

DATED _____, 2003

BETWEEN

NISSAN NORTH AMERICA, INC.

AND

(Name of Supplier)

MASTER PURCHASE AGREEMENT

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This Master Purchase Agreement is made the ____ day of _____, 2003 ("Effective Date")

BETWEEN:

(1) Nissan North America, Inc., a corporation organized and existing under the laws of California and having its registered office at 18501 South Figueroa Street, Gardena, CA 90248 ("Nissan"), and its address for notice purposes at Nissan North America, Inc. Attn. Purchasing (Bin 39D), 983 Nissan Drive, Smyrna, TN 37167; and

(2) [_____], a corporation organized and existing under the laws of [_____] and having its registered office at [_____]
(the "Supplier")

(collectively, the "Parties" and individually a "Party")

Background

- (A) Nissan and its Affiliates (defined below) are engaged in the design, manufacture, assembly and/or sale of motor vehicles and motor vehicle components.
- (B) Supplier and its Affiliates are engaged in the design, manufacture and/or sale of motor vehicle components.
- (C) Nissan wishes to procure motor vehicle components from Supplier under the following terms and conditions.

Now, Therefore, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to the terms and conditions set forth in this Agreement.

Article 1. Definitions and Interpretation

1.1 In this Agreement, the following terms shall have the following meanings:

"Acceptance Drawing" a drawing in any medium, including an electronic version in a CAD format, made by Supplier based upon specification tenders provided by Nissan or any of its Affiliates and design-released by Nissan or any of its Affiliates;

"Affiliate" an entity that:
(i) is controlled directly or indirectly by;

(1)

	(ii) controls directly or indirectly; or is under common control with Nissan or Supplier, as the case may be. "Control" for this purpose shall mean having a fifty percent (50%) or greater interest in the issued share capital of the other entity;
"Agreement"	this Master Purchase Agreement, including the Claim Compensation Procedure;
"Applicable Law"	all federal, state, and local laws, rules, regulations and executive or judicial orders applicable in any jurisdiction where the Parts are manufactured and any jurisdiction where the Parts or vehicles equipped with the Parts will be sold.
"Background Patents"	(i) any registered patent, registered utility model or registered design right acquired or owned prior to starting the Development Work; or (ii) any application to register a patent, utility model or design right filed prior to starting the Development Work;
"Claim Compensation Procedure"	the procedure by which Nissan is reimbursed for the warranty cost by Supplier, a copy of the current version of which is attached hereto as Schedule 1;
"Confidential Information"	has the meaning set out in Article 22.1;
"Development Work"	all work necessary to develop the Parts so that the Parts meet all Specifications and are fit for their intended purpose. Development Work includes, without limitation, all initial technical discussions (for example, brainstorming sessions) between Supplier and Nissan, regardless of whether Nissan and Supplier have signed a definitive contract at the time of such discussions. Such discussions may include the exchange of Confidential Information, which shall be treated by the Parties in accordance with Article 22;
"Intellectual Property Rights"	any patent, utility model, design right, copyright

(including any right in computer software), database right or topography right (whether or not any of these are registered and including applications for registrations of any such thing) and any trade secret, know-how or any right or form of protection of a similar nature or having equivalent or similar effect to any of those which may subsist anywhere in the world, and for the purpose of Articles 16 and 17 shall also include any trademark, service mark, trade dress, trade or business name;

"Nissan Drawing"	a drawing in any medium, including an electronic version in a CAD format, specification tender, standard or other technical document of similar nature made by or belonging to Nissan or any of its Affiliates;
"Nissan Property"	has the meaning set out in Article 17.2;
"Parts"	all goods more particularly described in or by any Purchase Order, Acceptance Drawing or Request for Proposal, including production parts, trial parts, service parts, sample parts, accessories, raw materials, and Vendor Tooling together with any related services;
"Price"	the price of the Parts identified in the applicable Purchase Order;
"Purchase Order"	any purchase order or amendment to a purchase order submitted by Nissan to Supplier on or after the Effective Date;
"Release"	Nissan's authorization for shipment of the Parts, which may be electronic or in writing;
"Service Parts"	has the meaning set out in Article 19;
"Specification"	any specification tender (including quality and reliability standards), drawings in any medium (including electronic versions in a CAD format), data, descriptions, samples or other information relating to the Parts;
"Subcontractors"	has the meaning set out in Article 21;

“Technical Information”	has the meaning set out in Article 14.2;
“Tooling”	all tools, jigs, dies, gauges, fixtures, moulds, patterns and other equipment used by Supplier in manufacturing the Parts; and
“Vendor Tooling”	all Tooling paid or to be paid for by Nissan, and used by Supplier in manufacturing the Parts.

1.2 In this Agreement:

the above definitions are equally applicable to both the singular and plural forms of any of the terms defined in this Article;

reference to Articles and Schedules are to Articles and Schedules of this Agreement;

the headings are for convenience only and shall not affect the interpretation of this Agreement;

the word “including” shall not be given a restrictive interpretation by reason of it being followed by words indicating a particular class of acts, matters or things; and

any reference to a statutory provision includes a reference to any modification or re-enactment of the provision from time to time in force and all subordinate instruments, orders or regulations made under it.

Article 2. Agreement

2.1 Nissan agrees to purchase and Supplier agrees to sell the Parts under the terms and conditions of this Agreement; provided, however, that specific commitments to purchase and sell shall be subject to the issuance by Nissan of Purchase Orders and Releases. **Nissan shall have no obligation to purchase any Parts before such Purchase Orders and/or Releases are issued. No modification or waiver of this Agreement or any Purchase Order shall be deemed effected by Supplier’s acknowledgment or confirmation containing other or different terms. Should any acknowledgment or confirmation received from Supplier contain additional or different terms than this Agreement or Nissan’s Purchase Orders, those terms shall be considered proposals by Supplier that are hereby rejected.**

2.2 Supplier agrees to pursue actively ongoing reduction in the Price and ongoing improvement in the quality of the Parts.

Article 3. Specifications

3.1 Supplier shall manufacture the Parts in accordance with:

- (1) Nissan Drawings furnished from Nissan to Supplier;
- (2) Acceptance Drawings; and
- (3) Specifications designated or approved by Nissan.

After Nissan Drawings and Specifications are provided to Supplier, and before Supplier manufactures the Parts, Supplier shall review the same. Supplier shall immediately notify Nissan in the event that Supplier has reason to believe that any Nissan Drawing or Specification is inadequate to produce the Parts that will satisfy all warranties in Article 9 and that will function throughout the greater of the expected life of the Parts or the applicable warranty period.

Article 4. Release and Delivery

4.1 In conjunction with each issued Purchase Order, Nissan may, but is not obligated to, issue one or more Release(s) to Supplier specifying the quantities of the Parts to be purchased and the required delivery dates. Nissan may identify each such quantity or date requirement with a Release Authorization Number ("RAN"). Nissan shall have no responsibility for the Parts, supplies, materials, or work in progress for which no Release has been issued.

4.1.1 At the time of each shipment, Supplier will transmit to Nissan as mutually agreed, an Advanced Shipping Notice ("ASN") which shall include part number, RAN, date of shipment, quantity shipped, forwarding information and other information specified by Nissan.

4.2 In consideration of Nissan's entering into this Agreement with Supplier, during the term of this Agreement, Supplier shall deliver the Parts to Nissan in the quantity and by the time specified by Nissan in the Purchase Orders and Releases. Supplier's obligations relating to the time for production and/or delivery of the Parts are integral parts of and constitute conditions of this Agreement. In the event that the delivery of the Parts to Nissan is likely to be delayed, Supplier shall notify Nissan thereof in advance; provided that such notice shall not release Supplier from its liabilities for all costs, losses and consequential damages resulting from incomplete or delayed delivery; without prejudice to Nissan's other available rights and remedies, Nissan shall have the right to reject in whole or in part the delivery of the Parts. Supplier is responsible for all costs (including those arising out of line stoppages or currency fluctuations) and losses (including loss of profits), as reasonably calculated by Nissan, due to incomplete or delayed delivery.

4.2.1 If delivery of the Parts is not completed by the time specified, Nissan reserves the right, without liability, in addition to other remedies available to it by law, to terminate all or any part of the relevant Purchase Order.

- 4.2.2 Nissan may, from time to time, change shipping schedules provided in the Purchase Order, or contained in Releases, or direct temporary suspension of scheduled shipments.
- 4.3 Shipments in excess of quantities specified by Nissan may be returned to Supplier, and Supplier shall pay Nissan for all return handling and transportation expenses. Nissan reserves the right to accept, at its sole discretion, in whole or in part, any Parts delivered in excess of those specified by Nissan and may, but shall not be obliged to, make such payment as Nissan considers appropriate in respect of the excess Parts. Nissan shall not be obliged to give notice to Supplier of its acceptance or rejection of any Parts delivered in excess of those specified.
- 4.4 Nissan reserves the right, at its sole discretion, to place emergency orders in addition to regular orders placed from time to time under this Agreement or to require Supplier to deliver the Parts earlier than the time originally specified by Nissan. In any such case Supplier shall use its best efforts to comply with such emergency orders or revised timetable.

Article 5. Receipt and Inspection

- 5.1 The title to and risk of loss or damage to the Parts shall pass from Supplier to Nissan at the time of delivery of the Parts to Nissan. Nissan reserves the right to inspect the Parts in accordance with the standards issued by Nissan from time to time. Nissan may reject any Parts that are defective, damaged or non-conforming or in breach of Supplier's warranties at any time before sale of the Parts or vehicles equipped with the Parts. Payment to Supplier shall not be construed as acceptance by Nissan or agreement by Nissan that the Parts conform to the terms and conditions of this Agreement. Any inspection or testing by Nissan shall not relieve Supplier of its obligations under this Agreement.
- 5.1.1 In the event of Nissan's rejection of any Parts or revocation of acceptance, for whatever reason, risk of loss or damage shall be treated as never having passed to Nissan and as having rested on Supplier. Acceptance of any Parts under any Purchase Order shall not bind Nissan to accept future shipments, nor deprive it of the right to return the Parts already accepted, nor constitute a waiver of any other right or remedy of Nissan.
- 5.2 If any Parts are rejected, Supplier shall, at Nissan's request and at no additional cost to Nissan, promptly deliver replacement Parts conforming to the Specifications and delivery instructions.

Article 6. Packaging, Marking and Shipping

- 6.1 All Parts shall be properly packaged, labeled, marked and shipped at Supplier's expense in accordance with Nissan's requirements.
- 6.1.1 Unless Nissan specifies otherwise, such requirements shall mean in

accordance with good industry practices and in such a manner that will not only protect the Parts against hazards of shipment, storage, and exposure, but will permit the securing of the lowest transportation rates. Unless otherwise provided in this Agreement or in the applicable Purchase Order, no separate charges shall be made for containers, crating, boxing, bundling, dunnage, drayage, storage or freight.

Any transportation charges paid by Supplier and to which Supplier is entitled to reimbursement shall be added to Supplier's invoice as a separate item and the receipted freight bill shall be attached thereto. If Supplier is paid by Evaluated Receipt System (as referred to in Article 7.3) the invoice should be a separate invoice. Any deviation from shipping and billing instructions shall be at Supplier's risk.

- 6.2 If Nissan is responsible for arranging transportation, Supplier shall comply with Nissan's instructions.
- 6.3 Each packing slip, bill of lading, shipping notice and invoice shall bear Nissan's applicable part number, Release number, Purchase Order number, date of shipment, quantity shipped, address of Nissan, forwarding information and any other information requested by Nissan, including serial numbers, if applicable.
- 6.4 Supplier is responsible for all Nissan's costs and losses, as reasonably calculated by Nissan, due to Supplier's failure to comply with any or all of its obligations under this Article 6.
- 6.5 Supplier shall mark all Parts manufactured on behalf of Nissan according to applicable patent and trademark laws, as instructed by Nissan.

Article 7. Price, Invoicing and Payment

- 7.1 Unless otherwise agreed in writing, Supplier shall invoice Nissan for the Parts after delivery of the Parts. The Price shall be Supplier's full compensation for the Parts. Nissan shall have no obligation to make any further payment to Supplier in connection with the Parts. No increase in Price shall be accepted by Nissan without prior written agreement. Invoices shall include all data and supporting documentation requested by Nissan.
- 7.2 Invoices may be rejected for non-compliance with any of the provisions of this Agreement. Nissan shall make payment of the Price to Supplier in accordance with the payment procedure established by Nissan.
- 7.3 If directed by Nissan, Nissan's Evaluated Receipt System (ERS) shall be applicable to all shipments pursuant to this Agreement or any applicable Purchase Order, and payment to Supplier shall be made in accordance with that system. The date used to calculate payment and any applicable discount shall be based on the receipt date of the Part.

- 7.4 If not directed by Nissan to use ERS, the following rules apply: Invoices shall be received promptly and in duplicate, cover not more than one Purchase Order and be marked "Attention: Accounts Payable". The date used to calculate payment and applicable discounts shall be based on the date the Parts are received or the date of the receipt of a proper invoice, whichever is later.
- 7.5 Nissan may withhold payment under this Agreement, any Purchase Order or any other agreement between Supplier and Nissan, and apply the withheld payments as offsets against costs, damages or other payment due to Nissan under this Agreement, any Purchase Order or any other agreement between Supplier and Nissan. Disputed invoices shall be paid only after resolution of the dispute.

Article 8. Changes

8.1 Nissan may, by notice to Supplier, at any time change any one or more of the following:

- (1) quantity;
- (2) Specifications; or
- (3) methods of packaging or shipment.

Nissan may make a reasonable adjustment to the Price or other terms as a result of any such change.

8.1.1 Supplier, however, shall not be allowed during the term of this Agreement to terminate or modify any existing Purchase Order or Release, or to obtain an adjustment in the Price based on its loss of anticipated profits.

8.2 Supplier shall not make any changes in the design or composition of any Parts without Nissan's prior written agreement.

8.2.1 In the event that any materials used by Supplier in making the Parts become unavailable, Supplier shall locate a source for, and propose to Nissan, alternative materials for use in making the Parts. Nissan shall, in its sole discretion, determine whether the use of such alternative materials is acceptable, and whether an adjustment to the Price or other terms will occur as a result of such change.

Article 9. Warranties

9.1 Supplier warrants that it has good and merchantable title to the Parts and that the Parts shall:

be free from defects in design (to the extent that Supplier has furnished the design), materials, workmanship and performance;

be of merchantable quality and fit for the particular purpose for which the Parts are sold;

comply with all Nissan Drawings, Acceptance Drawings, and Specifications designated or approved by Nissan pursuant to Article 3.1(3);

be free and clear of all liens and encumbrances;

comply with all Applicable Laws; and

comply with all other warranties implied or provided for by law.

- 9.2 All warranties shall extend to Nissan for at least the time and mileage limitations of relevant customer warranties. Supplier shall reimburse Nissan for all costs (including labor charges, cost of replacement parts, towing, dealer handling charges and other expenses) incurred by Nissan as a result of Supplier's breach of any warranty. In addition, Supplier shall comply in all respects with the terms and conditions of the Claim Compensation Procedure, which shall constitute an integral part of this Agreement. There are no exclusions, limitations, or disclaimers of warranties other than those that may be expressly recited in this Agreement. The warranties expressed in this Agreement shall be construed as consistent and cumulative with one another and with all other warranties, whether express, implied or statutory.

All warranties shall be construed liberally in favor of Nissan. Notice of breach shall be deemed sufficient if given by Nissan within one hundred eighty (180) days after discovery by Nissan. Such notice may be given orally or in writing, and need only inform Supplier that the Parts are troublesome, need repair, or must be watched. Said notice need not include a clear statement of all objections that shall be relied upon by Nissan as the basis for breach.

Article 10. Quality Assurance

Supplier shall manufacture the Parts in accordance with all of Nissan's quality procedures for its suppliers. In addition, Supplier shall continuously monitor the Parts and promptly report to Nissan any Parts that do not comply with the Specifications and the warranties required of Supplier in Article 9, and shall promptly notify Nissan of any defects or deficiencies in design (including if Supplier has reason to believe that any Specifications provided by Nissan are not adequate to produce the Parts that will function throughout the greater of the expected life of the Parts or the applicable warranty period), manufacture, or in-use performance.

Article 11. Recall and Reimbursement

Supplier shall reimburse Nissan, to the extent attributable to Supplier, for all costs incurred by Nissan (including costs for notification, replacement parts, labor, penalties, fines, and buy backs) as a result of any recall, service campaign or similar program initiated by Nissan, or required for compliance with any Applicable Law. All decisions regarding recalls, service campaigns, and similar programs shall be made by Nissan, at its sole discretion.

Article 12. Indemnification

12.1 In addition to what is specified elsewhere in this Agreement, Supplier shall indemnify and hold harmless Nissan and its dealers, its Affiliates and their dealers, and their respective officers, directors and employees, in full against all loss, liability, damages, costs and all expenses, including attorney fees and expert fees, arising directly or indirectly out of Supplier's performance of work hereunder or the use or sale or importation of any Parts, including claims, actions or lawsuits alleging:

- (1) personal injury, property damage or economic damage;
- (2) any design, manufacturing or warning defect relating to any Part;
- (3) any violation by Supplier of any law, rule or regulation applicable to Supplier or Supplier's business, facilities or operations;
- (4) any act or omission of Supplier or its employees, agents or sub-contractors designing, manufacturing, supplying or delivering the Parts, including any injury, loss or damage to persons caused or contributed to by any of their negligence or by faulty design, workmanship or materials; or
- (5) any other claims resulting from the acts or omissions of Supplier or its employees, agents or sub-contractors.

12.2 Upon request from Nissan, Supplier shall, at its sole expense, provide Nissan with reasonable access to documents, records and witnesses in connection with Nissan's defense and resolution of any claim, action or lawsuit described in Article 12.1.

12.3 Nissan may, in its sole discretion, require Supplier to defend and resolve any claim, action or lawsuit described in Article 12.1. In the event that Nissan so requires, Supplier shall absorb all loss, liability, damages, costs and all expenses, including attorney fees and expert fees, in connection with such defense.

Article 13. Right of Access to Supplier's Claims Information

At Nissan's request, Supplier shall promptly provide access to its records of warranty or product liability claims relating to the Parts. Nissan has the right to review and copy such records, and to require Supplier, at Supplier's cost, to prepare and provide reports or analyses of the quality, reliability, performance, or safety of the Parts,

and/or complaints, actions or claims relating to the Parts. Supplier shall retain such records, reports and analyses as required by the Applicable Laws or for at least five (5) years, whichever is longer.

Article 14. Handling of Drawings

- 14.1 Supplier shall furnish Nissan with the Acceptance Drawings. Notwithstanding the provisions of Article 22, Nissan may copy, prepare derivative works and disclose the Acceptance Drawings to any third party.
- 14.2 Supplier shall furnish Nissan with specifications, concept sheets, CAD data, information and other data Supplier acquires or develops in the course of Supplier's activities under this Agreement as well as all other information and data that Nissan deems necessary to understand the Parts covered by this Agreement and their manufacture (collectively the "Technical Information"). As to any Technical Information that is Confidential Information (as defined in Article 22), Nissan shall not copy and disclose such Technical Information to any third party without the prior consent of Supplier, except to the limited extent permitted under Article 22.

Article 15. Intellectual Property Rights

- 15.1 Each Party and/or its Affiliates will retain its rights in the Intellectual Property Rights that it acquired, generated or created prior to starting the Development Work.
- 15.2 Supplier shall grant and hereby grants Nissan and its Affiliates a perpetual, paid-up, royalty-free, non-exclusive, world-wide irrevocable license to all Supplier's Intellectual Property subsisting or embodied in or used in connection with the Acceptance Drawings, except for Background Patents of Supplier, with a right to grant sub-licenses to others, to make, have made, use, offer to sell, sell, repair, reconstruct or rebuild, and have repaired, reconstructed or rebuilt, products including the Parts and products similar or identical to the Parts.
- 15.3 If requested by Nissan, Supplier shall grant Nissan or any of its Affiliates a non-exclusive license with a right to grant sub-licenses to others to Supplier's Intellectual Property Rights subsisting or embodied in or used in connection with the Parts, other than those licensed by Supplier to Nissan and its Affiliates pursuant to Article 15.2, on terms to be agreed by the Parties.
- 15.4 If Supplier makes or creates an invention, patentable discovery, improvement or process based on the technical data, information, proposals or opinions provided by Nissan, Supplier shall forthwith notify Nissan thereof and the Parties shall discuss in good faith and agree on the ownership of the Intellectual Property Rights subsisting or embodied therein.

Article 16. Infringement

- 16.1 Supplier shall defend, indemnify and hold harmless Nissan and its dealers, its

Affiliates and their dealers, and their respective officers, directors and employees, in full against all loss, liability, damages, costs and all expenses, including attorney fees and expert fees, arising directly or indirectly out of any claims, actions or lawsuits, alleging infringement of any Intellectual Property Rights in connection with the Parts alone or in combination with any other parts or components, or their manufacture.

- 16.2 In the event that Supplier is involved in a dispute with a third party in connection with Intellectual Property Rights relating to the Parts, or Supplier believes that there is a likelihood that such a dispute may occur, Supplier shall immediately notify Nissan, and shall furnish all information in its possession or under its control relating to such dispute.
- 16.3 Notwithstanding the provisions of Article 16.1, Nissan may, at its sole discretion, elect to control the defense and resolution of any claim, action or lawsuit described in Article 16.1. In the event Nissan so elects, Supplier shall, upon request from Nissan, provide Nissan with reasonable access to documents, records and witnesses in connection with such defense at Supplier's sole expense, and such undertaking of defense by Nissan shall not relieve Supplier of its indemnification obligation under Article 16.1.

Article 17. Nissan Property

- 17.1 All Nissan Drawings, Intellectual Property Rights owned by Nissan and Confidential Information supplied to Supplier by Nissan shall remain the property of Nissan, and Supplier shall use such property only for the purpose of fulfilling its obligations under this Agreement.
- 17.2 All supplies, materials or other items paid for or reimbursed by Nissan to perform Supplier's obligations hereunder (collectively the "Nissan Property") shall remain the property of Nissan. Supplier shall use the Nissan Property only in connection with this Agreement, and shall not use the Nissan Property in any manner whatsoever for the benefit of any other customer or third party without Nissan's prior written consent. Supplier shall, immediately upon Nissan's request, deliver the Nissan Property to Nissan or its nominee in accordance with Nissan's instructions. The Nissan Property shall be marked as the property of Nissan by Supplier, shall not be commingled with the property of Supplier or any third person, and shall not be moved from Supplier's premises without Nissan's prior written approval.

Article 18. Tooling

- 18.1 Supplier shall maintain the Tooling in good condition so that the manufacture of the Parts is not interrupted.
- 18.1.1 Supplier shall properly house, care for, repair or, if necessary, replace all Vendor Tooling and shall bear the risk of loss or damage thereto (including normal wear and tear). The Vendor Tooling is lent by Nissan to Supplier.

18.2 Supplier shall only use the Vendor Tooling for manufacturing the Parts for Nissan. Supplier shall, immediately upon Nissan's request, deliver the Vendor Tooling to Nissan or its nominee in accordance with Nissan's instructions. All Vendor Tooling shall be marked as the property of Nissan by Supplier, shall not be commingled with the property of Supplier or any third person, and shall not be moved from Supplier's premises (except for repair or modification) without Nissan's prior written approval. Supplier shall not modify, lease, transfer or dispose of any Vendor Tooling unless Supplier obtains Nissan's prior written consent.

18.2.1 Nissan and Supplier recognize that the Price quoted by Supplier for the Vendor Tooling may be an estimate. Nissan and Supplier agree, however, that the estimated Price represents a maximum cost of the Vendor Tooling and that the firm Price shall be based on the actual cost to Supplier of production of the Vendor Tooling. At such time as firm pricing is established, Nissan will issue an amendment to the applicable Purchase Order to reflect that pricing. Supplier shall use best efforts to produce the Vendor Tooling at the lowest possible cost consistent with Nissan's production part quality requirements. Nissan reserves the right to audit Vendor Tooling cost at tool sign-off. Notwithstanding the foregoing, any increase in the amount of any applicable Purchase Order may be accomplished only upon agreement of Nissan.

Article 18A. Insurance

18A.1 Supplier agrees to carry full insurance coverage for all activities reasonably connected with this Agreement and all applicable Purchase Orders, in the types and at the minimum amounts listed below:

Commercial General Liability including:	\$1 million - BI/PD - Combined Single Limit per occurrence
- Broad Form Contractual	
- Personal Injury, including advertising liability	
- Products/Completed Operations	
- Independent Suppliers	
Automobile Liability (covering all owned, hired and non-owned vehicles)	\$1 million combined single limit per occurrence
Workers' Compensation (endorsed to cover volunteers, if applicable)	Statutory Limits

Employer's Liability	\$1,000,000 per occurrence
Excess Liability	\$4,000,000 per occurrence
Property Insurance - All Risk	Replacement value in amount sufficient to cover property of others in Supplier's care, custody or control, or other site as authorized in Article 21 (Subcontracting). The policy shall have a maximum deductible of \$25,000.

Other than the workers' compensation policy, each insurance policy required hereunder shall name Nissan as an additional insured/loss payee. All policies shall contain a provision whereby the insurer(s) agrees not to cancel or materially alter this coverage without at least thirty (30) days prior written notice to Nissan. The Commercial General Liability Policy shall have a commercially reasonable deductible, with no deductible for any excess. Nissan shall not be liable for any premium associated with any such policy.

Supplier shall furnish Nissan with Certificates of Insurance evidencing the above coverages within five (5) business days of execution of this Agreement.

18A.2 Nothing herein shall limit or prohibit Nissan from obtaining insurance for its own account, at its own expense, and any proceeds payable thereunder shall be payable as provided in the underlying policy.

Article 18B. Grounds for Insecurity; Adequate Assurance of Performance

When, in Nissan's good faith opinion, reasonable grounds for insecurity arise with respect to Supplier's performance, Nissan may demand from Supplier adequate assurance of future performance. Supplier shall deliver to Nissan within ten (10) days following Nissan's demand, a bond in the amount of two (2) times the value of the performance remaining to be performed by Supplier, which will indemnify Nissan for any loss that it may sustain, including loss of profits or other special or consequential damages, by the failure of Supplier to perform its obligations under any applicable Purchase Order. If assurance of due performance as required herein is not timely provided by Supplier, Nissan may, at its option, treat any applicable Purchase Order as repudiated by Supplier.

Article 19. Service Parts

Unless otherwise agreed in writing between the Parties, Supplier agrees to continue

to supply service parts, as required by Nissan ("Service Parts"), for each model of vehicle, for fifteen (15) years from the date of last production of such vehicle model for which the Parts were supplied. The Service Parts shall be supplied at full production assembly level and/or at sub-component level, as required by Nissan. The Service Parts shall meet all Specifications provided by Nissan.

19.1 The Price for the Service Parts will be the same as under Purchase Orders for corresponding production Parts.

Article 20. Sales to Third Party

Supplier shall not, without Nissan's prior written consent, manufacture for the benefit of or supply to a third party any goods that:

are based in whole or in part upon the Nissan Drawings;

use any Intellectual Property Right of Nissan or any of its Affiliates; or

are based in whole or in part upon the Acceptance Drawings, or any derivative or copy thereof, except for any products or parts that Supplier independently developed.

Article 21. Subcontracting

Supplier may delegate or subcontract the manufacture of the Parts to third parties ("Subcontractors"); provided that Supplier shall obtain the prior written consent of Nissan in the event of delegation or subcontracting of all or a substantial part of the manufacture of the Parts to a third party. Supplier shall ensure that all Subcontractors comply with and abide by the terms and conditions of this Agreement, and in no event shall Supplier be released from any of its obligations under this Agreement. **If Nissan notifies Supplier that Nissan has an objection to a particular Subcontractor, Supplier shall not subcontract to such Subcontractor any work under this Agreement and shall promptly terminate any subcontracts with such Subcontractor.**

Article 22. Confidentiality

(iii)

The Parties recognize that each of them ("Receiving Party") may, during the course of this Agreement, gain knowledge of, have access to, and have otherwise disclosed to it certain nonpublic information that is proprietary to the other Party and its Affiliates ("Disclosing Party") and which is of a secret or confidential nature ("Confidential Information"). The following information shall be considered the Confidential Information:

information concerning the business operations of either Party, its Affiliates or dealers (including product planning, manufacturing, advertising programs, sales promotions, complaints, budgets, and forecasts); and

inventions, designs, and research and development programs.

- (iv) The Receiving Party shall not disclose, publish, release, transfer or otherwise make available Confidential Information of the Disclosing Party in any form to, or for the use or benefit of, any third party without the Disclosing Party's prior written consent.

22.3 The obligations of confidentiality shall not apply if:

the Confidential Information is, or becomes (other than through a breach of this Agreement) generally known to the public;

the Confidential Information was in the Receiving Party's possession prior to its disclosure by the Disclosing Party, as demonstrated by the Receiving Party's written records;

the Confidential Information is developed independently by the Receiving Party without reliance on information or materials provided by the Disclosing Party, as demonstrated by the Receiving Party's written records;

the Confidential Information was rightfully received by the Receiving Party without obligation of confidentiality from a third party, as demonstrated by the Receiving Party's written records; or

disclosure is required by law; provided that the Receiving Party gives the Disclosing Party prompt notice of the request for disclosure, cooperates with the Disclosing Party in obtaining a protective order or other remedy, and discloses only that portion of the Confidential Information which it is legally compelled to disclose.

22.4 Notwithstanding the provisions of Article 22.2:

- 1) Nissan may disclose Supplier's Confidential Information not only to Nissan Affiliates but also to entities with which Nissan has a publicly announced significant business relationship which may be referred to as an "alliance partner" or "strategic alliance" or some similarly described relationship; provided that (i) Nissan shall ensure that such Affiliates and entities are aware of and undertake to maintain the secret or confidential nature of Supplier's Confidential Information, and further that (ii) Nissan's permitted disclosure shall be limited to Nissan Affiliates if such Supplier's Confidential Information is also Technical Information; and
- 2) Supplier may disclose Nissan's Confidential Information to any of the Subcontractors defined in Article 21 to the extent necessary for performing Supplier's obligations under this Agreement; provided that Supplier shall ensure that such Subcontractors are aware of and undertake to maintain the

secret or confidential nature of Nissan's Confidential Information.

- 22.5 Each Party acknowledges that the disclosure of the other Party's Confidential Information may result in irreparable injury to that Party and that such Party will be entitled to seek injunctive relief in addition to any other legal or equitable remedies that may be available.

Article 23. Advertising

Supplier shall not in any way advertise the fact that Supplier has entered into this Agreement with Nissan without Nissan's prior written consent. In addition, Supplier shall not use any trademark, trade name, trade dress, logo or other marks in which Nissan or any Nissan Affiliate has an interest except in such manner as Nissan may direct in writing in advance.

Article 23A. Audits

Supplier shall maintain accurate and complete records of all expenses incurred under the terms of this Agreement and applicable Purchase Orders. Such records shall be maintained in accordance with generally accepted accounting practices and in a manner that facilitates auditing. Supplier further agrees to permit Nissan or its representatives to examine and/or audit such records at reasonable times while this Agreement and applicable Purchase Orders remain in force and for two (2) years after termination.

Article 24. Facility Inspection

Nissan shall have the right to inspect Supplier's facilities and operations at any time during Supplier's business hours and upon reasonable notice for purposes of verifying Supplier's compliance with its obligations under this Agreement, including those relating to Supplier's manufacturing process and quality assurance systems.

Article 25. Change of Circumstances

If any of the following circumstances occur or are likely to occur in relation to Supplier, Supplier shall immediately inform Nissan in writing:

the transfer of all or any substantial part of its business or assets;

substantial change of control;

merger, amalgamation or other corporate re-organization;

alteration of its trade name or official name, executive management, location of premises or other substantial organization changes; or

insolvency, bankruptcy, being placed into administration, receivership or

liquidation, commencement of proceedings to be wound up, entering into any voluntary arrangement with its creditors, or the happening of any similar event according to the laws of its domicile.

Article 26. Term

This Agreement shall commence on the Effective Date and, unless earlier terminated as provided herein, shall continue in force for an initial period of three (3) years. Unless either Party notifies the other Party in writing at least six (6) months prior to the last day of the initial term or any extension thereof, the term of this Agreement shall be automatically extended for a further period of one (1) year.

Article 27. Termination

27.1 Notwithstanding the provisions of Article 26, either Party may terminate this Agreement effective immediately by notice in writing without liability to the other if the other is in material breach of this Agreement and, if such breach is remediable, such breach has not been remedied within thirty (30) days of written notice.

27.1.1 Material breaches by Supplier as set forth in Article 27.1 ("Material Breach") shall include, but not be limited to, Supplier's:

- (1) refusal or failure to make deliveries of the Parts in whole or in part covered by any applicable Purchase Order within the time specified in any Purchase Order or RAN; or
- (2) failure to perform any other provision of any applicable Purchase Order; or
- (3) failure to make progress so as in the reasonable opinion of Nissan to endanger the performance of any applicable Purchase Order in accordance with its terms and does not cure such failure within the time period after receipt of notice pursuant to Article 27.1 from Nissan specifying such failure.

27.2 Notwithstanding the provisions of Article 26, Nissan may terminate this Agreement without liability with immediate effect by serving a written notice on Supplier in the event that Supplier:

becomes insolvent or bankrupt, is placed into administration, receivership or liquidation, commences proceedings to be wound up, enters into any voluntary arrangement with its creditors, or on the happening of any similar event according to the laws of its domicile; or

undergoes any change in its ownership or disposes of all or a substantial part of its business or assets (other than for the purposes of a legitimate re-organization) without Nissan's prior written consent, which consent shall not

be unreasonably withheld or delayed (provided that Nissan may withhold such consent if it does not receive adequate evidence of Supplier's ability to continue to perform its obligations in accordance with the terms of this Agreement).

- 27.3 In the event of expiration or termination of this Agreement for any reason, unless otherwise directed by Nissan, the following shall apply:

If any Purchase Order is pending at the time of the termination or expiration of this Agreement, Nissan shall have the right, at its sole discretion, to cancel any such Purchase Order or to have it completed by Supplier. If Nissan elects to cancel such Purchase Order, Supplier shall immediately terminate all work, **including all subcontracts relating thereto**, under this Agreement. If Nissan elects to have such Purchase Order completed, this Agreement shall continue to apply to such Purchase Order.

Supplier shall take all action necessary to protect property in Supplier's possession in which Nissan has an interest. In this case, Nissan shall reimburse Supplier for reasonable costs (determined at Nissan's sole discretion) incurred in connection with such protective action.

Supplier shall immediately deliver, at Supplier's expense, the Nissan Property, Nissan Drawings, Acceptance Drawings and Vendor Tooling to Nissan or its nominee in accordance with Nissan's instructions.

If Supplier possesses completed Parts, Parts in the process of manufacture, or Tooling (excluding Vendor Tooling) used exclusively to manufacture the Parts, Nissan shall have the option to purchase the same at reasonable prices as shall be agreed between the Parties.

Supplier shall immediately return all Confidential Information of Nissan, or destroy it and certify such destruction.

- 27.4 In addition, in the event of expiration or termination of this Agreement for any reason, the Parties shall meet and discuss in good faith any matters not described above or further details. The principal objective of such meeting will be to discuss how to minimize any disruption to Nissan's business.

- 27.5 **Supplier recognizes that if this Agreement is terminated due to Supplier's inability, failure or refusal to perform, or Supplier's failure to adequately assure Nissan of future performance, for any reason (including but not limited to Material Breach, insolvency, bankruptcy, being placed into administration, receivership or liquidation, commencement of proceedings to be wound up, entering into any voluntary arrangement with its creditors, or on the happening of any similar event according to the laws of its domicile), in order to facilitate Nissan's procurement of the Parts from an alternate supplier, Nissan shall have the following additional rights:**

27.5.1 In addition to those rights granted in Article 15 or elsewhere in this Agreement, or in any other agreement, Supplier hereby grants Nissan and its Affiliates a paid-up, royalty-free, non-exclusive, world-wide irrevocable license to all Supplier's Intellectual Property Rights subsisting or embodied in or used in connection with the Acceptance Drawings, as well as those Intellectual Property Rights (including Background Patents of Supplier) subsisting or embodied in or used in connection with the Parts or their manufacture, with a right to grant sub-licenses to others, to make, have made, use, offer to sell, sell, repair, reconstruct or rebuild, and have repaired, reconstructed or rebuilt: (a) the Parts or; (b) parts used by Nissan or its Affiliates as a substitute for the Parts, Service Parts, or products similar or identical to the Parts (collectively, the "Substitute Parts"). The license described in this paragraph shall apply only to those Substitute Parts that Nissan or its Affiliates use to replace Parts, Service Parts, or products similar or identical to the Parts that would otherwise have been provided by Supplier under this Agreement, had this Agreement not been terminated for a reason described in this Article 27.5.

In the event of a termination as described in this Article 27.5, in order to exercise the rights described in this Article and promptly secure an alternative source of supply, notwithstanding any other provision in this Agreement (including Article 22), Nissan may copy, prepare derivative works and disclose to an alternate supplier Acceptance Drawings and Technical Information and any other drawings, information or data that Nissan or the alternate supplier deems necessary to procure or produce the Substitute Parts. Supplier agrees to provide all such Acceptance Drawings and Technical Information, drawings, information or data to Nissan promptly upon Nissan's request. In the event of a disclosure under this paragraph, upon Supplier's request, Nissan shall secure the agreement of such alternate supplier to maintain the confidentiality of such information, to use such information for the sole purpose of supplying Substitute Parts to the extent permitted in Article 27.5.1, and to return all such information to Nissan upon the completion of supplying such Substitute Parts.

In the event of a termination as described in this Article 27.5, Supplier agrees that with respect to those Intellectual Property Rights described in Article 15.4, Nissan and its Affiliates shall be entitled, at minimum, to a perpetual, paid-up, royalty-free, non-exclusive, world-wide irrevocable license, with a right to grant sublicenses to use for any purpose without additional compensation to Supplier.

27.6 Termination of Purchase Order at Option of Nissan

Nissan may terminate any Purchase Order, in whole or in part at any time (including the existence of Force Majeure) by giving ten (10) days' advance written notice to Supplier. Upon receipt of a termination notice under this Article 27.6 only, Supplier may submit to Nissan within thirty (30) days from the effective date of termination (unless otherwise extended by Nissan) its termination claim arising out of such termination of orders and related subcontracts. If Supplier fails to submit a timely termination claim, Nissan may determine the amount, if any, due to Supplier with respect to the termination, and such determination shall be final and binding upon both Supplier and Nissan. Under this Article 27.6 only, Nissan shall pay to Supplier the following amounts without duplication, as a termination claim, and Nissan shall have no further liability under any applicable Purchase Order:

- (1) The Price not previously paid for Parts that have been completed and delivered in accordance with the terms of applicable Purchase Order(s); and
- (2) The actual costs incurred by Supplier for those Parts produced in accordance with applicable RANs issued under the Purchase Order(s) to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of the RANs, including the actual cost of work in process, and including the actual cost of discharging allocable or apportionable liabilities.

Payments to be made under this Article 27.6 shall not exceed the aggregate Price specified in the relevant Purchase Order(s) in respect of the Parts that are the subject of a termination notice served by Nissan, less previous payments.

Notwithstanding the foregoing and for the avoidance of any doubt, the Parties hereby agree that Nissan shall have no obligation or liability to Supplier in the event of termination under this Article 27.6 of any Purchase Order for which no RAN has been issued.

Article 28. Waiver and Remedies

No delay or omission by either Party in exercising any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any other breach of such or any other provision. Remedies available to Nissan or Supplier under this Agreement shall be cumulative and additional to any other or further remedies implied or available at law, in equity or under this Agreement.

The acceptance of a non-conforming Part is not a waiver of any breach as to that Part or other Parts. The failure of Nissan to insist upon performance of any of the terms or conditions in this Agreement or any applicable Purchase Order shall not be construed as thereafter waiving any such terms or conditions as to an existing or future breach.

Article 28A. Notices

Any notice, request or demand to be given by Nissan or any of its Affiliates to Supplier or any of its Affiliates or vice versa under this Agreement or any applicable Purchase Order must be in writing and delivered to the address specified in this Agreement or, with respect to notices under a Purchase Order, such other address as is specified in the relevant Purchase Order, as such addresses may have been modified by proper notice. If any notice is given (i) by a private delivery service or recognized overnight courier, it shall be deemed to have been given and received when delivered or attempted to be delivered to the address of the party to whom it is addressed, (ii) by facsimile transmission, it shall be deemed to have been given and received at the time confirmation of such transmission is received by the sender, (iii) by certified or registered mail, it shall be deemed to have been given and received three (3) days after a certified or registered letter containing such notice, properly addressed, with postage prepaid, is deposited in the mail, and (iv) by any other method, it shall be deemed to have been given and received upon actual receipt thereof regardless of how such delivery was accomplished.

Article 29. Entire Agreement

This Agreement sets forth the entire and only agreement and understanding between the Parties relating to the sale and purchase of the Parts and supersedes all negotiations, commitments and writings prior to the date of this Agreement.

This Agreement may not be modified, supplemented or amended except by a written agreement executed by both Parties.

In the event of any inconsistencies between the terms of this Agreement and the terms contained in any other document, instrument, agreement, Purchase Order or Release related to the supply of the Parts by Supplier to Nissan, the terms of this Agreement shall prevail.

Article 30. Assignment

The rights and obligations under this Agreement or this Agreement itself, either in whole or in part, shall not be assigned or transferred by either Party without the prior written consent of the other Party. Any assignment or attempted assignment of this Agreement or any part thereof, whether by voluntary act or operation of law, shall be null and void, unless it is approved in writing by the other Party in advance.

Article 31. Independence

This Agreement shall not constitute either Party as the agent or legal representative of the other Party for any purpose whatsoever. Neither Party is granted any express or implied right or authority to assume or to create any obligation or responsibility on behalf of or in the name of the other Party or to bind the same in any manner whatsoever.

- 31.1 Supplier's personnel, whether or not located on Nissan's premises, are not, and shall not represent themselves as, Nissan employees or agents. Supplier assumes full responsibility for the acts of its employees. No employee, agent, or contractor hired by Supplier to perform work under this Agreement or any Purchase Order is an employee, agent or contractor of Nissan or any other Nissan Affiliate.

Article 32. Severability

If any court of competent jurisdiction finds any provision of this Agreement to be unenforceable or invalid in whole or in part, such finding shall not affect the validity of the other provisions of this Agreement or the remainder of the provision in question.

Article 33. Force Majeure

Neither Party shall be responsible to the other by reason of failure to perform obligations hereunder to the extent that the failure to perform is caused by an act of God, flood, fire, storm, earthquake, shipwreck, acts of public enemy, or acts or omissions of any sovereign government, branch or agency thereof and other similar events beyond reasonable control of the Party whose performance is prevented or interfered with. The affected Party shall promptly notify the other Party and shall not be responsible for its failure to perform any obligation required under this Agreement as a result of any of the foregoing. The Parties specifically agree that strikes and labor disputes at the Party whose performance is prevented or interfered with shall not be included in the Force Majeure events.

Article 34. Survival

Article 9 (Warranties), Article 11 (Recall and Reimbursement), Article 12 (Indemnification), Article 13 (Right of Access to Supplier's Claims Information), Article 14.2 (Handling of Drawings), Article 15 (Intellectual Property Rights), Article 16 (Infringement), Article 17 (Nissan Property), Article 18.2 (Vendor Tooling), Article 19 (Service Parts), Article 20 (Sales to Third Parties), Article 22 (Confidentiality), Article 23 (Advertising), Article 23.A (Audits), Articles 27.3, 27.4, 27.5 and 27.6 (Post-Termination Rights), Article 30 (Assignment), Article 35 (Governing Law), Article 36

(Jurisdiction), Article 37 (Attorneys' Fees), Article 38 (Hazardous Substances), Article 39 (Taxes), Article 40 (Compliance with Laws), and Article 47 (Records Management Program) shall survive the expiration or termination of this Agreement for any reason whatsoever.

Article 35. Governing Law

This Agreement and all Purchase Orders shall be governed by and construed in accordance with the laws of the state of Tennessee.

Article 36. Jurisdiction

36.1 Any proceeding, suit or action arising out of or in connection with this Agreement or any Purchase Order ("Proceedings") with respect to Nissan shall be brought in the state court located in Rutherford County, Tennessee. The Parties agree and consent to the jurisdiction of such courts and to the venue and forums specified above.

36.2 This governing law and jurisdiction agreement is irrevocable and is for the exclusive benefit of Nissan. Nothing contained in this Agreement shall limit the right of Nissan to take Proceedings against Supplier in the courts of more than one jurisdiction at the same time.

36.3 Supplier irrevocably waives (and irrevocably agrees not to raise) any objection, on the ground of forum non conveniens or on any other ground, to the taking of Proceedings in any court referred to in this Article. Each Party also irrevocably agrees that a judgement against it in Proceedings brought in any jurisdiction referred to in this Article shall be conclusive and binding upon it and may be enforced in any other jurisdiction.

Article 37. Attorneys' Fees

If either Party institutes a Proceeding to interpret or enforce the terms of this Agreement or any Purchase Order, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs.

Article 38. Hazardous Substances

Supplier agrees to promptly furnish to Nissan Material Safety Data Sheets ("MSDS") conforming to the requirements of the Occupational Safety and Health Administration's Hazard Communication Standard, Title 29, C.F.R. Part 1910, 1200, with respect to the Parts supplied pursuant to this Agreement or any applicable Purchase Order, and to furnish any other information on the Parts and/or substances contained therein which is necessary to enable Nissan to comply with the Hazard Communication Standard and/or other Applicable Laws pertaining to hazardous or harmful substances.

Article 39. Taxes

Supplier shall be responsible for all federal, state and local taxes levied or assessed with respect to the manufacture, transportation, and sale of the Parts. Supplier shall also be responsible for any state and local property taxes assessed on the Vendor Tooling. In order to fulfill its responsibility with respect to state and local property taxes on Vendor Tooling, Supplier will include such tooling on its own property rendition forms and pay property taxes on such tooling as if it were owned by Supplier. Nissan will cooperate with Supplier in obtaining any necessary approvals as may be required by state or local authorities for this procedure. Supplier shall comply with all applicable valuation and reporting rules for such tooling, including the use of valid non-standard valuations as may be appropriate to accurately reflect the true value of the tooling and legally minimize property tax liabilities. Supplier shall pay all taxes assessed on such tooling directly to the appropriate authorities in a timely manner. Supplier shall be responsible for all personal property tax audits and other inquiries by the state and local taxing authorities concerning the tooling. Supplier shall perform the foregoing activities at its own cost and will indemnify Nissan for any taxes, penalties, interest, legal fees, or other costs incurred by Nissan as a result of Supplier's failure to properly perform these activities. As owner of the Vendor Tooling, Nissan is entitled to all federal and state income and franchise tax credits applicable to such tooling investment. Other property and inventory taxes shall be borne by the Party holding title to the Parts. Supplier shall indemnify and hold Nissan harmless for Supplier's failure to pay any wages, benefits, taxes or other compensation or amounts owed by Supplier on account of the Parts.

Article 40. Compliance with Laws

Supplier warrants that it has and will continue, in performing hereunder, to comply with all Applicable Laws, including, but not limited to, the Magnuson-Moss Consumer Warranty Act, the Occupational Safety and Health Act of 1970, federal and state automotive and other safety requirements, the Fair Labor Standards Act of 1938, and (if the applicable Purchase Order is made with reference to a government contract) the applicable provisions of the Armed Services Procurement Regulations, the Federal Procurement Regulations, and Executive Order 11246 of September, 1965. In the event that any Parts sold do not conform to such requirements, standards or regulations, Nissan, at its option, may return the goods for correction or replacement at Supplier's expense, or may demand a full refund of all monies paid pursuant to any applicable Purchase Order, Supplier commits to fulfill all requests for content data on Parts supplied to Nissan, including, without limitation, requests for NAFTA (North American Free Trade Agreement), CAFE (Corporate Average Fuel Economy) and AALA (American Automotive Labeling Act) documentation. Any costs incurred by

Nissan as a result of Supplier's non-compliance may be charged back to Supplier. The remedies provided for in this Article shall be in addition to any other remedies provided for herein or by law.

Article 41. Third Party Beneficiaries Except with respect to the Affiliates, the Parties intend that neither this Agreement nor any Purchase Order shall benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Parties.

Article 42. Covenant of Further Assurances

The Parties covenant and agree that, subsequent to the execution and delivery of this Agreement and, without any additional consideration, each of the Parties shall execute and deliver any further legal instruments and perform any acts that are or may become necessary to effectuate the purposes of this Agreement.

Article 43. Negotiated Terms

The Parties agree that the terms and conditions of this Agreement are the result of negotiations between the Parties and that this Agreement shall not be construed in favor of or against either Party by reason of the extent to which either Party or its professional advisors participated in the preparation of this Agreement.

Article 44. Non-Exclusivity

Nissan reserves the right to authorize third parties, firms or corporations to design and/or manufacture parts similar or identical to the Parts and supply such parts to Nissan.

Article 45. Counterparts

This Agreement may be executed in any number of counterparts and by different Parties to this Agreement on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any signature delivered by a Party by facsimile transmission shall be deemed to be an original signature hereto.

Article 46. Safety Issues

Supplier agrees that its employees, when present at a Nissan facility, will abide by Nissan's personnel and safety policies, including without limitation:

- (1) Nissan's tobacco-free environment policy, which prohibits the use of all tobacco products within Nissan's plants and offices;
- (2) Nissan's safety and substance abuse policies, which, among other things, mandate all individuals on Nissan property to follow certain safety procedures and strictly prohibit all individuals while on Nissan property from possessing, using, selling, purchasing, or having present in the body, drugs or alcohol; and
- (3) Nissan's solicitation and distribution policy, which, among other things, prohibits all non-Nissan employees, including without limitation Suppliers and their agents, contractors, and employees, from soliciting or distributing any literature or other materials while on the Nissan property.

Article 47. Records Management Program

The Records Management Program (the "Program") at Nissan is an affiliate wide program that involves and concerns all employees, contractors, vendors and suppliers. The Program encompasses both electronic and paper records on all types of media and includes an annual records training and review process. All suppliers who are listed on a Nissan Records Retention Schedule as the "Office of Record" or as "Custodians" for official Nissan company records and those who maintain confidential or proprietary Nissan company records shall maintain those records in compliance with Nissan's Records Management Policy (the "Policy"). Employees of Supplier who manage Nissan records shall attend annual records management training as scheduled and review records annually, maintaining or deleting records in accordance with the current approved Nissan Records Retention Schedules and Records Management Policies and Procedures. Nissan departments shall provide instruction and coordinate with Supplier to ensure compliance with the Policy.

In Witness Whereof, the Parties have executed this Agreement in duplicate in English by causing these presents to be signed by their duly authorized representatives on the date first above written.

Nissan North America, Inc.

(Supplier Name)

(name and title)

(name and title)

Schedule 1

CLAIM COMPENSATION PROCEDURE

Nissan is committed to achieve customer satisfaction by producing the highest quality vehicles.

Warranty claim is a measure of potential customer dissatisfaction and will be regarded by the parties as opportunities to improve the quality of vehicles manufactured and distributed by Nissan and Parts supplied by Supplier. Supplier shares the responsibility of ensuring that warranty claims and expenses are minimized.

This is the Claim Compensation Procedure ("CCP") referenced in Article 9.2 of the Master Purchase Agreement between Nissan and Supplier and constitutes part of the Master Purchase Agreement. Nissan and Supplier hereby agree to the following terms and conditions regarding compensation related to claims for the parts and vehicles equipped with the Parts.

PART 1. Definitions and Interpretation

Article 1. Definitions and Interpretation

1.1 In this CCP the following terms shall have the following meanings:

"Claimed Parts"	those Parts which caused Warranty Claims, and any other parts that are damaged due to those Parts;
"Collected Parts"	Claimed Parts collected by Nissan;
"Flat Rate Schedule"	Nissan's applicable schedule of labor hours allowed for repair operations;
"Plant Claim"	a claim related to a defect in the vehicle attributable to the Parts that is found between the time of delivery of the Parts by Supplier to Nissan and the time the vehicles equipped with the Parts are completed and leave the Nissan's manufacturing plant;

“Replacement Parts”	parts that are used to replace or repair the Claimed Parts;
“Warranty Claim”	a claim related to a defect in a vehicle or in a Part, which if related to a vehicle is discovered after the completed vehicle leaves Nissan’s manufacturing plant, repair of which vehicle or replacement of which Part Nissan must perform free of charge in accordance with the applicable Nissan warranty for the vehicle or Part; and
“Warranty Expense”	any cost or expense incurred by Nissan in connection with a Warranty Claim.

- 1.2 In this CCP all words and phrases not defined herein shall have the meanings set out in the Master Purchase Agreement and this CCP shall be interpreted in accordance with Article 1 of the Master Purchase Agreement which shall be deemed to have been incorporated by reference, *mutatis mutandis*, into this CCP.
- 1.3 References to Articles are reference to Articles in this CCP unless otherwise specified.
- 1.4 The word “including” shall not be given a restrictive interpretation by reason of it being followed by words indicating a particular class of acts, matters or things.

PART 2. Warranty Claim

Article 2. Purpose

This CCP describes how responsibility for Warranty Claims is assigned, how Warranty Expenses are determined, and how Warranty Expenses are allocated between Nissan and Supplier.

Article 3. Scope

This CCP applies to all the Parts purchased by Nissan from Supplier for use by Nissan in the manufacture of vehicles or for sale by Nissan as service parts or accessories for the vehicles. This CCP does not apply to recalls.

Article 4. Applicable Warranty Period

For Parts installed in the vehicles at the time of, or prior to the vehicle delivery date to the original retail customer, the same time and mileage limitations as provided by Nissan in its applicable warranty shall apply.

For service parts, the warranty period shall be the greater of:

the remainder of the applicable Nissan warranty period for the Nissan vehicle in which the part is installed; or

the applicable Nissan service part warranty period.

Nissan will separately notify Supplier of the warranty period and mileage limitations applicable for new vehicles, parts and accessories. When Nissan changes such warranty periods or mileage limitations, Nissan will provide Supplier with up-dated information twice a year at regular intervals.

Article 5. Warranty Expenses

Warranty Expenses include the following costs:

- a) **Parts' Costs:**
The Parts' Costs are Nissan's purchase cost of Replacement Parts used, as well as Replacement Parts' packing, transportation and handling costs, with all taxes and import duties. The "Parts' Costs" shall also include the distributor and dealer handling allowance, which consist of a fee paid by Nissan to its distributors, dealers and/or other repairing agents for the cost of maintaining a service parts inventory and providing warranty claim clerical processing.
- b) **Labor Costs:**
The Labor Costs are Nissan's authorized hourly labor rate for the repair and installation of Replacement Parts by the dealer multiplied by the time allowance given by Nissan for the repair in the Flat Rate Schedule.
- c) **Other Costs:**
These mean all other costs and expenses incurred by Nissan in connection with Warranty Claims not included in the Parts' Costs or the Labor Costs and that are authorized and reimbursed by Nissan to its distributors, dealers and other repairing agents performing the repair according to the required Nissan standards. Other Costs include sublets, towing, rental reimbursement, cost of travel and transportation, and other miscellaneous costs incurred by Nissan or reimbursements made by Nissan in connection with the repair or replacement of the Claimed Parts.

All Warranty Claims shall be subject to Nissan's normal validation procedures and Nissan's applicable Flat Rate Schedule in accordance with Nissan warranty policies.

Warranty Expenses will be identified in Nissan's periodic Supplier Warranty Claim reports, showing all claims approved and paid by Nissan relating to the Parts. Such report will be made available to Supplier on a regular basis.

Article 6. Liability Rate

Nissan and Supplier shall determine Supplier's responsibility percentage of the Claimed Parts (the "Liability Rate") based on the analysis of the Collected Parts. The Liability Rate will be considered as Supplier's attributable responsibility in the Warranty Expenses in accordance with the following provisions:

6.1 Newly Developed Parts

For newly developed and released parts, the initial Liability Rate shall be established at the rate of 60% for Supplier and 40% for Nissan, or tentative agreed Liability Rate. Upon Supplier's request, Nissan will provide a representative sample of Collected Parts for review by Nissan and Supplier. Following such review, the initial Liability Rate may be revised based on the review results of Collected Parts. In all cases, the responsibility for Warranty Claims where the defect cannot be reproduced in the review of Collected Parts (no defect found), shall be assigned at 50% for Supplier and 50% for Nissan, for the purpose of Liability Rate calculation. If such review results in a change from the initial Liability Rate, the new rate shall thereafter be applied until further revision.

Upon Supplier's request, Nissan and Supplier shall arrange for one or more subsequent review(s) of Collected Parts to review the applicable Liability Rate, provided that such reviews shall be conducted no more frequently than once every twelve (12) months. Nissan reserves the right to review the Liability Rate as deemed necessary to ensure the quality of the vehicles and/or allocation of Supplier responsibility.

6.2 Carryover Parts

Carryover Parts are all parts which Supplier has provided Nissan prior to the execution of this CCP and which Supplier continues to provide Nissan. As to such parts, Supplier's Liability Rate is as was provided by agreement between Supplier and Nissan prior to execution of this CCP, or in the absence of such agreement as has been established by the past business practices of the Parties. By mutual consent the Parties may agree to be bound by Article 6.1 as to some or all Carryover Parts by indicating such in a separate writing executed by both Parties.

6.3 Disagreements

In case of disagreement in the joint review of Collected Parts for review of the Liability Rate, the results of Nissan's own analysis and its determination of the applicable Liability Rate shall prevail.

6.4 Possession of Collected Parts

Collected Parts will be kept by Nissan. Upon Supplier's request, Nissan may, but shall not be obligated to, return Collected Parts to Supplier for Supplier's analysis. In

this case Supplier shall inspect all returned parts and give a prompt report to Nissan detailing investigation results, causes for failure and countermeasure proposals.

Article 7. Compensation Calculation & Payment

Nissan shall calculate Supplier's payment obligations under this procedure by multiplying Warranty Expenses by the applicable Liability Rate and shall issue debits or other requests for payment to Supplier for the resulting amounts. Supplier shall follow the payment method as instructed by the appropriate Nissan department.

PART 3. Plant Claim

Article 8. Procedure for Plant Claim

Supplier agrees to pay Nissan for 100% of the Plant Claim expenses incurred by Nissan due to Supplier's responsibility. These include the following costs:

Labor cost for checking, selecting and/or rectifying the Claimed Parts, at the hourly rate specified by Nissan;

Supply of the necessary Replacement Parts or Nissan's purchase cost of the Replacement Parts required to replace and/or repair the Claimed Parts; and

Other costs incurred in transport, packing, manipulation, tools and operations required for replacing or repairing the Claimed Parts, line stoppage, manpower idle time, and subcontract.