate in investigation and defense against such claim. In no event shall any party have any claim or right of action against any other party arising out of any such patent infringement claim except in the event of a breach of the representation and warranty set forth in the first sentence of this Section 4.2(b).

4.3. Agreement Term and Termination: (a) This Agreement shall become effective upon its execution by the parties hereto and shall remain in full force and effect until 12 years have elapsed after the Production Commencement Date, fixed as provided in Section 2.1 of the Vehicle Agreement (such period being referred to herein as the "Agreement Term").

(b) Notwithstanding the foregoing, this Agreement and the License shall terminate immediately upon the dissolution of

the JV Company or upon the disposition by the Toyota Group of all of its Shareholder interest in the JV Company in accordance with Article 6 of the Articles of Incorporation of the JV Company or the applicable provisions of the Shareholders' Agreement.

(c) Any and all financial obligations and liabilities of the JV Company accruing before the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement, and shall become without Toyota's demand due and payable immediately upon such termination or expiration.

(d) Unless otherwise instructed by Toyota, the JV Company shall upon termination or expiration of this Agreement return to Toyota, in a manner reasonably designated by Toyota and at the JV Company's cost, all of the tangible Technical Information furnished to the JV Company hereunder and all reproductions thereof then in the possession of the JV Company.

4.4. Interest on Overdue Payment: If any payment to Toyota by the JV Company under this Agreement is delayed, the JV Company shall pay interest to Toyota on each such delayed payment at the rate provided in Section 7.2 of the Shareholders' Agreement.

4.5. Force Majeure: No party shall in any way be responsible to any other party for failure of or delay in the performance of obligations other than payment of money under this Agreement if the causes therefor are attributable to any event beyond its reasonable control.

4.6. Survival: All representations, warranties and indemnities, liabilities and disclaimers and limitations of the foregoing made, furnished or imposed herein or arising hereunder shall survive any termination of this Agreement or dissolution of the JV Company.

4.7. Assignability: Neither this Agreement nor any right (other than a right to receive the payment of money) or obligation hereunder may be assigned or delegated in whole or in part to any other person or entity.

4.8. Persons Authorized to Act for the Parties: Each change, variation or modification of this Agreement shall be effective only when made in writing signed by an authorized officer or representative of each of the parties.

4.9. Notices: In any case where any notice or other communication is required or permitted to be given under this Agreement (including without limitation any change in the information set forth in this Section) such notice or communication shall be in writing and (i) personally delivered, (ii) sent by postage prepaid registered airmail (which notice or other communication shall be immediately confirmed by a telex marked "Important"), or (iii) transmitted by electronic facsimile transfer marked "Important" (which notice or other communication shall be immediately confirmed by a telex marked "Important") as follows:

If to Toyota, to:

Toyota Motor Corporation
1, Toyota-Cho, Toyota
Aichi 471 Japan
Telex/Answerback: 4528371/TOYOTA J
Facsimile Model: UF 520 III
Facsimile Call No.: 565-80-1116
Attention: General Manager, Overseas Project Office

If to GM, to:

Chevrolet Motor Division
General Motors Corporation
30001 Van Dyke Avenue
Warren, Michigan 48090 U.S.A.
Telex/Answerback: 235547/CHEV CO WARN
Facsimile Model: Rapicom 1500
Facsimile Call No.: 313-492-6842
Attention: General Manager

If to the JV Company, to:

New United Motor Manufacturing, Inc.
45500 Fremont Boulevard
Fremont, California 94537 U.S.A.
Telex/Answerback: (To be supplied)
Facsimile Model: (To be supplied)
Facsimile Call No.: (To be supplied)
Attention: Executive Vice President

All such notices or other communications shall be deemed to have been given or received (i) upon receipt if personally delivered, (ii) on the tenth business day following posting if by postage prepaid registered airmail, and (iii) 24 hours following confirmation by telex with confirmed answerback if notice is given by electronic facsimile transfer.

4.10. Third Persons: Except as contemplated in this Agreement as to the parties hereto, nothing in this Agreement is intended or shall be construed to confer upon or to give any person or entity any legal or equitable rights or remedies under or by reason of this Agreement.

4.11. Governing Language: This Agreement and all other agreements, instruments and notices that are referred to herein or are supplementary hereto shall be prepared or furnished in and governed and controlled by the English language.

4.12. Choice of Law: This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of California, without giving effect to the principles of conflict of laws thereof.

4.13. Entire Agreement, Etc.: This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. To the extent that provisions in any of the Prior Agreements (as that term is hereafter defined) are inconsistent with any provision of this Agreement, this Agreement supersedes all prior agreements and understandings, oral and written, among the parties hereto with respect to the subject matter hereof, including without limitation the Memorandum of Understanding (the "Memorandum"), dated February 17, 1983, as amended, between Toyota and GM and all letter agreements, minutes of meetings and similar documents dated prior to the date hereof to which GM, Toyota or any of their respective representatives are parties (the Memorandum and such letter agreements, minutes and similar documents being referred to herein as the "Prior Agreements").

4.14. Arbitration: Any dispute arising between the parties hereto in connection with this Agreement or the agreement referred to in Section 4.1(d) hereof shall be finally settled by arbitration. If Toyota is the initiating party, the arbitration shall be held in San Francisco, California, U.S.A. in accordance with the rules of the American Arbitration Association. If the JV Company or GM is the initiating party, the arbitration shall be held in Tokyo, Japan in accordance with the rules of the Japan Commercial Arbitration Association. Any such arbitration proceedings shall be conducted in English. The award rendered by the arbitrators shall be final. An action or proceeding to enforce such award may be brought in any court of competent jurisdiction. The costs of any such arbitration proceedings shall be allocated as the arbitrators shall decide.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the day and year first above written.

NEW UNITED MOTOR
MANUFACTURING, INC.

By Tatsuro Toyoda
President

TOYOTA MOTOR CORPORATION

By Shoichiro Toyoda
President

GENERAL MOTORS CORPORATION

By [Signature]
~~President~~
CHAIRMAN OF THE BOARD

CATEGORIES OF TECHNICAL INFORMATION UNDER SECTION 2.1

1. Product and Engineering:

- (i) Specifications information;
- (ii) Drawings;
- (iii) Parts list;
- (iv) Engineering standards;
- (v) Sample parts. (Only one car set of sample parts required for investigation of U.S. sourcing.)

2. Production and Quality Assurance:

(1) Information concerning production and inspection of the Licensed Vehicle:

- (i) Process planning sheet and flow chart;
- (ii) Jig location drawings and welding spot instructions;
- (iii) Processing conditions sheet;
- (iv) Raw materials requirements per car and consumables list;
- (v) Quality standards;
- (vi) Inspection standards of vehicles and parts;
- (vii) Measurement methods (emissions, brakes, dimensions, etc.);
- (viii) Completed vehicle inspection standards, etc.

(2) Information and services concerning plant operations:

- (i) Standard work sheet;

- (ii) Equipment operating manuals;
- (iii) Working procedures and manuals;
- (iv) Inspection procedures and manuals;
- (v) Maintenance standards and maintenance procedures;
- (vi) Various formats, vouchers, etc.

3. Substitute Technical Information:

Any information, written materials or other matter which may be developed in the future as a complete or partial substitute for any item under Items 1 or 2 above.

AMENDMENT
TO
VEHICLE LICENSE AGREEMENT

by and among

TOYOTA MOTOR CORPORATION,
NEW UNITED MOTOR MANUFACTURING, INC.

and
GENERAL MOTORS CORPORATION

AMENDMENT
TO
VEHICLE LICENSE AGREEMENT

This Amendment is entered into this 31st day of March, 1986 among Toyota Motor Corporation ("Toyota"), General Motors Corporation ("GM"), and New United Motor Manufacturing, Inc. (the "JV Company").

WHEREAS, the parties executed the Vehicle License Agreement on February 21, 1984;

WHEREAS, it is agreed that under the Vehicle License Agreement Toyota shall furnish the JV Company with technical information necessary for manufacture of the Toyota-Specific Vehicles in addition to the GM-Specific Vehicles both as defined herein below; and

WHEREAS, the parties now wish to make the appropriate amendments to the Vehicle License Agreement for mutual benefit;

NOW, THEREFORE, the parties agree as follows:

1. Amendment and Addition of Defined Terms: (a) Sub-section 1.1(b) of the Vehicle License Agreement shall be and is hereby changed to read in its entirety as follows:

"(b) 'Licensed Vehicles' means the motor vehicles, including subsequent model changes, which shall be developed

by Toyota for the JV Company for manufacture and sale by the JV Company. This definition also includes optional equipment for such vehicles."

(b) The following sub-sections shall be and are hereby added in Section 1.1 of the Vehicle License Agreement:

"(d) 'GM-Specific Vehicles' shall mean the Licensed Vehicles for sale by the JV Company to GM or its designated marketing unit.

(e) 'Toyota-Specific Vehicles' shall mean the Licensed Vehicles for sale by the JV Company to Toyota or its designated marketing unit, and shall be variations of the JV Vehicle as defined in the Shareholders' Agreement.

(f) 'PRA' as used in this Agreement refers both to the Product Responsibility Agreement, dated February 21, 1984, among Toyota, GM and the JV Company and to the Product Responsibility Agreement for Toyota-Specific Vehicles, dated March 31, 1986, among Toyota, GM, the JV Company and Toyota Motor Sales, U.S.A., Inc."

2. Nondisclosure of Information: The following sub-section shall be and is hereby added in Section 4.1 of the Vehicle License Agreement:

"(e) Notwithstanding Section 4.1(d) hereof, but with respect to the information only furnished by Toyota to the JV

Company hereunder exclusively for the Toyota-Specific Vehicles, the following shall apply:

(i) The JV Company may disclose to GM the information relating to production engineering and production process in conformance with the nondisclosure requirements of Sections 4.1(a) through (d) hereof applicable to Technical Information.

(ii) The JV Company shall not disclose to GM or any third party any information related to product planning, product engineering, product specifications, model cycle or quality related information, except that NUMMI may disclose such information to GM only when necessary for the management and operation of NUMMI, provided, however, that nothing herein shall prohibit NUMMI from disclosing such information to any Non-Toyota Supplier including GM, if applicable, when such Non-Toyota Supplier needs such information, pursuant to this Agreement.

Any disclosure under this paragraph shall be in accordance with the Order issued by the Federal Trade Commission, In the Matter of General Motors Corporation, et.al., Docket No. C-3132."

3. Other Terms: It is understood that, except as expressly amended hereby, the Vehicle License Agreement shall remain unchanged.

The parties have executed this Amendment on the date first written above.

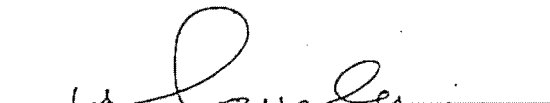
NEW UNITED MOTOR MANUFACTURING, INC.

By


Tatsuro Toyoda, President

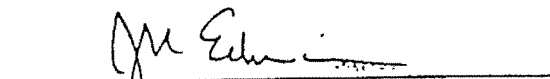
TOYOTA MOTOR CORPORATION

By


Hiroshi Okuda, Director

GENERAL MOTORS CORPORATION

By


J. R. Edman, Vice President
and Group Executive,
Finance Group

SECOND AMENDMENT TO
VEHICLE LICENSE AGREEMENT

TOYOTA MOTOR CORPORATION ("Toyota"), a corporation organized and existing under the laws of Japan, NEW UNITED MOTOR MANUFACTURING, INC. (the "JV Company"), a close corporation organized and existing under the laws of the State of California, and GENERAL MOTORS CORPORATION ("GM"), a corporation organized and existing under the laws of the State of Delaware, hereby agree to amend the Vehicle License Agreement, dated February 21, 1984, as amended dated March 31, 1986, (the "Agreement"), as follows:

1. The following paragraph is hereby added to Paragraph 1.1 of the Agreement:

"(g) 'Toyota-Specific Trucks' shall mean the Licensed Vehicles for sale by the JV Company to Toyota or its designated marketing unit as provided under the Letter of Understanding dated April 24, 1989, among Toyota, the JV Company and GM."

2. The term "Toyota-Specific Vehicles" referenced in the Agreement shall be amended to read:

"Toyota-Specific Vehicles and Toyota-Specific Trucks".

3. The following phrase is hereby added to the end of Paragraph 1.1 (f) of the Agreement:


"as amended dated April 24, 1989."


4. This Second Amendment shall be effective as of April 24, 1989.

IN WITNESS WHEREOF, the parties have caused three copies of this Second Amendment to be signed by their duly authorized representatives.

TOYOTA MOTOR CORPORATION

GENERAL MOTORS CORPORATION

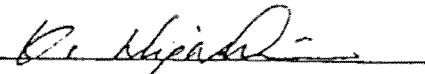
By: 

By: 

Title: Director

Title: Assistant Treasurer

NEW UNITED MOTOR MANUFACTURING, INC.

By: 

Title: President

THIRD AMENDMENT TO
VEHICLE LICENSE AGREEMENT

TOYOTA MOTOR CORPORATION, a corporation organized and existing under the laws of Japan ("Toyota"), NEW UNITED MOTOR MANUFACTURING, INC., a corporation organized and existing under the laws of the State of California ("JV Company"), and GENERAL MOTORS CORPORATION, a corporation organized and existing under the laws of the State of Delaware ("GM"), hereby agree to amend the VEHICLE LICENSE AGREEMENT dated February 21, 1984, as amended on March 31, 1986 and April 24, 1990 ("Agreement"), as follows:

1. Section 1.1 of the Agreement, entitled "Defined Terms," is hereby amended to delete and replace subparagraphs (d), (e) and (g) with the following subparagraphs:
 - "(d) "GM-Specific Vehicles" means automotive vehicles manufactured by the JV Company for GM or its designated marketing unit under the license of Toyota.
 - (e) "Toyota-Specific Vehicles" means automotive vehicles manufactured by the JV Company for Toyota or its designated marketing unit under the license of Toyota."
2. Paragraph (a) of Section 4.3 of the Agreement, entitled "Agreement Term and Termination," is hereby deleted and replaced by the following Paragraph:

"4.3. Agreement Term and Termination: (a) This Agreement shall become effective upon its execution by the parties hereto and shall remain in full force and effect until the dissolution of the JV Company (such period being referred to herein as the "Agreement Term")."
3. This Amendment shall be effective as of February 1, 1997.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed in triplicate by their duly authorized representatives.

TOYOTA MOTOR CORPORATION

NEW UNITED MOTOR
MANUFACTURING, INC.

By: _____

Koichiro Noguchi
Director

By: _____

Iwao Itoh
President

GENERAL MOTORS CORPORATION

By: _____

Paul W. Schmidt
Executive in Charge
NAO Finance

FOURTH AMENDMENT TO
VEHICLE LICENSE AGREEMENT

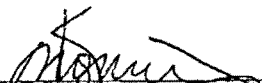
TOYOTA MOTOR CORPORATION, a corporation organized and existing under the laws of Japan, NEW UNITED MOTOR MANUFACTURING, INC., a corporation organized and existing under the laws of the State of California, and GENERAL MOTORS CORPORATION, a corporation organized and existing under the laws of the State of Delaware, hereby agree to amend the VEHICLE LICENSE AGREEMENT dated February 21, 1984, as amended on March 31, 1986, April 24, 1990 and February 1, 1997 ("Agreement"), as follows:


1. Paragraph (a) of Section 2.5 of the Agreement shall be amended by replacing the figure "3%" in the first sentence with the figure "6%".
2. This Amendment shall be effective as of October 1, 1998.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed on this day of September 18, 1998 in triplicate, by their duly authorized representatives.

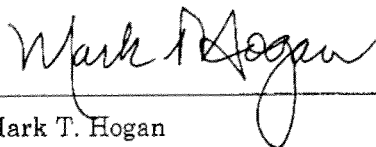
TOYOTA MOTOR CORPORATION

NEW UNITED MOTOR
MANUFACTURING, INC.

By: 
Koichiro Noguchi
Director

By: 
Iwao Itoh
President

GENERAL MOTORS CORPORATION

By: 
Mark T. Hogan
Vice President
General Manager of Operations
NAO Small Car Group

FIFTH AMENDMENT TO VEHICLE LICENSE AGREEMENT

This FIFTH AMENDMENT is made on March 22, 2006 by and among

TOYOTA MOTOR CORPORATION, a corporation organized and existing under the laws of Japan ("Toyota"),

NEW UNITED MOTOR MANUFACTURING, INC., a corporation organized and existing under the laws of the State of California ("JV Company"), and

GENERAL MOTORS CORPORATION, a corporation organized and existing under the laws of the State of Delaware ("GM").

Now, the parties hereby agree to amend the VEHICLE LICENSE AGREEMENT dated February 21, 1984, as amended on March 31, 1986, April 24, 1989, February 1, 1997 and September 18, 1998 ("Agreement"), as follows:

Clause 1. - Calculation of Royalty (Section 2.5)

Paragraphs (a) and (b) of Section 2.5 of the Agreement shall be amended in its entirety to read as follows:

"(a) The JV Company shall pay Toyota royalties equal to 6 % of the aggregate amount of "U.S. Content". For purpose of this Agreement, "U.S. Content" shall mean the JV Company's aggregate gross sales proceeds from the sale of the Licensed Vehicles or Non-Toyota Parts (if any) accruing in any calendar quarter during the Agreement Term, minus the following costs, fees and taxes, if included therein:

- (i) the aggregate of the amounts accruing as the purchase prices of all components and materials for the Licensed Vehicles or Non-Toyota Parts purchased by the JV Company from Toyota ("Toyota Components") in such calendar quarter;
- (ii) the aggregate of the amounts accruing as the purchase prices of Non-Toyota Parts, which shall be purchased by the JV Company from third parties which manufacture or assemble motor vehicles and/or automotive parts and components pursuant to the technical assistance agreement with Toyota, and the scope and respective suppliers of which shall be stipulated in Annex B attached hereto, which may from time to time be changed by Toyota ("Non-Licensed Parts");

- (iii) all costs and expenses of (A) delivery of Toyota Components to the JV Company's designated port of entry in the United States and (B) delivery of the Non-Licensed Parts to the factory where the Licensed Vehicles and/or Non-Toyota Parts are manufactured, including without limitation all such costs and expenses of or relating to freight, insurance, customs, customs handling and brokerage, and terminal and wharfage charges;
- (iv) total production preparation and manufacturing assistance fees paid during the relevant quarterly period by the JV Company to TOYOTA MOTOR MANUFACTURING NORTH AMERICA, INC., a corporation duly organized and existing under and by virtue of the laws of the Commonwealth of Kentucky ("TMMNA"), with respect to the manufacture of the Licensed Vehicles and/or the Non-Toyota Parts under the terms and conditions separately agreed upon between the JV Company and TMMNA; and
- (v) the aggregate of the amounts accruing as the purchase prices of the accessory parts purchased from GM, or suppliers specified by GM, and installed into GM-Specific Vehicles by the JV Company and shall be stipulated in Annex C attached hereto, which may from time to time be changed by the agreement among Toyota, the JV Company and GM ("GM Accessory Parts").

Provided that in the event that said costs, fees and taxes exceed the U.S. Content in any such calendar quarter, such excess amount shall be carried over to any subsequent calendar quarter for the calculation of the royalty hereunder.

- (b) If any amount referred to in Section 2.5 (a) from (i) through (v) hereof is in any currency other than U.S. Dollars, such amount shall be converted into U.S. Dollars using the last quoted purchase exchange rate at the bank separately designated by Toyota on the date of shipment of the components and materials concerned."

Clause 2. - Furnishing of Technical Assistance (Section 3.1)

Section 3.1 of the Agreement shall be amended in its entirety to read as follows:

"3.1. Furnishing of Technical Assistance:

To the extent reasonably necessary to enable the JV Company to manufacture the Licensed Vehicles and the Non-Toyota Parts, Toyota shall use its best efforts to render to the JV Company technical assistance. The following is a nonexclusive list of examples of the types of such technical assistance to be rendered by Toyota to the JV

Company hereunder:

- (a) Prototype vehicles;
- (b) Know-how and services concerning plant design (process planning, building design, layout, equipment planning and similar matters);
- (c) Services concerning equipment procurement and installation;
- (d) Process samples and white body;
- (e) Dispatch of instructors; and
- (f) Training of the personnel of the JV Company in Japan."

Clause 3. - Liability (Section 4.2)

Paragraph (b) of Section 4.2 of the Agreement shall be amended in its entirety to read as follows:

- "(b) Toyota represents and warrants that, to the knowledge of responsible Toyota officials to date, there is no reason to believe that the manufacture, use or sale of the Licensed Vehicles and the Non-Toyota Parts (excluding the GM Accessory Parts) will constitute an infringement of any patent held by any third party. GM represents and warrants that, to the knowledge of responsible GM officials to date, there is no reason to believe that the manufacture, use or sale of the GM Accessory Parts will constitute an infringement of any patent held by any third party. Should any patent infringement claim arise, the parties will mutually cooperate in investigation and defense against such claim. In no event shall any party have any claim or right of action against any other party arising out of any such patent infringement claim except in the event of a breach of the representation and warranty set forth in the first or second sentence of this Section 4.2 (b)."

Clause 4. - Production and Quality Assurance (ANNEX A)

Subparagraph (1) of paragraph 2. of ANNEX A of the Agreement shall be amended in its entirety to read as follows:

- "(1) Information concerning production and inspection of the Licensed Vehicles and the Non-Toyota Parts:

- (i) Process planning sheet and flow chart;
- (ii) Jig location drawings and welding spot instructions;
- (iii) Processing conditions sheet;

- (iv) Raw materials requirements per car and consumables list;
- (v) Quality standards;
- (vi) Inspection standards of vehicles and parts;
- (vii) Measurement methods (emissions, brakes, dimensions, etc.);
- (viii) Completed vehicle inspections standards, etc."

Clause 5. – ANNEX B and ANNEX C

Annex B, "Non-Licensed Parts", which is attached hereto as Exhibit 1, and Annex C, "GM Accessory Parts", which is attached hereto as Exhibit 2, shall hereby be attached to and become an integral part of the Agreement.

Clause 6. – Effective Date

This Amendment shall be effective as of August 1, 2005.

IN WITNESS WHEREOF, the parties hereto have caused three copies of this FIFTH AMENDMENT to be signed by their duly authorized representatives.

TOYOTA MOTOR CORPORATION

NEW UNITED MOTOR
MANUFACTURING, INC.

By: T. Uranishi
T. Uranishi

By: Y. Azuma
Y. Azuma

GENERAL MOTORS CORPORATION

By: T. Clarke
T. Clarke

Exhibit I

ANNEX B

Non-Licensed Parts

Non-Licensed Parts	Suppliers
All parts and components to be purchased directly or indirectly from the suppliers listed in the right column for the manufacture of the Licensed Vehicles and/or Non-Toyota Parts	Toyota Motor Manufacturing, West Virginia, Inc.
	TABC, Inc.
	Canadian Autoparts Toyota Inc.
	Toyota Motor Manufacturing Canada, Inc.

Exhibit 2

ANNEX C

GM Accessory Parts

Part Description	Part Number
HEATER ASSY, BLOCK	28560-YY***
CAP S/A WHEEL	42602-YY***
MAT ASSY, FLOOR	58510-YY***
HOOK ASSY, FLOOR	66310-YY***
LABEL, SAFETY CAUTION	74552-YY***
COMPUTER ASSY, TELEPHONE	86710-YV***
CONTROLLER, TELEPHONE	86714-YV***
ANTENNA ASSY, TELEPHONE	86760-YV***
MIRROR ASSY, INNER RR VIEW	87810-YV***
REAR CARGO MAT	64711-YY***

EXHIBIT “G”

HEARING DATE AND TIME: March 2, 2010 at 11:00 a.m. (Eastern Time)
OBJECTION DEADLINE: February 23, 2010 at 4:00 p.m. (Eastern Time)

**IF YOU HAVE RECEIVED THIS NOTICE AND ARE A
CONTRACT-COUNTERPARTY TO AN AGREEMENT WITH
THE DEBTORS, PLEASE REVIEW EXHIBIT A, ATTACHED
TO THE MOTION (AS DEFINED BELOW), TO DETERMINE IF THE
MOTION AFFECTS YOUR AGREEMENT AND YOUR RIGHTS THEREUNDER.**

Harvey R. Miller
Stephen Karotkin
Joseph H. Smolinsky
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Debtors and
Debtors in Possession

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

-----X
: **Chapter 11 Case No.**
In re :
: **09-50026 (REG)**
MOTORS LIQUIDATION COMPANY, *et al.*, :
f/k/a General Motors Corp., *et al.* :
: **(Jointly Administered)**
Debtors. :
:
-----X

**NOTICE OF DEBTORS' ELEVENTH OMNIBUS MOTION PURSUANT
TO 11 U.S.C. § 365 TO REJECT CERTAIN EXECUTORY CONTRACTS**

PLEASE TAKE NOTICE THAT:

PLEASE TAKE NOTICE that upon the annexed motion, dated February 12, 2010 (the "**Motion**"), of Motors Liquidation Company (f/k/a General Motors Corporation) and its affiliated debtors, as debtors in possession (collectively, the "**Debtors**"), for an order, pursuant to section 365 of title 11, United States Code to reject certain executory contracts (collectively, the "**Executory Contracts**"), all as more fully set forth in the Motion, a hearing will be held before

the Honorable Robert E. Gerber, United States Bankruptcy Judge, in Room 621 of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, on **March 2, 2010 at 11:00 a.m. (Eastern Time)**, or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, and shall be filed with the Bankruptcy Court (a) electronically in accordance with General Order M-242 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court's filing system, and (b) by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with General Order M-182 (which can be found at www.nysb.uscourts.gov), and served in accordance with General Order M-242, and on (i) Weil, Gotshal & Manges LLP, attorneys for the Debtors, 767 Fifth Avenue, New York, New York 10153 (Attn: Harvey R. Miller, Esq., Stephen Karotkin, Esq., and Joseph H. Smolinsky, Esq.); (ii) the Debtors, c/o Motors Liquidation Company, 500 Renaissance Center, Suite 1400, Detroit, Michigan 48243 (Attn: Ted Stenger); (iii) General Motors, LLC, 300 Renaissance Center, Detroit, Michigan 48265 (Attn: Lawrence S. Buonomo, Esq.); (iv) Cadwalader, Wickersham & Taft LLP, attorneys for the United States Department of the Treasury, One World Financial Center, New York, New York 10281 (Attn: John J. Rapisardi, Esq.); (v) the United States Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 2312, Washington, DC 20220 (Attn: Joseph Samarias, Esq.); (vi) Vedder Price, P.C., attorneys for Export Development Canada, 1633 Broadway, 47th Floor, New York, New York 10019 (Attn: Michael J. Edelman,

Esq. and Michael L. Schein, Esq.); (vii) Kramer Levin Naftalis & Frankel LLP, attorneys for the statutory committee of unsecured creditors, 1177 Avenue of the Americas, New York, New York 10036 (Attn: Thomas Moers Mayer, Esq., Amy Caton, Esq., Adam C. Rogoff, Esq., and Gregory G. Plotko, Esq.); (xii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Diana G. Adams, Esq.); and (xiii) the U.S. Attorney's Office, S.D.N.Y., 86 Chambers Street, Third Floor, New York, New York 10007 (Attn: David S. Jones, Esq. and Matthew L. Schwartz, Esq.), so as to be received no later than **February 23, 2010, at 4:00 p.m. (Eastern Time)** (the "**Objection Deadline**").

If no objections are timely filed and served with respect to the Motion, the Debtors may, on or after the Objection Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Motion, which order may be entered with no further notice or opportunity to be heard offered to any party.

Dated: New York, New York
February 12, 2010

/s/ Joseph H. Smolinsky

Harvey R. Miller
Stephen Karotkin
Joseph H. Smolinsky

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Debtors
and Debtors in Possession

HEARING DATE AND TIME: March 2, 2010 at 11:00 a.m. (Eastern Time)
OBJECTION DEADLINE: February 23, 2010 at 4:00 p.m. (Eastern Time)

IF YOU HAVE RECEIVED THIS MOTION AND ARE A CONTRACT-COUNTERPARTY TO AN AGREEMENT WITH THE DEBTORS, PLEASE REVIEW EXHIBIT A, ATTACHED HERETO, TO DETERMINE IF THIS MOTION AFFECTS YOUR AGREEMENT AND YOUR RIGHTS THEREUNDER.

Harvey R. Miller
Stephen Karotkin
Joseph H. Smolinsky
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Debtors and
Debtors in Possession

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

-----X
: **Chapter 11 Case No.**
: **09-50026 (REG)**
: **(Jointly Administered)**
: **Debtors.**
: **(Jointly Administered)**
: **(Jointly Administered)**
: **(Jointly Administered)**
-----X

**DEBTORS' ELEVENTH OMNIBUS MOTION PURSUANT
TO 11 U.S.C § 365 TO REJECT CERTAIN EXECUTORY CONTRACTS**

TO THE HONORABLE ROBERT E. GERBER,
UNITED STATES BANKRUPTCY JUDGE:

Motors Liquidation Company (f/k/a General Motors Corporation) and its affiliated debtors, as debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), respectfully represent:

Relief Requested

1. Pursuant to section 365(a) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), the Debtors request authorization to reject certain executory contracts (the “**Executory Contracts**”). A list identifying and describing the affected Executory Contracts is annexed hereto as **Exhibit A**.¹ A proposed form of order (the “**Order**”) is annexed hereto as **Exhibit B**.

2. The Debtors request that the rejection of the Executory Contracts be effective as of March 2, 2010, the hearing date of this Motion, except with respect to the various mobile equipment leases (the “**Mobile Equipment Leases**”) listed on **Exhibit A**, which the Debtors’ request be effective as of February 28, 2010.² The Debtors also request that the deadline to file proofs of claim with respect to any claims for damages arising from the rejection of the Executory Contracts be **5:00 p.m. (Eastern Time)** of the date that is **thirty (30) days** after service of the order approving the relief requested herein.

Jurisdiction

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

¹ The Debtors acknowledge that certain contracts listed on **Exhibit A** may not be executory in nature, but out of the abundance of caution, the Debtors seek to reject such contracts pursuant to this Motion.

² The Debtors have provided advance written notice to all of the counterparties to the Mobile Equipment Leases of the February 28, 2010 rejection date.

Background

4. On June 1, 2009, the Debtors filed a motion (the “**Sale Motion**”) with the Court, requesting, *inter alia*, an order (the “**Sale Order**”), pursuant to 11 U.S.C. §§ 105, 363(b), (f), and (m), and 365, authorizing and approving (i) the sale of substantially all of the Debtors’ assets pursuant to a proposed Master Sale and Purchase Agreement and related agreements (the “**MPA**”) among the Debtors and NGMCO, Inc. (n/k/a General Motors, LLC) (“**New GM**”), a purchaser sponsored by the United States Department of the Treasury (the “**U.S. Treasury**”), free and clear of liens, claims, encumbrances, and other interests, (ii) the assumption and assignment of certain executory contracts and unexpired leases of personal property and of nonresidential real property, and (iii) the approval of the UAW Retiree Settlement Agreement, subject to higher or better offers (the “**363 Transaction**”).

5. On July 5, 2009, the Court approved the 363 Transaction and entered the Sale Order, and on July 10, 2009, the 363 Transaction closed. Accordingly, the Debtors no longer operate as manufacturers of any GM branded motor vehicles, nor do they retain the rights to use GM trademarks in the wind-down of their business. All such manufacturing operations and trademark rights have been sold to New GM pursuant to the 363 Transaction.

The Executory Contracts

6. The Debtors are currently undergoing a comprehensive review of their executory contracts to determine which contracts to assume and which to reject. Because the Debtors have sold substantially all of their assets in the 363 Transaction and are now winding down their remaining operations, the Debtors no longer require certain executory contracts and will seek to reject those contracts that provide no meaningful value or benefit to the Debtors’ estates. The Debtors have reviewed the Executory Contracts that are the subject of this Motion

and have determined, in the exercise of their sound business judgment, that maintaining the Executory Contracts would be burdensome and provide no corresponding benefit or utility to the Debtors or their estates.

7. The Executory Contracts include: (1) various agreements relating to New United Motor Manufacturing, Inc. (“NUMMI”), a joint venture of MLC and Toyota Motor Corporation (“Toyota”) that is in the process of winding-down, (2) purchase and sale agreements with Centerpoint Properties Corporation, Centerpoint Realty Services Corporation, and Electro-Motive Diesel, Inc., which contain certain continuing environmental indemnity obligations, and (3) mobile equipment leases relating to machinery that is no longer being utilized by the Debtors. After reviewing the Executory Contracts, New GM elected not to take assignment of any of the Executory Contracts.

8. The Debtors’ primary business purpose at this stage in their chapter 11 cases is to liquidate the assets remaining following the close of the 363 Transaction in an efficient and cost-effective manner to maximize the value of the recovery for their creditors. The Executory Contracts are not necessary for the Debtors’ continuing business operations or the administration of the Debtors’ estates, and maintaining the Executory Contracts may impose unnecessary costs and burdens on the Debtors’ estates. The Debtors have also explored the possibility of marketing the Executory Contracts, but have determined that doing so would provide no meaningful benefit or value to the Debtors’ estates. Accordingly, the Debtors submit this Motion to reject the Executory Contracts.

**Rejection of the Executory Contracts is
Supported by the Debtors’ Sound Business Judgment**

9. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession, “subject to the court’s approval, may assume or reject any executory

contract or unexpired lease of the debtor.” *See NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 521 (1984); *see also In re Lavigne*, 114 F.3d 379, 386 (2d Cir. 1997). “[T]he purpose behind allowing the assumption or rejection of executory contracts is to permit the trustee or debtor-in-possession to use valuable property of the estate and to ‘renounce title to and abandon burdensome property.’ ” *Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1098 (2d Cir. 1993), *cert. dismissed*, 511 U.S. 1026 (1994).

10. Courts defer to a debtor’s business judgment in rejecting an executory contract or unexpired lease, and upon finding that a debtor has exercised its sound business judgment, approve the rejection under section 365(a) of the Bankruptcy Code. *See Bildisco & Bildisco*, 465 U.S. at 523 (recognizing the “business judgment” standard used to approve rejection of executory contracts and unexpired leases); *Nostas Assocs. v. Costich (In re Klein Sleep Products, Inc.)*, 78 F.3d 18, 25 (2d Cir. 1996) (recognizing the “business judgment” standard used to approve rejection of executory contracts); *In re Minges*, 602 F.2d 38, 42–43 (2d Cir. 1979) (holding that the “business judgment” test is appropriate for determining when an executory contract can be rejected); *In re G Survivor Corp.*, 171 B.R. 755, 757 (Bankr. S.D.N.Y. 1994), *aff’d*, 187 B.R. 111 (S.D.N.Y. 1995) (approving rejection of license by debtor because such rejection satisfied the “business judgment” test); *In re Child World, Inc.*, 142 B.R. 87, 89 (Bankr. S.D.N.Y. 1992) (stating that a debtor may assume or reject an unexpired lease under § 365(a) in the exercise of its “business judgment”).

11. The “business judgment” standard is not a strict standard; it requires only a showing that either assumption or rejection of the executory contract or unexpired lease will benefit the debtor’s estate. *See In re Helm*, 335 B.R. 528, 538 (Bankr. S.D.N.Y. 1996) (“To meet the business judgment test, the debtor in possession must ‘establish that rejection will

benefit the estate.’ ”) (citation omitted); *In re Balco Equities, Inc.*, 323 B.R. 85, 99 (Bankr. S.D.N.Y. 2005) (“In determining whether the debtor has employed reasonable business discretion, the court for the most part must only determine that the rejection will likely benefit the estate.”) (quoting *G Survivor*, 171 B.R. at 757)). Further, under the business judgment standard, “[a] debtor’s decision to reject an executory contract must be summary affirmed unless it is the product of ‘bad faith, or whim or caprice’ ” *In re Trans World Airlines, Inc.*, 261 B.R. 103, 121 (Bankr. D. Del. 2001).

12. In addition, many courts in this district (including this Court) and elsewhere have authorized rejection retroactively to a date prior to entry of the order authorizing such rejection. *See, e.g., Adelpia Bus. Solutions, Inc. v. Abnos*, 482 F.3d 602 (2d Cir. 2007) (affirming this Court’s equitable authority to authorize the retroactive rejection of a nonresidential lease of real property where advance notice is provided); *BP Energy Co. v. Bethlehem Steel Corp. (In re Bethlehem Steel Corp., et al.)*, No. 02 Civ. 6419 (NRB), 2002 WL 31548723, at *3 (S.D.N.Y. Nov. 15, 2002) (finding that retroactive rejection is valid when the balance of equities favor such treatment); *In re Jamesway Corp.*, 179 B.R. 33, 36 (S.D.N.Y. 1995) (stating that section 365 does not include “restrictions on the manner in which the court can approve rejection”); *In re Thinking Mach. Corp. v. Mellon Fin. Servs.*, 67 F.3d 1021, 1028 (1st Cir. 1995) (approving retroactive orders of rejection where the balance of equities favors such relief).

13. As noted above, the Debtors have reviewed the Executory Contracts and have determined that in light of the sale of substantially all of the Debtors’ assets and subsequent wind-down, the Executory Contracts are not necessary or beneficial to the Debtors’ ongoing

business. Accordingly, the Debtors are exercising their sound business judgment in seeking rejection of the Executory Contracts.

14. Finally, with respect to the proposed rejection date for the Debtors' Mobile Equipment Leases, the Debtors notified the counterparties to such contracts well in advance that they intended to seek a rejection date of February 28, 2010. Therefore, the counterparties to the Mobile Equipment Leases are not prejudiced by a February 28, 2010.

Notice

15. Notice of this Motion has been provided to (1) counterparties to the Executory Contracts at their designated addresses and (2) parties in interest in accordance with the Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c) and 9007 Establishing Notice and Case Management Procedures, dated August 3, 2009 [Docket No. 3629]. The Debtors submit that such notice is sufficient and no other or further notice need be provided.

WHEREFORE, the Debtors respectfully request that the Court enter an order granting the relief requested herein and such other and further relief as is just and proper.

Dated: New York, New York
February 12, 2010

/s/ Joseph H. Smolinsky
Harvey R. Miller
Stephen Karotkin
Joseph H. Smolinsky

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Debtors
and Debtors in Possession

Exhibit A

Executory Contracts

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
1	Centerpoint Properties Corporation	Centerpoint Realty Services Corporation Attn.: Legal Department 401 N. Michigan Avenue, Suite 300 Chicago, IL 60611	Purchase and Sale Agreement	10/2/1997	3/2/2010
2	Centerpoint Realty Services Corporation	Centerpoint Realty Services Corporation Attn.: Legal Department 401 N. Michigan Avenue, Suite 300 Chicago, IL 60611	Purchase and Sale Agreement	10/2/1997	3/2/2010
3	Electro-Motive Diesel, Inc.	Electro-Motive Diesel, Inc. Attn.: Legal Department 9301 West 55th Street LaGrange, IL 60525	Environmental Remediation and Indemnity Agreement	1/11/2005	3/2/2010
4	Electro-Motive Diesel, Inc.	Electro-Motive Diesel, Inc. Greenbriar Equity Group LLC Attn.: John Daileader 555 Theodore Fremd Avenue Suite A-201 Rye, NY 10580	Purchase and Sale Agreement	1/11/2005	3/2/2010
5	Toyota Motor Corporation & New United Motor Manufacturing, Inc.	Katsumi Ikeda General Manager, International Legal Affairs Toyota Motor Corporation 1 Toyota-Cho, Toyota-Shi Aichi, Japan 471-8571 Foley & Lardner LLP Counsel to Toyota Motor Corporation Attn.: Matthew Riopelle 402 West Broadway Suite 2100 San Diego, CA 92101-3542 Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104 K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538	Shareholders' Agreement	2/21/1984	3/2/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
6	Toyota Motor Corporation & New United Motor Manufacturing, Inc.	<p>Katsumi Ikeda General Manager, International Legal Affairs Toyota Motor Corporation 1 Toyota-Cho, Toyota-Shi Aichi, Japan 471-8571</p> <p>Foley & Lardner LLP Counsel to Toyota Motor Corporation Attn.: Matthew Riopelle 402 West Broadway Suite 2100 San Diego, CA 92101-3542</p> <p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Vehicle Supply Agreement	2/21/1984	3/2/2010
7	New United Motor Manufacturing, Inc.	<p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Product Responsibility Agreement for PJJ	5/24/1994	3/2/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
8	Toyota Motor Corporation & New United Motor Manufacturing, Inc.	<p>Katsumi Ikeda General Manager, International Legal Affairs Toyota Motor Corporation 1 Toyota-Cho, Toyota-Shi Aichi, Japan 471-8571</p> <p>Foley & Lardner LLP Counsel to Toyota Motor Corporation Attn.: Matthew Riopelle 402 West Broadway Suite 2100 San Diego, CA 92101-3542</p> <p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Memorandum of Understanding Regarding Manufacture of Light Trucks at NUMMI	4/24/1989	3/2/2010
9	New United Motor Manufacturing, Inc.	<p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Agreement on Manufacture of Toyota-Specific Vehicles	3/31/1986	3/2/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
10	New United Motor Manufacturing, Inc.	<p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Product Responsibility Agreement for Toyota-Specific Vehicles	3/31/1986	3/2/2010
11	New United Motor Manufacturing, Inc.	<p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Agreement for Dispatch of Technical Service Instructor	4/20/1993	3/2/2010
12	New United Motor Manufacturing, Inc.	<p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Memorandum of Understanding Regarding Pricing and Production	3/22/2006	3/2/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
13	New United Motor Manufacturing, Inc.	Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104 K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538	Agreement for Allocation of NUMMI Production between GM and Toyota Motor Corporation	9/1/1986	3/2/2010
14	New United Motor Manufacturing, Inc.	Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104 K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538	NUMMI Tooling Fee Memo of Understanding	11/2/1994	3/2/2010
15	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 11	7/1/2008	2/28/2010
16	First American Capital	RBS Asset Finance Attn: Mike O'Grady 71 South Whacker Drive 28th Floor Mail Stop IH2800 Chicago, IL 60680	Mobile Equipment Lease No. 1203	8/1/1999	2/28/2010
17	First American Capital	RBS Asset Finance Attn: Mike O'Grady 71 South Whacker Drive 28th Floor Mail Stop IH2800 Chicago, IL 60680	Mobile Equipment Lease No. 1218	6/1/1999	2/28/2010
18	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. 1231	9/1/1999	2/28/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
19	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No.1234	12/1/1999	2/28/2010
20	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 12	4/1/2000	2/28/2010
21	First American Capital	RBS Asset Finance Attn: Mike O'Grady 71 South Whacker Drive 28th Floor Mail Stop IH2800 Chicago, IL 60680	Mobile Equipment Lease No. 1317	4/1/2004	2/28/2010
22	First American Capital	Wells Fargo Equipment Finance Inc., C/O C4 Capital Attn: Patrick M. Curran 2557 Our Land Acres Milford, MI 48381	Mobile Equipment Lease No.1537	11/1/1999	2/28/2010
23	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. 1639	2/1/2000	2/28/2010
24	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 17	2/1/2006	2/28/2010
25	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 19	4/1/2000	2/28/2010
26	Remarketing Services Inc.	ICON Income Fund Attn: Craig Jackson 100 Fifth Ave, 4th Floor New York, NY 10011	Mobile Equipment Lease No. 1A	3/1/2001	2/28/2010
27	Remarketing Services Inc.	ICON Income Fund Attn: Craig Jackson 100 Fifth Ave, 4th Floor New York, NY 10011	Mobile Equipment Lease No. 1	4/1/2001	2/28/2010
28	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 22	5/1/2001	2/28/2010
29	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 24	7/1/2000	2/28/2010
30	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 28	7/1/2001	2/28/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
31	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 29	7/1/2001	2/28/2010
32	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 2	6/1/2002	2/28/2010
33	Yale Financial	Zion Credit Corporation Attn: R. Peterson 37 W 100 South Salt Lake City, UT 84101	Mobile Equipment Lease No. 2	11/1/2001	2/28/2010
34	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 31	1/1/2002	2/28/2010
35	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 34	2/1/2005	2/28/2010
36	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 35	6/1/2002	2/28/2010
37	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 36	8/1/2002	2/28/2010
38	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 43	10/1/2002	2/28/2010
39	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 46	11/1/2002	2/28/2010
40	Yale Financial	Zion Credit Corporation Attn: R. Peterson 37 W 100 South Salt Lake City, UT 84101	Mobile Equipment Lease No. 4	1/1/2002	2/28/2010
41	First American Capital	First American Capital C/O C4 Capital Corporation Attn: Patrick M. Curran 2557 Our Land Acres Milford, MI 48381	Mobile Equipment Lease No. 5010	10/1/2003	2/28/2010
42	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 51	8/1/1998	2/28/2010
43	Yale Financial	Zion Credit Corporation Attn: R. Peterson 37 W 100 South Salt Lake City, UT 84101	Mobile Equipment Lease No. 6	11/1/2003	2/28/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
44	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 7	12/1/1999	2/28/2010
45	Yale Financial	Zion Credit Corporation Attn: R. Peterson 37 W 100 South Salt Lake City, UT 84101	Mobile Equipment Lease No. 7	12/1/1999	2/28/2010
46	First American Capital	IBJTC Business Credit Corp. Mizuho Corporate Bank (USA) - Whitehall Branch Attn: Thomas Babbino 1251 Avenue of the Americas 32nd Floor New York, NY 10020	Mobile Equipment Lease No. 922	12/1/1999	2/28/2010
47	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. 943	12/1/1999	2/28/2010
48	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 9	12/1/1999	2/28/2010
49	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. SPO147	12/1/1999	2/28/2010
50	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. SPO172	12/1/1999	2/28/2010
51	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. SPO38	12/1/1999	2/28/2010
52	First American Capital	RBS Asset Finance Attn: Mike O'Grady 71 South Whacker Drive 28th Floor Mail Stop IH2800 Chicago, IL 60680	Mobile Equipment Lease No. SPO94	12/1/1999	2/28/2010

Exhibit B

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re : Chapter 11 Case No.
: :
MOTORS LIQUIDATION COMPANY, *et al.*, : 09-50026 (REG)
f/k/a General Motors Corp., *et al.* :
: :
Debtors. : (Jointly Administered)
: :
-----X

**ELEVENTH OMNIBUS ORDER PURSUANT TO 11 U.S.C. § 365
OF THE BANKRUPTCY CODE TO REJECT CERTAIN EXECUTORY CONTRACTS**

Upon the motion, dated February 12, 2010 (the “**Motion**”)¹, of Motors Liquidation Company (f/k/a General Motors Corporation) and its affiliated debtors, as debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to section 365(a) of title 11, United States Code (the “**Bankruptcy Code**”), for entry of an order authorizing the Debtors to reject certain executory contracts, all as more fully described in the Motion; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

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

ORDERED that pursuant to section 365 of the Bankruptcy Code and Bankruptcy Rules 6006 and 9014, the rejection of the Executory Contracts listed on **Annex I** attached hereto and all related agreements, amendments and supplements thereto is hereby authorized and approved, effective as of the rejection dates (the “**Rejection Dates**”) set forth on **Annex I**; and it is further

ORDERED that the parties to the Executory Contracts shall have until **5:00 p.m. (Eastern Time)** on the date that is **thirty (30) days** after service of this Order to file a proof of claim with respect to any claim for damages arising from the rejection of the Executory Contracts; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: _____, 2010
New York, New York

UNITED STATES BANKRUPTCY JUDGE

Annex I
Executory Contracts

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
1	Centerpoint Properties Corporation	Centerpoint Realty Services Corporation Attn.: Legal Department 401 N. Michigan Avenue, Suite 300 Chicago, IL 60611	Purchase and Sale Agreement	10/2/1997	3/2/2010
2	Centerpoint Realty Services Corporation	Centerpoint Realty Services Corporation Attn.: Legal Department 401 N. Michigan Avenue, Suite 300 Chicago, IL 60611	Purchase and Sale Agreement	10/2/1997	3/2/2010
3	Electro-Motive Diesel, Inc.	Electro-Motive Diesel, Inc. Attn.: Legal Department 9301 West 55th Street LaGrange, IL 60525	Environmental Remediation and Indemnity Agreement	1/11/2005	3/2/2010
4	Electro-Motive Diesel, Inc.	Electro-Motive Diesel, Inc. Greenbriar Equity Group LLC Attn.: John Daileader 555 Theodore Fremd Avenue Suite A-201 Rye, NY 10580	Purchase and Sale Agreement	1/11/2005	3/2/2010
5	Toyota Motor Corporation & New United Motor Manufacturing, Inc.	Katsumi Ikeda General Manager, International Legal Affairs Toyota Motor Corporation 1 Toyota-Cho, Toyota-Shi Aichi, Japan 471-8571 Foley & Lardner LLP Counsel to Toyota Motor Corporation Attn.: Matthew Riopelle 402 West Broadway Suite 2100 San Diego, CA 92101-3542 Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104 K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538	Shareholders' Agreement	2/21/1984	3/2/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
6	Toyota Motor Corporation & New United Motor Manufacturing, Inc.	<p>Katsumi Ikeda General Manager, International Legal Affairs Toyota Motor Corporation 1 Toyota-Cho, Toyota-Shi Aichi, Japan 471-8571</p> <p>Foley & Lardner LLP Counsel to Toyota Motor Corporation Attn.: Matthew Riopelle 402 West Broadway Suite 2100 San Diego, CA 92101-3542</p> <p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Vehicle Supply Agreement	2/21/1984	3/2/2010
7	New United Motor Manufacturing, Inc.	<p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Product Responsibility Agreement for PJJ	5/24/1994	3/2/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
8	Toyota Motor Corporation & New United Motor Manufacturing, Inc.	<p>Katsumi Ikeda General Manager, International Legal Affairs Toyota Motor Corporation 1 Toyota-Cho, Toyota-Shi Aichi, Japan 471-8571</p> <p>Foley & Lardner LLP Counsel to Toyota Motor Corporation Attn.: Matthew Riopelle 402 West Broadway Suite 2100 San Diego, CA 92101-3542</p> <p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Memorandum of Understanding Regarding Manufacture of Light Trucks at NUMMI	4/24/1989	3/2/2010
9	New United Motor Manufacturing, Inc.	<p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Agreement on Manufacture of Toyota-Specific Vehicles	3/31/1986	3/2/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
10	New United Motor Manufacturing, Inc.	<p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Product Responsibility Agreement for Toyota-Specific Vehicles	3/31/1986	3/2/2010
11	New United Motor Manufacturing, Inc.	<p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Agreement for Dispatch of Technical Service Instructor	4/20/1993	3/2/2010
12	New United Motor Manufacturing, Inc.	<p>Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104</p> <p>K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538</p>	Memorandum of Understanding Regarding Pricing and Production	3/22/2006	3/2/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
13	New United Motor Manufacturing, Inc.	Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104 K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538	Agreement for Allocation of NUMMI Production between GM and Toyota Motor Corporation	9/1/1986	3/2/2010
14	New United Motor Manufacturing, Inc.	Schnader Harrison Segal & Lewis LLP Counsel to New United Motor Manufacturing, Inc. Attn.: George Kalikman One Montgomery Street, Suite 2200 San Francisco, CA 94104 K. Kelley McKenzie General Counsel New United Motor Manufacturing, Inc. 45500 Fremont Blvd Fremont, CA 94538	NUMMI Tooling Fee Memo of Understanding	11/2/1994	3/2/2010
15	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 11	7/1/2008	2/28/2010
16	First American Capital	RBS Asset Finance Attn: Mike O'Grady 71 South Whacker Drive 28th Floor Mail Stop IH2800 Chicago, IL 60680	Mobile Equipment Lease No. 1203	8/1/1999	2/28/2010
17	First American Capital	RBS Asset Finance Attn: Mike O'Grady 71 South Whacker Drive 28th Floor Mail Stop IH2800 Chicago, IL 60680	Mobile Equipment Lease No. 1218	6/1/1999	2/28/2010
18	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. 1231	9/1/1999	2/28/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
19	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No.1234	12/1/1999	2/28/2010
20	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 12	4/1/2000	2/28/2010
21	First American Capital	RBS Asset Finance Attn: Mike O'Grady 71 South Whacker Drive 28th Floor Mail Stop IH2800 Chicago, IL 60680	Mobile Equipment Lease No. 1317	4/1/2004	2/28/2010
22	First American Capital	Wells Fargo Equipment Finance Inc., C/O C4 Capital Attn: Patrick M. Curran 2557 Our Land Acres Milford, MI 48381	Mobile Equipment Lease No.1537	11/1/1999	2/28/2010
23	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. 1639	2/1/2000	2/28/2010
24	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 17	2/1/2006	2/28/2010
25	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 19	4/1/2000	2/28/2010
26	Remarketing Services Inc.	ICON Income Fund Attn: Craig Jackson 100 Fifth Ave, 4th Floor New York, NY 10011	Mobile Equipment Lease No. 1A	3/1/2001	2/28/2010
27	Remarketing Services Inc.	ICON Income Fund Attn: Craig Jackson 100 Fifth Ave, 4th Floor New York, NY 10011	Mobile Equipment Lease No. 1	4/1/2001	2/28/2010
28	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 22	5/1/2001	2/28/2010
29	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 24	7/1/2000	2/28/2010
30	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 28	7/1/2001	2/28/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
31	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 29	7/1/2001	2/28/2010
32	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 2	6/1/2002	2/28/2010
33	Yale Financial	Zion Credit Corporation Attn: R. Peterson 37 W 100 South Salt Lake City, UT 84101	Mobile Equipment Lease No. 2	11/1/2001	2/28/2010
34	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 31	1/1/2002	2/28/2010
35	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 34	2/1/2005	2/28/2010
36	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 35	6/1/2002	2/28/2010
37	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 36	8/1/2002	2/28/2010
38	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 43	10/1/2002	2/28/2010
39	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 46	11/1/2002	2/28/2010
40	Yale Financial	Zion Credit Corporation Attn: R. Peterson 37 W 100 South Salt Lake City, UT 84101	Mobile Equipment Lease No. 4	1/1/2002	2/28/2010
41	First American Capital	First American Capital C/O C4 Capital Corporation Attn: Patrick M. Curran 2557 Our Land Acres Milford, MI 48381	Mobile Equipment Lease No. 5010	10/1/2003	2/28/2010
42	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 51	8/1/1998	2/28/2010
43	Yale Financial	Zion Credit Corporation Attn: R. Peterson 37 W 100 South Salt Lake City, UT 84101	Mobile Equipment Lease No. 6	11/1/2003	2/28/2010

	Contract Counterparty	Counterparty Address	Contract Description	Contract Date	Rejection Date
44	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 7	12/1/1999	2/28/2010
45	Yale Financial	Zion Credit Corporation Attn: R. Peterson 37 W 100 South Salt Lake City, UT 84101	Mobile Equipment Lease No. 7	12/1/1999	2/28/2010
46	First American Capital	IBJTC Business Credit Corp. Mizuho Corporate Bank (USA) - Whitehall Branch Attn: Thomas Babbino 1251 Avenue of the Americas 32nd Floor New York, NY 10020	Mobile Equipment Lease No. 922	12/1/1999	2/28/2010
47	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. 943	12/1/1999	2/28/2010
48	Connell Equipment Leasing Company	Connell Equipment Leasing Attn: Gloria Sorkin 200 Connell Dr., 4th Floor Berkely Heights, NJ 07922	Mobile Equipment Lease No. 9	12/1/1999	2/28/2010
49	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. SPO147	12/1/1999	2/28/2010
50	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. SPO172	12/1/1999	2/28/2010
51	First American Capital	Mishawaka Leasing Company Inc. Capital Preferred Yield Fund III, IV Attn: Denise Jones 7901 Southpark Plaza, Suite 204 Littleton, CO 80120	Mobile Equipment Lease No. SPO38	12/1/1999	2/28/2010
52	First American Capital	RBS Asset Finance Attn: Mike O'Grady 71 South Whacker Drive 28th Floor Mail Stop IH2800 Chicago, IL 60680	Mobile Equipment Lease No. SPO94	12/1/1999	2/28/2010

EXHIBIT “H”

HEARING DATE AND TIME: November 24, 2009 at 10:30 a.m. (Eastern Time)
OBJECTION DEADLINE: November 18, 2009 at 4:00 p.m. (Eastern Time)

**IF YOU HAVE RECEIVED THIS NOTICE AND ARE A
CONTRACT-COUNTERPARTY TO AN AGREEMENT WITH
THE DEBTORS, PLEASE REVIEW EXHIBIT A, ATTACHED
TO THE MOTION (AS DEFINED BELOW), TO DETERMINE IF THE
MOTION AFFECTS YOUR AGREEMENT AND YOUR RIGHTS THEREUNDER.**

Harvey R. Miller
Stephen Karotkin
Joseph H. Smolinsky
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Debtors and
Debtors in Possession

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

-----X
:
In re : **Chapter 11 Case No.**
:
MOTORS LIQUIDATION COMPANY, et al., : **09-50026 (REG)**
f/k/a General Motors Corp., et al. :
:
Debtors. : **(Jointly Administered)**
:
-----X

**NOTICE OF DEBTORS' NINTH OMNIBUS MOTION PURSUANT
TO 11 U.S.C. § 365 TO REJECT CERTAIN EXECUTORY CONTRACTS
AND UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

PLEASE TAKE NOTICE THAT:

PLEASE TAKE NOTICE that upon the annexed motion, dated November 12, 2009 (the "**Motion**"), of Motors Liquidation Company (f/k/a General Motors Corporation) and its affiliated debtors, as debtors in possession (collectively, the "**Debtors**"), for an order, pursuant to section 365, of title 11, United States Code to reject certain executory contracts (collectively, the "**Executory Contracts**") and unexpired leases of nonresidential real property

(collectively, the “**Leases**”), all as more fully set forth in the Motion, a hearing will be held before the Honorable Robert E. Gerber, United States Bankruptcy Judge, in Room 621 of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, on **November 24, 2009 at 10:30 a.m. (Eastern Time)**, or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, and shall be filed with the Bankruptcy Court (a) electronically in accordance with General Order M-242 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court’s filing system, and (b) by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with General Order M-182 (which can be found at www.nysb.uscourts.gov), and served in accordance with General Order M-242, and on (i) Weil, Gotshal & Manges LLP, attorneys for the Debtors, 767 Fifth Avenue, New York, New York 10153 (Attn: Harvey R. Miller, Esq., Stephen Karotkin, Esq., and Joseph H. Smolinsky, Esq.); (ii) the Debtors, c/o Motors Liquidation Company, 500 Renaissance Center, Suite 1400, Detroit, Michigan 48243 (Attn: Ted Stenger); (iii) General Motors, LLC, 300 Renaissance Center, Detroit, Michigan 48265 (Attn: Lawrence S. Buonomo, Esq.); (iv) Cadwalader, Wickersham & Taft LLP, attorneys for the United States Department of the Treasury, One World Financial Center, New York, New York 10281 (Attn: John J. Rapisardi, Esq.); (v) the United States Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 2312, Washington, DC 20220 (Attn: Joseph Samarias, Esq.); (vi) Vedder Price, P.C., attorneys for Export Development

Canada, 1633 Broadway, 47th Floor, New York, New York 10019 (Attn: Michael J. Edelman, Esq. and Michael L. Schein, Esq.); (vii) Kramer Levin Naftalis & Frankel LLP, attorneys for the statutory committee of unsecured creditors, 1177 Avenue of the Americas, New York, New York 10036 (Attn: Thomas Moers Mayer, Esq., Amy Caton, Esq., Adam C. Rogoff, Esq., and Gregory G. Plotko, Esq.); (xii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Diana G. Adams, Esq.); and (xiii) the U.S. Attorney's Office, S.D.N.Y., 86 Chambers Street, Third Floor, New York, New York 10007 (Attn: David S. Jones, Esq. and Matthew L. Schwartz, Esq.), so as to be received no later than **November 18, 2009, at 4:00 p.m. (Eastern Time)** (the "**Objection Deadline**").

If no objections are timely filed and served with respect to the Motion, the Debtors may, on or after the Objection Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Motion, which order may be entered with no further notice or opportunity to be heard offered to any party.

Dated: New York, New York
November 12, 2009

/s/ Joseph H. Smolinsky

Harvey R. Miller
Stephen Karotkin
Joseph H. Smolinsky

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Debtors
and Debtors in Possession

HEARING DATE AND TIME: November 24, 2009 at 10:30 a.m. (Eastern Time)
OBJECTION DEADLINE: November 18, 2009 at 4:00 p.m. (Eastern Time)

IF YOU HAVE RECEIVED THIS MOTION AND ARE A CONTRACT-COUNTERPARTY TO AN AGREEMENT WITH THE DEBTORS, PLEASE REVIEW EXHIBIT A, ATTACHED HERETO, TO DETERMINE IF THIS MOTION AFFECTS YOUR AGREEMENT AND YOUR RIGHTS THEREUNDER.

Harvey R. Miller
Stephen Karotkin
Joseph H. Smolinsky
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767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Debtors and
Debtors in Possession

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

-----X
: **Chapter 11 Case No.**
: **09-50026 (REG)**
: **(Jointly Administered)**
: **Debtors.**
: **(Jointly Administered)**
: **(Jointly Administered)**
: **(Jointly Administered)**
-----X

**DEBTORS' NINTH OMNIBUS MOTION PURSUANT
TO 11 U.S.C § 365 TO REJECT CERTAIN EXECUTORY CONTRACTS
AND UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

TO THE HONORABLE ROBERT E. GERBER,
UNITED STATES BANKRUPTCY JUDGE:

Motors Liquidation Company (f/k/a General Motors Corporation) and its
affiliated debtors, as debtors in possession in the above-captioned chapter 11 cases (collectively,
the “**Debtors**”), respectfully represent:

Relief Requested

1. Pursuant to section 365(a) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), the Debtors request authorization to reject certain executory contracts (the “**Executory Contracts**”) and unexpired leases of nonresidential real property (collectively, the “**Leases**”). A list identifying and describing the affected Executory Contracts and Leases is attached hereto as **Exhibit A**. A proposed form of order (the “**Order**”) is attached hereto as **Exhibit B**.

2. The Debtors’ request that the rejection of the Executory Contracts and Leases be effective as of November 30, 2009, except with respect to the Debtors’ Lease with M-Tech Associates, LLC (“**M-Tech**”), which the Debtors’ request be effective as of October 31, 2009. The Debtors vacated and surrendered the premises leased from M-Tech prior to October 31, 2009, and provided advance notice to counsel for M-Tech of its intention to vacate and seek a proposed rejection date of October 31, 2009.

3. The Debtors also request that the deadline to file a proof of claim with respect to any claim for damages arising from the rejection of the Executory Contracts or Leases be **5:00 p.m. (Eastern Time)** of the date that is **thirty (30) days** after service of the order approving the relief requested herein.

Jurisdiction

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

Background

5. On June 1, 2009, the Debtors filed a motion (the “**Sale Motion**”), requesting, *inter alia*, an order (the “**Sale Order**”), pursuant to 11 U.S.C. §§ 105, 363(b), (f), and (m), and 365, authorizing and approving (i) the sale of substantially all of the Debtors’ assets pursuant to a proposed Master Sale and Purchase Agreement and related agreements (the “**MPA**”) among the Debtors and NGMCO, Inc. (n/k/a General Motors LLC) (“**New GM**”), a purchaser sponsored by the United States Department of the Treasury (the “**U.S. Treasury**”), free and clear of liens, claims, encumbrances, and other interests, (ii) the assumption and assignment of certain executory contracts and unexpired leases of personal property and of nonresidential real property, and (iii) the approval of the UAW Retiree Settlement Agreement, subject to higher or better offers (the “**363 Transaction**”).

6. On July 5, 2009, the Court approved the 363 Transaction and entered the Sale Order, and on July 10, 2009, the 363 Transaction closed. Accordingly, the Debtors no longer operate as manufacturers of any GM branded motor vehicles, nor do they retain the rights to use GM trademarks in the wind-down of their business. All such manufacturing operations and trademark rights have been sold to New GM pursuant to the 363 Transaction.

The Executory Contracts and the Leases

7. The Debtors are currently undergoing a comprehensive review of their executory contracts and unexpired leases of nonresidential real property to determine which contracts and leases to assume and which to reject. Because the Debtors have sold substantially all of their assets in the 363 Transaction and are now winding down their remaining operations, the Debtors no longer require certain executory contracts and unexpired leases and will seek to reject those contracts and leases that provide no meaningful value or benefit to the Debtors’

estates. The Debtors have reviewed the Executory Contracts and Leases that are the subject of this Motion and have determined, in the exercise of their sound business judgment, that continuing the Executory Contracts and Leases would be burdensome and would provide no corresponding benefit or utility to the Debtors or their estates.

8. The Executory Contracts include: (1) a take or pay gas supply agreement with rates well above current spot prices for natural gas, and (2) various agreements between Toyota Motor Corporation (“**Toyota**”) and MLC concerning a joint venture that is in the process of being wound down by New GM and Toyota. The Leases include: (1) a lease for manufacturing space the Debtors have vacated and no longer need for their continuing business operations, and (2) a warehouse lease for storage space that has been consolidated in other warehouses and is no longer being utilized by the Debtors. After reviewing the Executory Contracts and Leases, New GM elected not to take assignment of any of the Executory Contracts or Leases.

9. The Debtors’ primary business purpose at this stage in their chapter 11 cases is to liquidate the assets remaining following the close of the 363 Transaction in an efficient and cost-effective manner to maximize the value of the recovery for their creditors. The Executory Contracts and Leases are not necessary for the Debtors’ continuing business operations or the administration of the Debtors’ estates, and maintaining the Executory Contracts and the Leases would impose unnecessary costs and burdens on the Debtors’ estates. The Debtors have also explored the possibility of marketing the Executory Contracts and Leases, but have determined that doing so would provide no meaningful benefit or value to the Debtors’ estates. Accordingly, the Debtors submit this Motion to reject the Executory Contracts and Leases.

Rejection of the Executory Contracts and Leases is Supported by the Debtors' Business Judgment and Should Be Approved by the Court Effective as of the Proposed Rejection Dates

10. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession, “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” *See NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 521 (1984); *see also In re Lavigne*, 114 F.3d 379, 386 (2d Cir. 1997). “[T]he purpose behind allowing the assumption or rejection of executory contracts is to permit the trustee or debtor-in-possession to use valuable property of the estate and to ‘renounce title to and abandon burdensome property.’ ” *Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1098 (2d Cir. 1993), *cert. dismissed*, 511 U.S. 1026 (1994).

11. Courts defer to a debtor’s business judgment in rejecting an executory contract or unexpired lease, and upon finding that a debtor has exercised its sound business judgment, approve the rejection under section 365(a) of the Bankruptcy Code. *See Bildisco & Bildisco*, 465 U.S. at 523 (recognizing the “business judgment” standard used to approve rejection of executory contracts and unexpired leases); *Nostas Assocs. v. Costich (In re Klein Sleep Products, Inc.)*, 78 F.3d 18, 25 (2d Cir. 1996) (recognizing the “business judgment” standard used to approve rejection of executory contracts); *In re Minges*, 602 F.2d 38, 42–43 (2d Cir. 1979) (holding that the “business judgment” test is appropriate for determining when an executory contract can be rejected); *In re G Survivor Corp.*, 171 B.R. 755, 757 (Bankr. S.D.N.Y. 1994), *aff’d*, 187 B.R. 111 (S.D.N.Y. 1995) (approving rejection of license by debtor because such rejection satisfied the “business judgment” test); *In re Child World, Inc.*, 142 B.R. 87, 89 (Bankr. S.D.N.Y. 1992) (stating that a debtor may assume or reject an unexpired lease under § 365(a) in the exercise of its “business judgment”).

12. The “business judgment” standard is not a strict standard; it requires only a showing that either assumption or rejection of the executory contract or unexpired lease will benefit the debtor’s estate. See *In re Helm*, 335 B.R. 528, 538 (Bankr. S.D.N.Y. 1996) (“To meet the business judgment test, the debtor in possession must ‘establish that rejection will benefit the estate.’”) (citation omitted); *In re Balco Equities, Inc.*, 323 B.R. 85, 99 (Bankr. S.D.N.Y. 2005) (“In determining whether the debtor has employed reasonable business discretion, the court for the most part must only determine that the rejection will likely benefit the estate.”) (quoting *G Survivor*, 171 B.R. at 757)). Further, under the business judgment standard, “[a] debtor’s decision to reject an executory contract must be summary affirmed unless it is the product of ‘bad faith, or whim or caprice’ ” *In re Trans World Airlines, Inc.*, 261 B.R. 103, 121 (Bankr. D. Del. 2001).

13. In addition, many courts in this district (including this Court) and elsewhere have authorized rejection retroactively to a date prior to entry of the order authorizing such rejection. See, e.g., *Adelphia Bus. Solutions, Inc. v. Abnos*, 482 F.3d 602 (2d Cir. 2007) (affirming this Court’s equitable authority to authorize the retroactive rejection of a nonresidential lease of real property where advance notice is provided); *BP Energy Co. v. Bethlehem Steel Corp. (In re Bethlehem Steel Corp., et al.)*, No. 02 Civ. 6419 (NRB), 2002 WL 31548723, at *3 (S.D.N.Y. Nov. 15, 2002) (finding that retroactive rejection is valid when the balance of equities favor such treatment); *In re Jamesway Corp.*, 179 B.R. 33, 36 (S.D.N.Y. 1995) (stating that section 365 does not include “restrictions on the manner in which the court can approve rejection”); *In re Thinking Mach. Corp. v. Mellon Fin. Servs.*, 67 F.3d 1021, 1028 (1st Cir. 1995) (approving retroactive orders of rejection where the balance of equities favors such relief).

14. As noted above, the Debtors have reviewed the Executory Contracts and Leases and have determined that in light of the sale of substantially all of the Debtors' assets and subsequent wind-down, the Executory Contracts and Leases are no longer necessary for or beneficial to the Debtors' ongoing business, and create unnecessary and burdensome expenses for the Debtors' estates. In addition, the Debtors have determined that no meaningful value would be realized by the Debtors if the Executory Contracts or Leases were assumed and assigned to third parties. Accordingly, the Debtors are exercising their sound business judgment in seeking rejection of the Executory Contracts and Leases subject to this Motion.

15. Finally, with respect to the proposed rejection date for the Debtors' Lease with M-Tech, the Debtors notified M-Tech well in advance that it intended to seek a rejection date of October 31, 2009 and would vacate and surrender the premises on or before that date. Indeed, it is the Debtors' understanding that part of the premises previously leased by MLC have been reletted or are being used with the landlord's permission by third parties unrelated to the Debtors. Therefore, M-Tech is not prejudiced by an October 31, 2009 rejection date and the Debtors should not be responsible for any administrative rent past that date.

Notice

16. Notice of this Motion has been provided to (1) all counterparties to the Executory Contracts and Leases and (2) parties in interest in accordance with the Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c) and 9007 Establishing Notice and Case Management Procedures, dated August 3, 2009 [Docket No.3629]. The Debtors submit that such notice is sufficient and no other or further notice need be provided.

WHEREFORE, the Debtors respectfully request that the Court enter an order granting the relief requested herein and such other and further relief as is just and proper.

Dated: New York, New York
November 12, 2009

/s/ Joseph H. Smolinsky

Harvey R. Miller
Stephen Karotkin
Joseph H. Smolinsky

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Attorneys for Debtors
and Debtors in Possession

Exhibit A

Executory Contracts and Unexpired Leases of Nonresidential Real Property

EXECUTORY CONTRACTS						
	Contract Counterparty	Counterparty Address	Property Address	Contract Description	Contract Date	Rejection Date
1	Renover Shreveport, LLC	Department Of Public Works, City Of Shreveport Attn: Mr. Fred Williams, Superintendent-Solid Waste Po Box 31109 Shreveport, LA 71130-1109	N/A	Landfill Gas Purchase Contract	1/24/2002	11/30/2009
2	Toyota Motor Corporation	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542 Email: mriopelle@foley.com	N/A	Product Responsibility Agreement	5/24/1994	11/30/2009
3	Toyota Motor Corporation and TABC, Inc.	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542	N/A	Agreement on Manufacture of Toyota-Specific Vehicles	4/24/1989	11/30/2009
4	Toyota Motor Corporation	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542	N/A	Agreement on Manufacture of Toyota-Specific Vehicles	3/31/1986	11/30/2009
5	Toyota Motor Corporation & Toyota Motor Sales of USA, Inc.	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542 Email: mriopelle@foley.com	N/A	Product Responsibility Agreement for Toyota-Specific Vehicles	3/31/1986	11/30/2009

	Contract Counterparty	Counterparty Address	Property Address	Contract Description	Contract Date	Rejection Date
6	Toyota Motor Corporation	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542 Email: mriopelle@foley.com	N/A	Agreement for Dispatch of Technical Service Instructor	4/20/1993	11/30/2009
7	Toyota Motor Corporation	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542 Email: mriopelle@foley.com	N/A	Memorandum of Understanding Regarding Pricing and Production	3/22/2006	11/30/2009
8	Toyota Motor Corporation & Toyota Motor Sales of USA, Inc.	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542 Email: mriopelle@foley.com	N/A	Agreement for Allocation of NUMMI Production between GM and Toyota Motor Corporation	9/1/1986	11/30/2009
<u>UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY</u>						
	Contract Counterparty	Counterparty Address	Property Address	Contract Description	Contract Date	Rejection Date
1a	Fountain Lakes I, LLC	Fountain Lakes I, LLC Balke Brown Associates, Inc. 1001 Highlands Plaza Dr. West, Ste. 150 St. Louis, MO 63110-1341	Fountain Lakes II St. Charles, MI	Office/Warehouse Lease	9/22/2005	11/30/2009
1a	Fountain Lakes I, LLC	Fountain Lakes I, LLC Balke Brown Associates, Inc. Attn: Legal Department 1001 Highlands Plaza Dr. West, Ste. 150 St. Louis, MO 63110-1341	Fountain Lakes II St. Charles, MI	Confirmation Agreement of Lease Term	11/1/2005	11/30/2009

	Contract Counterparty	Counterparty Address	Property Address	Contract Description	Contract Date	Rejection Date
2	M-Tech Associates	M-Tech Associates Attn: Legal Department 28388 Franklin Road Southfield, MI 48034 MADDIN HAUSER WARTELL ROTH & HELLER, P.C. Attn: Kathleen H. Klaus, Esq. 28400 Northwestern Highway Third Floor Southfield, MI 48034 Email: KHK@maddinhauser.com	33500 Mound Road Sterling Heights, MI	Property Lease Agreement	8/28/1986	10/31/2009
2a	M-Tech Associates	M-Tech Associates Attn: Legal Department 28388 Franklin Road Southfield, MI 48034 MADDIN HAUSER WARTELL ROTH & HELLER, P.C. Attn: Kathleen H. Klaus, Esq. 28400 Northwestern Highway Third Floor Southfield, MI 48034 Email: KHK@maddinhauser.com	33500 Mound Road Sterling Heights, MI	Lease Extension Agreement	3/1/1996	10/31/2009
2b	M-Tech Associates	M-Tech Associates Attn: Legal Department 28388 Franklin Road Southfield, MI 48034 MADDIN HAUSER WARTELL ROTH & HELLER, P.C. Attn: Kathleen H. Klaus, Esq. 28400 Northwestern Highway Third Floor Southfield, MI 48034	33500 Mound Road Sterling Heights, MI	Lease Amendment Agreement	7/19/2001	10/31/2009
2c	M-Tech Associates	M-Tech Associates Attn: Legal Department 28388 Franklin Road Southfield, MI 48034 MADDIN HAUSER WARTELL ROTH & HELLER, P.C. Attn: Kathleen H. Klaus, Esq. 28400 Northwestern Highway Third Floor Southfield, MI 48034 Email: KHK@maddinhauser.com	33500 Mound Road Sterling Heights, MI	Lease Subordination Agreement	4/28/1998	10/31/2009

	Contract Counterparty	Counterparty Address	Property Address	Contract Description	Contract Date	Rejection Date
2d	M-Tech Associates	M-Tech Associates Attn: Legal Department 28388 Franklin Road Southfield, MI 48034 MADDIN HAUSER WARTELL ROTH & HELLER, P.C. Attn: Kathleen H. Klaus, Esq. 28400 Northwestern Highway Third Floor Southfield, MI 48034 Email: KHK@maddinhauser.com	33500 Mound Road Sterling Heights, MI	Lease Amendment Agreement	6/5/2006	10/31/2009

Exhibit B

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re : Chapter 11 Case No.
: :
MOTORS LIQUIDATION COMPANY, *et al.*, : 09-50026 (REG)
f/k/a General Motors Corp., *et al.* :
Debtors. : (Jointly Administered)
: :
-----X

**NINTH OMNIBUS ORDER PURSUANT TO 11 U.S.C. § 365
OF THE BANKRUPTCY CODE TO REJECT CERTAIN EXECUTORY
CONTRACTS AND UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

Upon the motion, dated November 12, 2009 (the “**Motion**”)¹, of Motors Liquidation Company (f/k/a General Motors Corporation) and its affiliated debtors, as debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to section 365(a) of title 11, United States Code (the “**Bankruptcy Code**”), for entry of an order authorizing the Debtors to reject certain executory contracts and unexpired leases of nonresidential real property, all as more fully described in the Motion; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

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

ORDERED that each of the Executory Contracts listed on **Annex I** attached hereto is an executory contract capable of being rejected under section 365 of the Bankruptcy Code; and it is further

ORDERED that each of the Leases listed on **Annex I** attached hereto is an unexpired lease of nonresidential real property capable of being rejected under section 365 of the Bankruptcy Code; and it is further

ORDERED that the rejection of the Executory Contracts and the Leases, as set forth herein, (1) constitutes an exercise of sound business judgment by the Debtors, made in good faith and for legitimate commercial reasons; (2) is appropriate and necessary under the circumstances described in the Motion; and (3) is warranted and permissible under sections 105 and 365 of the Bankruptcy Code and Bankruptcy Rule 6006; and it is further

ORDERED that pursuant to section 365 of the Bankruptcy Code and Bankruptcy Rules 6006 and 9014, the rejection of the Executory Contracts and Leases listed on **Annex I** attached hereto and all related agreements, amendments and supplements thereto is hereby authorized and approved, effective as of the rejection dates (the “**Rejection Dates**”) set forth on **Annex I**; and it is further

ORDERED that the parties to the Executory Contracts and Leases shall have until **5:00 p.m. (Eastern Time)** on the date that is **thirty (30) days** after service of this Order to file a proof of claim with respect to any claim for damages arising from the rejection of the Executory Contracts or Leases; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: _____, 2009
New York, New York

UNITED STATES BANKRUPTCY JUDGE

Annex I

Executory Contracts and Unexpired Leases of Nonresidential Real Property

EXECUTORY CONTRACTS						
	Contract Counterparty	Counterparty Address	Property Address	Contract Description	Contract Date	Rejection Date
1	Renover Shreveport, LLC	Department Of Public Works, City Of Shreveport Attn: Mr. Fred Williams, Superintendent-Solid Waste Po Box 31109 Shreveport, LA 71130-1109	N/A	Landfill Gas Purchase Contract	1/24/2002	11/30/2009
2	Toyota Motor Corporation	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542 Email: mriopelle@foley.com	N/A	Product Responsibility Agreement	5/24/1994	11/30/2009
3	Toyota Motor Corporation and TABC, Inc.	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542	N/A	Agreement on Manufacture of Toyota-Specific Vehicles	4/24/1989	11/30/2009
4	Toyota Motor Corporation	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542	N/A	Agreement on Manufacture of Toyota-Specific Vehicles	3/31/1986	11/30/2009
5	Toyota Motor Corporation & Toyota Motor Sales of USA, Inc.	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542 Email: mriopelle@foley.com	N/A	Product Responsibility Agreement for Toyota-Specific Vehicles	3/31/1986	11/30/2009

	Contract Counterparty	Counterparty Address	Property Address	Contract Description	Contract Date	Rejection Date
6	Toyota Motor Corporation	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542 Email: mriopelle@foley.com	N/A	Agreement for Dispatch of Technical Service Instructor	4/20/1993	11/30/2009
7	Toyota Motor Corporation	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542 Email: mriopelle@foley.com	N/A	Memorandum of Understanding Regarding Pricing and Production	3/22/2006	11/30/2009
8	Toyota Motor Corporation & Toyota Motor Sales of USA, Inc.	Toyota Motor Corporation Attn: Mr. Katsumi Ikeda General Manager, International Legal Affairs 1 Toyota-Cho, Toyota-Shu Aichi 471-8571 Foley & Lardner LLP Attn: Matthew Riopelle, Esq. 402 West Broadway, Suite 2100 San Diego, CA 92101-3542 Email: mriopelle@foley.com	N/A	Agreement for Allocation of NUMMI Production between GM and Toyota Motor Corporation	9/1/1986	11/30/2009

UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY

	Contract Counterparty	Counterparty Address	Property Address	Contract Description	Contract Date	Rejection Date
1a	Fountain Lakes I, LLC	Fountain Lakes I, LLC Balke Brown Associates, Inc. 1001 Highlands Plaza Dr. West, Ste. 150 St. Louis, MO 63110-1341	Fountain Lakes II St. Charles, MI	Office/Warehouse Lease	9/22/2005	11/30/2009
1a	Fountain Lakes I, LLC	Fountain Lakes I, LLC Balke Brown Associates, Inc. Attn: Legal Department 1001 Highlands Plaza Dr. West, Ste. 150 St. Louis, MO 63110-1341	Fountain Lakes II St. Charles, MI	Confirmation Agreement of Lease Term	11/1/2005	11/30/2009

	Contract Counterparty	Counterparty Address	Property Address	Contract Description	Contract Date	Rejection Date
2	M-Tech Associates	M-Tech Associates Attn: Legal Department 28388 Franklin Road Southfield, MI 48034 MADDIN HAUSER WARTELL ROTH & HELLER, P.C. Attn: Kathleen H. Klaus, Esq. 28400 Northwestern Highway Third Floor Southfield, MI 48034 Email: KHK@maddinhauser.com	33500 Mound Road Sterling Heights, MI	Property Lease Agreement	8/28/1986	10/31/2009
2a	M-Tech Associates	M-Tech Associates Attn: Legal Department 28388 Franklin Road Southfield, MI 48034 MADDIN HAUSER WARTELL ROTH & HELLER, P.C. Attn: Kathleen H. Klaus, Esq. 28400 Northwestern Highway Third Floor Southfield, MI 48034 Email: KHK@maddinhauser.com	33500 Mound Road Sterling Heights, MI	Lease Extension Agreement	3/1/1996	10/31/2009
2b	M-Tech Associates	M-Tech Associates Attn: Legal Department 28388 Franklin Road Southfield, MI 48034 MADDIN HAUSER WARTELL ROTH & HELLER, P.C. Attn: Kathleen H. Klaus, Esq. 28400 Northwestern Highway Third Floor Southfield, MI 48034	33500 Mound Road Sterling Heights, MI	Lease Amendment Agreement	7/19/2001	10/31/2009
2c	M-Tech Associates	M-Tech Associates Attn: Legal Department 28388 Franklin Road Southfield, MI 48034 MADDIN HAUSER WARTELL ROTH & HELLER, P.C. Attn: Kathleen H. Klaus, Esq. 28400 Northwestern Highway Third Floor Southfield, MI 48034 Email: KHK@maddinhauser.com	33500 Mound Road Sterling Heights, MI	Lease Subordination Agreement	4/28/1998	10/31/2009

	Contract Counterparty	Counterparty Address	Property Address	Contract Description	Contract Date	Rejection Date
2d	M-Tech Associates	<p>M-Tech Associates Attn: Legal Department 28388 Franklin Road Southfield, MI 48034</p> <p>MADDIN HAUSER WARTELL ROTH & HELLER, P.C. Attn: Kathleen H. Klaus, Esq. 28400 Northwestern Highway Third Floor Southfield, MI 48034 Email: KHK@maddinhauser.com</p>	33500 Mound Road Sterling Heights, MI	Lease Amendment Agreement	6/5/2006	10/31/2009