

**RSM! Richter**

**Second Report of RSM Richter Inc.  
as CCAA Monitor of  
NMC Canada, Inc., 2515080 Nova Scotia  
Company and SKD Company**

**RSM Richter Inc.**  
Toronto, February 13, 2009

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
- COMMERCIAL LIST -**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, C.C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
NMC CANADA, INC. AND 2515080 NOVA SCOTIA COMPANY**

**SECOND REPORT OF RSM RICHTER INC.  
AS CCAA MONITOR OF  
NMC CANADA INC., 2515080 NOVA SCOTIA COMPANY  
AND SKD COMPANY**

**February 13, 2009**

**1. INTRODUCTION**

Pursuant to an order (the "Initial Order") of the Ontario Superior Court of Justice (the "Court") made on January 21, 2009, NMC Canada Inc. ("NMC"), 2515080 Nova Scotia Company ("2515") and SKD Company ("SKD") (collectively, the "Company") commenced proceedings under the *Companies' Creditors Arrangement Act* ("CCAA") and RSM Richter Inc. ("Richter") was appointed the monitor (the "Monitor"). A copy of the Initial Order can be found at Tab "1" of the Company's compendium of orders, filed with the Court in these proceedings.

The Company's stay of proceedings currently expires on February 19, 2009.

## 1.1 Purposes of this Report

The purposes of this report (“Report”) are to:

- a) Provide background information about the Company and these CCAA proceedings;
- b) Provide an update on the status of the sale process (“Sale Process”) being conducted by the Monitor pursuant to the terms of the Initial Order;
- c) Recommend that this Honourable Court make an order:
  - Granting the Company’s request for an extension of its stay of proceedings from February 19, 2009, the date that the current stay expires, to February 27, 2009; and
  - Approving the Monitor’s actions and activities, as described in this Report and the prior reports of the Monitor filed with this Honourable Court.

## 1.2 Currency

Unless otherwise noted, all currency references in this Report are to Canadian dollars.

## 1.3 Terms of Reference

In preparing this Report, the Monitor has relied upon unaudited financial information prepared by the Company’s management, the Company’s advisors, the Company’s books and records and discussions with its management. The Monitor has not performed an audit or other verification of such information. An examination of the Company’s financial forecasts as outlined in the *Canadian Institute of Chartered Accountants Handbook* has not been performed. Future oriented financial information relied upon in this Report is based on management’s assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Monitor expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Report, or relied upon by the Monitor in preparing this Report.

## 2. BACKGROUND

NMC and 2515 are the general partners of SKD. The only assets and liabilities of NMC and 2515 relate to SKD. NMC and 2515 own 1% and 99% of SKD, respectively. In addition to SKD's Canadian manufacturing operations, automotive parts manufacturing is carried on by SKD L.P. in the US ("SKD US") and SKD de Mexico, S. de R.L. de C.V. in Mexico ("SKD Mexico") (collectively, SKD US, SKD Mexico, SKD and related entities are referred to as the "SKD Group").

The SKD Group is primarily a tier one supplier of stampings and welded assemblies to the North American automotive industry.

At the commencement of the CCAA proceedings, the Company had approximately 661 employees (approximately 192 salaried employees and approximately 469 hourly employees). The hourly employees are represented by three unions, the National Automobile, Aerospace, Transportation and General Workers of Canada and its Local 1285 (the "CAW"), the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers Union (the "USW") and Teamsters Local Union No. 419 (the "Teamsters") (collectively these unions being the "Unions").

Prior to the commencement of the CCAA proceedings, the Company, Comerica Bank ("Comerica") and the Customers (as defined in Section 3 below) negotiated an accommodation agreement (the "Accommodation Agreement"), which, *inter alia*, sets out the terms pursuant to which the Company will continue to supply to the Customers, the Customers' terms of payment and the mechanism pursuant to which the Customers will fund the Company' operations. The Accommodation Agreement (including the Access and

Security Agreement) was approved by this Honourable Court. A copy of the Accommodation Agreement is attached as Appendix "A".

Additional information concerning the Company, its creditors and its financial position, can be found in the report filed on January 21, 2009 with this Honourable Court by Richter as proposed Monitor of the Company (the "Proposed Monitor's Report"), the affidavit of John Chen, the President of NMC, sworn January 21, 2009 (the "First Chen Affidavit"), and the affidavit of Mr. Chen sworn February 13, 2009 (the "Second Chen Affidavit"). The Proposed Monitor's Report (without appendices) and the First Chen Affidavit (without exhibits) are provided in Appendices "B" and "C", respectively. The Second Chen Affidavit was filed with the Company's motion materials in connection with this motion.

### **3. THE COMPANY'S ACTIVITIES**

Following the issuance of the Initial Order, the Company, with the assistance of the Monitor (where necessary), communicated with each of the Company's major stakeholder groups, including suppliers and employees. The Company has secured the cooperation of the majority of its stakeholders and the business is now operating without disruption, as it has (for the most part) since the date of the Initial Order.

Since the date of the Initial Order, the Company's activities have included the following:

- Convening meetings with its employees;
- Negotiating with suppliers and service providers regarding the terms on which goods and services are to be provided to the Company and paid for by the Company during these proceedings;
- Corresponding with and reporting to Comerica and the Company's major customers, being Ford Motor Company ("Ford"), Chrysler Canada Inc. and Chrysler LLC (jointly, "Chrysler") and Honda of America Mfg. Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC (collectively, "Honda"), (Ford, Chrysler and Honda are referred to as the "Customers");

- Corresponding with the Unions to provide information related to these proceedings;
- Terminating six salaried employees;
- Working with the Customers to establish inventory bank requirements and commencing the building of the inventory banks;
- Working with the Company's advisors to prepare variance analyses and cash flow forecasts as required pursuant to the terms of the Accommodation Agreement;
- Addressing various issues and inquiries made by creditors and suppliers of the Company; and
- Assisting the Monitor with the Sale Process, as detailed in Section 4 below.

#### **4. SALE PROCESS**

The Monitor is conducting the Sale Process as required pursuant to the terms of the Initial Order. The deadline for submission of offers is February 18, 2009.

The following is a summary of the Monitor's activities in connection with the Sale Process:

- Prior to and immediately following the commencement of these proceedings, the Monitor researched and prepared a list of 139 prospective purchasers (approximately 95 strategic parties and 44 financial investors). Certain of these parties were brought to the attention of the Monitor by the Company and its advisors;
- The Monitor prepared an interest solicitation letter that it circulated to the prospective purchasers. Attached to this letter was a confidentiality agreement ("CA");
- The Monitor prepared a confidential information memorandum ("CIM") that provides an overview of the Company's business, assets and Sale Process for prospective purchasers to review upon execution of a CA. Eight (8) parties executed a CA and received the CIM;
- The Company and the Monitor worked together to have information assembled in an electronic data room. The Monitor facilitated due diligence requests received from prospective purchasers. Approximately seven (7) prospective purchasers performed diligence in the data room. As of the date of this Report, one prospective purchaser attended at the Company's premises to tour the facilities and to meet with the plant managers and the Monitor. Two other plant visits are scheduled with prospective purchasers; and



- The Monitor also made available in the data room a soft copy of the form of offer. The form of offer was drafted as an asset purchase agreement. To the extent relevant, the Monitor recommended that prospective purchasers submit their offers to the Monitor in this form, or substantially in this form.

As summarized in the Proposed Monitor's Report, prior to the commencement of these proceedings, Management was in negotiations to sell SKD US and SKD Mexico to a party interested in those entities. During those negotiations, it became apparent that certain customers may favour a different purchaser ("Prospective Purchaser"), as it was believed that the Prospective Purchaser could provide a global solution; that is, one buyer for the business and assets of SKD US, SKD Mexico and the Company. Discussions among the Company, certain of the Customers and the Prospective Purchaser have continued throughout these proceedings, in parallel with the Sale Process.

A meeting among the Customers, the Company, Comerica, the Prospective Purchaser and the Monitor was convened in Detroit, Michigan on February 10, 2009. During the meeting, varying degrees of support were expressed for a transaction with the Prospective Purchaser. As at the date of this Report, it is unclear if the terms of an agreement will be reached with the Prospective Purchaser to acquire the business and assets of any or all of SKD US, SKD Mexico and SKD Canada. Provided a consensus could be reached for the sale of the Company's business and assets, and the value and structure of the transaction was acceptable, the Monitor has advised that it would consider an offer from the Prospective Purchaser, which would be subject to the approval of this Honourable Court. The Monitor is cognizant that an offer which is supported by all Customers would make it virtually impossible for any other party to submit an acceptable offer. The Monitor is not in a position at this time to make such a recommendation, as unanimous Customer support has not been obtained.

The Initial Order requires that the Company return to Court on or before February 25, 2009, to seek this Honourable Court's approval of a sale transaction (if such transaction has been completed). The Monitor understands that the Company will bring another motion prior to the end of February in order to, *inter alia*, provide the Court with a Sale Process update and to consider the next steps in these proceedings.

## **5. CASH FLOW**

As at February 11, 2009, Comerica is owed a principal amount of approximately US\$12.1 million, excluding interest, costs and expenses, and excluding Customer funding, which is by way of subordination participations in the Comerica facility. Customer participations are purchased pursuant to an amended and restated subordinated participations agreement entered into among Comerica, the Customers and General Motors Corporation on January 21, 2009 (the "Subordinated Participations Agreement"). A copy of the Subordinated Participations Agreement is attached as Appendix "D". Total Customer funding since the commencement of these proceedings is approximately US\$4.7 million. Accordingly, the total secured indebtedness under the Comerica facility (including the Customer funding) was approximately US\$16.8 million as at February 11, 2009.

Pursuant to the forbearance agreement ("Forbearance Agreement"), the maximum borrowing limit under the Comerica facilities is US\$18 million, plus the amount of subordinated participations. The maximum Customer funding available to the Company pursuant to the budget appended to the Accommodation Agreement is US\$8.8 million.

The Company's cash flow projection for the period ending February 27, 2009 was appended to the First Chen Affidavit. The projected cash flow reflects the Customers' operations through to February 27, 2009. The cash flow reflects that the Company has sufficient funding for the extension period. The Monitor believes that the cash flow projection is reasonable.

The Company, its advisors and the Monitor are working with the Customers to finalize the terms of a cash flow for at least 30 days beyond the end of February, 2009. Should there be agreement among all the parties on funding and other matters, as well as other terms of an extension, the Monitor understands that the Company would seek an application in late February, 2009 to extend the stay of proceedings.

## **6. COMPANY'S REQUEST FOR AN EXTENSION**

The Company is seeking an extension of the stay of proceedings to February 27, 2009.

The Monitor supports the Company's request for an extension of the stay of proceedings for the following reasons:

- The Company is acting in good faith and with due diligence;
- It should not prejudice any employee or creditor, as arrangements are in place to pay post-filing services and supplies;
- Comerica and the Customers, the principal economic stakeholders in these proceedings, support the extension;
- It would allow the Company the opportunity to comply with its obligations under the Accommodation Agreements; and
- It would allow the Monitor the opportunity to complete the Sale Process.

## 7. OVERVIEW OF THE MONITOR'S ACTIVITIES

The Monitor's activities to date have included:

- Attending at the Company's premises on a near daily basis in order to carry out its mandate in accordance with the Initial Order;
- Assisting the Company to deal with numerous post-filing issues, including supplier issues;
- Assisting the Company to prepare weekly variance analyses for distribution to Comerica and the Customers in accordance with the terms of the Forbearance Agreement, the Accommodation Agreement and the Initial Order;
- Reviewing weekly variance analyses and weekly cash flow projections with the Company and its advisors;
- Monitoring receipts and disbursements in accordance with the provisions of the Initial Order;
- Responding to creditor inquiries regarding these proceedings;
- Causing to be mailed on January 27, 2009, the CCAA notice to the Company's known creditors;
- Drafting and finalizing the Monitor's first report to Court in respect of the Company's motion brought on January 29, 2009 to compel a vendor to comply with the terms of the Initial Order;
- Working with the Company, Goodmans and the Customers' financial advisors, to deal with various supplier issues;
- Attending at the "all hands" meeting on February 10<sup>th</sup> meeting in Detroit, Michigan;
- Carrying out the Sale Process as detailed herein;
- Placing on its website copies of materials filed in these proceedings;
- Drafting this Report; and
- Other matters pertaining to the administration of this mandate.

## 8. CONCLUSION AND RECOMMENDATION

Based on the foregoing, the Monitor respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1 of this Report.

\* \* \*

All of which is respectfully submitted,

A handwritten signature in cursive script that reads "RSM Richter Inc." followed by a period.

**RSM RICHTER INC.  
IN ITS CAPACITY AS CCAA MONITOR OF  
NMC CANADA, INC., 2515080 NOVA SCOTIA COMPANY  
AND SKD COMPANY  
AND NOT IN ITS PERSONAL CAPACITY**

## ACCOMMODATION AGREEMENT

This Accommodation Agreement (this "Agreement"), by and among SKD Company ("Supplier"), Ford Motor Company ("Ford"), Chrysler Canada Inc. ("Chrysler Canada"), Chrysler LLC, on behalf of itself and Chrysler Motors LLC (together with Chrysler Canada, "Chrysler"), Honda of America Mfg., Inc., for itself and on behalf of Honda Canada Mfg., a division of Honda Canada, Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC (collectively, "Honda") (collectively, the "Customers") and Comerica Bank ("Comerica"), is entered into on January 21, 2009 (the "Effective Date").

### RECITALS

A. Pursuant to various commitments, purchase orders, supply agreements and/or releases issued by each Customer and accepted by Supplier (collectively, the "Purchase Orders" or individually, a "Purchase Order"), Supplier is obligated to manufacture, and each Customer is obligated to pay for, each Customer's requirements of certain component parts, service parts or assembled goods (collectively, the "Component Parts" or individually, a "Component Part").

B. Supplier is currently indebted to Comerica (the "Comerica Indebtedness") pursuant to certain credit facilities provided by Comerica to Supplier and SKD Automotive Group, Limited Partnership (the "Comerica Facilities"). To secure the Comerica Indebtedness, Comerica has been granted security over the real and personal property assets of Supplier (the "Comerica Security").

C. The Comerica Facilities have matured, but Comerica has agreed to enter into forbearance arrangements with Supplier and its affiliates, provided that arrangements acceptable to Comerica can be entered into between Supplier and the Customers.

D. As a result of Supplier's financial difficulties, Supplier will commence a proceeding (the "CCAA Proceeding") applying for an initial order in form and substance satisfactory to Comerica under the *Companies' Creditors Arrangement Act* (the "CCAA") in the Ontario Superior Court of Justice (the "Court"). Supplier has requested that the Customers provide financial and other accommodations to Supplier during the CCAA Proceeding, and the Customers have requested that Comerica and Supplier provide certain assurances and acknowledgements to the Customers regarding, among other things, Supplier's ongoing production of Component Parts for the Customers.

E. The financial advisor to Supplier, Conway MacKenzie, Inc., and RSM Richter Inc., the proposed court-appointed monitor in the CCAA Proceeding (the "Monitor"), are working with Supplier to consider alternatives to restructure Supplier's business that will include a sales process (the "Restructuring Process").

F. Supplier has requested the Customers to provide certain financial and other accommodations to Supplier during the Restructuring Process. Similarly, due to the concerns and uncertainties surrounding Supplier's financial condition, Comerica and the Customers have requested certain acknowledgements and agreements from Supplier and each other to induce Comerica and the Customers to provide those accommodations. Upon and subject to the terms

of this Agreement: (i) the Customers have agreed to provide certain assurances and acknowledgements to Supplier and Comerica; (ii) Supplier has agreed to provide certain assurances and acknowledgements to the Customers, and (iii) Comerica has agreed to provide certain assurances and acknowledgements to the Customers.

G. Supplier and the Customers are parties to an Access and Security Agreement of even date herewith ("Access Agreement").

H. References in this Agreement to paragraphs or sections, unless otherwise noted are references to paragraphs or sections of this Agreement.

**BASED UPON THE FOREGOING RECITALS** and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereto agree as follows:

### TERMS AND CONDITIONS

1. **Term.** The term of this Agreement (the "Term") shall commence on the Effective Date and continue until the earliest of (a) February 28, 2009, (b) the closing of the sale of Supplier's business as a going concern to a Qualified Buyer (as defined below), (c) an Event of Default (defined below), (d) Comerica ceases to provide financing to Supplier during the Restructuring Process, and (e) Comerica commences any enforcement action with respect to a material portion of Supplier's real or personal property constituting collateral.

2. **Customers Accommodations.**

2.1 **Resourcing.**

(a) Except as provided in this Section 2.1, until the expiration of the Term of this Agreement the Customers will not resource the production of Component Parts, including the resourcing of any awarded business that is not yet in production. "Resource", "resource" and "resourcing" means (i) any activity of a Customer that results in a Component Part produced by Supplier being purchased by a Customer from some other source during the Term, or (ii) the engineering and development or manufacture of a Component Part not yet in production, being transferred by Customer from Supplier to a replacement source during the Term. The foregoing limitation, however, does not include or prohibit (i) changes in releases due to normal business fluctuations, (ii) cessation of production due to product or vehicle cancellations (excluding cancellations or modifications to enable resourcing), (iii) a Customer taking action to prepare for resourcing including, without limitation, entering into discussions and negotiations with third parties regarding the production of the Component Parts by another source, or (iv) a Customer purchasing sample or prototype Component Parts from another source. Supplier will provide reasonable assistance with such preparatory actions, including, upon being provided with advance notice, providing reasonable access to Supplier's

facilities during normal business hours to a potential alternative supplier and/or its agents and representatives. Customers shall pay to Supplier in advance, as required by Supplier from time to time, both during the Term and following the expiry of the Term, an estimate of Supplier's reasonable incremental costs, as agreed to by Supplier and Customers, in relation to the preparation and removal activities of Customers in relation to any resourcing activities, subject to final reconciliation, upon completion of the preparation and removal activities, of all such incremental costs.

(b) In the event that Supplier and Comerica determine that no sale of the business of Supplier or plan of arrangement under the CCAA will be successfully concluded, Supplier shall forthwith provide notice to the Customers in writing (the "Resourcing Notice").

(c) Upon Supplier's failure to meet a Sale Process Milestone (defined below) or after receipt of a Resourcing Notice (the "Resourcing Trigger Event"), the Customer may resource one or more Component Parts provided that the Customer has paid in full, subject to any setoff allowed in accordance with Section 2.6 (collectively, the "Permissible Setoffs"), all then existing accounts owing to Supplier for production of any and all Component Parts and has paid for all Unpaid Tooling in accordance with Section 2.2(a) and Section 2.3 below, as applicable.

## 2.2 Expedited Payments.

(a) Undisputed Accounts Payable. Each Customer and Supplier acknowledges that, as of the Effective Date, in accordance with its records, each Customer is indebted to Supplier in the amounts set forth on the attached Schedule A (Chrysler), Schedule B (Ford), and Schedule C (Honda) for Component Parts and for Unpaid Tooling purchased by the Customer for which PPAP has been completed (collectively, the "Undisputed Accounts Payable"). Each Customer agrees:

(1) to pay to Comerica for account of Supplier within two (2) business days after the Effective Date, all Undisputed Accounts Payable arising from the shipment of Component Parts that were due and owing prior to the Effective Date (provided that such payment will be net of a holdback of \$176,000 (the "Holdback"), in the aggregate from all Customers, until an order (the "Garnishment Order", which may be the initial order under the CCAA) is issued by the Ontario Superior Court of Justice in respect of Supplier (i) staying the garnishment served on the Customers in the amount of the Holdback pursuant to the judgment obtained by Roberto Costantino and Tony Wong (the "Judgment Creditors") in Court File No. 06 CV 308 185 PD1 (the "Garnishment"); (ii) authorizing and permitting payment of the Holdback by a Customer to Supplier; and (iii) providing that the Customers shall incur no



liability to the Judgment Creditors by making payment of the Holdback to Supplier. The Holdback will be paid to Supplier on the expiry of any period set out in the Garnishment Stay Order for providing notice to the Judgment Creditors and the applicable sheriff. For greater certainty, in the event of any dispute between the Judgment Creditors and Supplier, the Customer or Customers retaining the Holdback shall be entitled to pay the Holdback into Court);

- (2) to accelerate and to pay to Comerica for account of Supplier all other Undisputed Accounts Payable arising from the shipment of Component Parts within ten (10) days after the Effective Date; and
- (3) to pay to Comerica for account of Supplier within ten (10) business days after the Effective Date, all amounts for Unpaid Tooling in possession of the Supplier for which PPAP has been completed, and invoices have been issued by the Supplier to the Customer.

The payment made hereunder will be net of any Permissible Setoffs.

(b) Unresolved Payables and Commercial Issues. Schedule A, Schedule B, and Schedule C (collectively, the “Schedules”) contain particulars of claims for any unresolved accounts payable existing as of the Effective Date between Supplier and each respective Customer (the “Unresolved Accounts Payable”), as well as claims for any unresolved commercial issues between Supplier and each Customer (the “Unresolved Commercial Issues”). Supplier and the applicable Customer agree to work in good faith to resolve (subject to Comerica’s approval) and, if applicable, make payment of amounts outstanding in relation to any Unresolved Accounts Payable issues within fifteen (15) days following the Effective Date (the “Payables Resolution Period”) and any Unresolved Commercial Issues within thirty (30) days following the Effective Date (the “Unresolved Commercial Issues Resolution Period”). At the expiry of the Unresolved Commercial Issues Resolution Period any remaining Unresolved Accounts Payable and Unresolved Commercial Issues shall be determined by the Court at a hearing to be forthwith scheduled after submission of an appropriate motion by Supplier.

(c) Payables Following the Effective Date. Except as otherwise provided in this Agreement, each Customer shall manage its payables process such that all amounts owing to Supplier from a Customer arising before the later of: (i) the expiration of the Term, and (ii) the date that the Comerica Indebtedness is paid in full, for such Customer’s purchase of Component Parts shall be paid on a “net immediate” basis (which means Supplier will receive payment on the next accounts payable cycle after acceptance of the invoice in the Customer’s accounts payable system) but, on average, no later than ten (10) business days after recognized in the

Customer's accounts payable system. In the event of a dispute as to an invoice, within five (5) business days of a meeting request by Supplier, the Supplier and the Customer (or the Customer's designee) shall meet to complete a reconciliation of the items in dispute. If there is still a dispute as to an invoice ten (10) business days after the meeting request, Supplier has the legal right to assert a claim for the invoice amount but such assertion does not constitute an admission by the Customer that the invoice amount is owed.

### 2.3 Obligation Relating to Tooling In Process and Unpaid Tooling

(a) Tooling In Process. With respect to Tooling for which, on the Effective Date, PPAP has not been completed, but which was in the course of being manufactured by Supplier, or for Supplier by a third party with which Supplier contracted (a "Tooling Vendor"), in either case pursuant to a tooling purchase order issued by the Customer to Supplier, the Customer acknowledges and agrees that:

- (1) if Supplier is fabricating the Tooling, Supplier shall be entitled, if the Tooling can be completed during the Term, to complete such tooling on the terms of the existing tooling purchase order from the Customer; and
- (2) if a Tooling Vendor is fabricating the Tooling, Supplier agrees that the Customer may reimburse Supplier for payments already made to the Tooling Vendor and for work and expenditures incurred by the Supplier to the extent reimbursable under the underlying Purchase Order, and provided that such payments have been made, cancel the tooling purchase order with Supplier and issue a tooling purchase order directly to the Tooling Vendor, at which time such Tooling will be deemed Customer Tooling;

Each Customer will, with the complete cooperation of Supplier, use its best efforts to expedite PPAP completion for any Tooling for which PPAP has not, as of the Effective Date or thereafter, been completed.

(b) Unpaid Tooling - Obtaining PPAP. With respect to Unpaid Tooling:

- (1) that has completed PPAP as of the Effective Date (but which Unpaid Tooling is not in the Supplier's possession); or
- (2) in respect of which PPAP is completed before the later of: (i) the expiration of the Term, and (ii) the date that the Comerica Indebtedness is paid in full (but which Unpaid Tooling is not in the Supplier's possession),

after the earlier of

- (i) written acknowledgement by any third party in possession of such Unpaid Tooling asserting a lien, claim or interest in the Unpaid Tooling to the satisfaction of the respective Customer, acknowledging that such lien, claim or interest has been satisfied and that Customer may take possession of such Unpaid Tooling at any time without further payment, or
- (ii) the entry of an order in the CCAA Proceeding transferring any lien, claim or interest of such third party in the Unpaid Tooling to the proceeds of such Unpaid Tooling and permitting the Customer to take possession of such Unpaid Tooling at any time without payment,

if the Unpaid Tooling can be delivered free and clear of all claims and interests, liens, security interests and encumbrances, the applicable Customer will pay for such Unpaid Tooling (to a maximum of the "not to exceed" amount provided by the Customer to Supplier in the applicable tooling purchase order and provided that Customer receives credit for any payments or deposits given by the Customer to Supplier in respect of such Tooling prior to completion of PPAP) no later than ten (10) business days after the invoice date and PPAP is completed with delivery of a PSW (Part Submission Warrant), subject to any rights of the Customer to assert a Tooling Setoff (as herein defined) or a Raw Material Setoff and subject to the Customer's audit rights in respect of the Tooling in question, at which time such Tooling will be deemed Customer Tooling.

With respect to Unpaid Tooling that PPAP is completed during the Term (and which Unpaid Tooling is in the Supplier's possession), if the Unpaid Tooling can be delivered free and clear of all claims and interests, liens, security interests and encumbrances, the applicable Customer will pay for such Unpaid Tooling (to a maximum of the "not to exceed" amount provided by the Customer to Supplier in the applicable tooling purchase order and provided that Customer receives credit for any payments or deposits given by the Customer to Supplier in respect of such Tooling prior to completion of PPAP) no later than ten (10) business days after the invoice date and PPAP is completed with delivery of a PSW (Part Submission Warrant), subject to any rights of the Customer to assert a Tooling Setoff (as herein defined) or a Raw Material Setoff and subject to the Customer's audit rights in respect of the Tooling in question, at which time such Tooling will be deemed Customer Tooling.

(c) Possession at Resourcing. Prior to taking possession of Unpaid Tooling that has not obtained PPAP, the Customer will pay to Comerica, on account of Supplier, the tooling purchase order price of such Unpaid

Tooling less the cost of completion, including any costs incurred by the Customer relating to the completion of PPAP incurred outside of the normal course of business (as such costs are determined by the Customer, Comerica, and Supplier, acting reasonably, and, in the absence of such agreed determination, by the Court in the CCAA Proceeding), less any amount previously paid by Customer to Supplier on account thereof and less the amount owed to any Tooling Vendor on account of such Tooling, and such item shall after the payment to Comerica, on account of Supplier, thereafter be included in the definition of Customer Tooling under this Agreement and treated as such.

2.4 Obligation to Pay for Returnable Packaging. With respect to returnable packaging, if the returnable packaging is not sold to a third party, Ford agrees (i) for Component Parts programs that have commenced production prior to the Effective Date, Ford will purchase all returnable packaging associated with the Component Parts, and the purchase price will be Supplier's cost not previously paid or recovered through the piece price; and (ii) for Component Parts programs not yet in production by Supplier as of the Effective Date, to pay to Supplier the entire amount required to fund Supplier's cost of producing or buying the returnable packaging. Payment for the returnable packaging will be made before Ford or its designees remove the returnable packaging from Supplier's premises; however, in any event, Ford will pay for such returnable packaging no later than ten (10) days after the end of the Term. Upon making such payments (i) Ford shall own such returnable packaging free and clear of all liens and claims, and (ii) Ford will permit Supplier to tag or otherwise conspicuously mark the purchased returnable package as property of Ford.

2.5 Obligation to Purchase Inventory.

(a) Upon the earliest to occur (the "Inventory Purchase Trigger Date") of (i) a Resourcing Trigger Event pursuant to which a Customer resources production of the Component Parts, (ii) the expiration or termination of the Term, or (iii) the exercise by a Customer of the Right of Access under the Access Agreement, such Customer shall purchase from Supplier free and clear of all claims and interests, liens, security interests and encumbrances, all raw materials (including components previously purchased by Supplier) used to manufacture the Component Parts, work in process and finished Component Parts, which at the time of resourcing are both "useable" by such Customer or such Customer's new source of such Component Parts and in a "merchantable" condition (collectively, the "Inventory"), whether currently in the possession of Supplier or in the possession of a third party (a "Bailee") holding same for or on behalf of Supplier.

(b) Upon the Inventory Purchase Trigger Date, Supplier shall forthwith provide the applicable Customer and Comerica with a written

notice that details the affected Component Parts and the Inventory. If requested by Customer, Supplier will cooperate in conducting a physical inventory of the Inventory as soon as possible following the delivery of such notice. The Customers' obligations to purchase Inventory from Supplier hereunder shall include the purchase of Inventory from Comerica or its agent or any receiver, if such persons have the authority to sell the Inventory, and the Monitor in CCAA Proceeding.

(c) For purposes hereof the term "useable" means all Inventory that is not obsolete, as determined by a Customer in accordance with applicable industry standards for the Inventory at issue, and is reasonably useable by a Customer (or its replacement supplier) in the production of Component Parts, and for all Inventory, is in a quantity equal to the greater of (i) such Customer's unsatisfied releases as of the Inventory Purchase Trigger Date, or (ii) the Inventory that was procured in reliance on such Customer's issued releases at the time of procurement that have been delayed, reduced or eliminated. Inventory Banks built in advance of union contract negotiations and Inventory purchased under a Customer Raw Material Supply Programs, including without limitation, steel purchased thereunder that was cut specifically for use in connection with a particular Customer's tool is deemed to be useable. The term "merchantable" means merchantable in conformance with all applicable Purchase Order specifications for the Component Part at issue. The determination of whether Inventory is "useable" and "merchantable" will be made on the later of (i) the date the Inventory Vesting Order (as defined below) is entered, and (ii) the date that the Inventory is made available for delivery to a Customer. Inventory removed by or delivered to and accepted by a Customer, shall be deemed to be useable and merchantable. As soon as practical but in no event five (5) business days after entry of the Inventory Vesting Order, the Customer and Supplier will jointly determine in good faith to determine if inventory in the possession a Bailee is merchantable and useable.

(d) The purchase price of the Inventory will be: (i) for raw materials, 100% of Supplier's actual invoiced cost; (ii) for work in process, 85% of Supplier's cost, which cost shall be calculated on a percentage of completion basis based on the existing price called for in the Purchase Order related for the Component Part at issue; and (iii) for finished Component Parts, 100% of the existing price called for in the underlying Purchase Order for the Component Part at issue. All prices are F.O.B. Supplier. Notwithstanding Section 2.6, each Customer shall be entitled to a credit against the purchase price of Inventory for the amount of any unrecovered Raw Material Setoff.

(e) The full amount of the purchase price for the Inventory being purchased will be paid by the Customer to the Monitor, to be held in trust for Supplier, prior to any purchased Inventory being delivered to a

Customer. Delivery of the purchased Inventory to the Customer, and the release of the purchase price for such Inventory by the Monitor from trust to Comerica for the account of Supplier, shall each occur without further direction, notice, Order or writing, immediately following the making of an Order acceptable to the Customers and Comerica, acting reasonably (the "Inventory Vesting Order") by the Court directing the release by the Monitor of the full amount of the purchase price to Comerica for account of Supplier and vesting title in the Inventory in the Customer free and clear of all claims and interests, liens, security interests and encumbrances, and, if required, directing any Bailee to deliver up possession of any Inventory in its possession to the Customer, which Order shall be sought from the Court as soon as practicable following the commencement of resourcing by the Customer. Following the making of the Inventory Vesting Order, Supplier agrees to cooperate with Customer in its taking of possession of the Inventory, including by (i) providing Customer with a right of access to its premises during normal business hours to take possession of and remove such purchased Inventory, and (ii) enforcement of the Inventory Vesting Order.

(f) Supplier acknowledges and agrees that upon payment in full by Customer to Supplier for Inventory, Customer shall be the owner of such Inventory and, to the extent that it is being held by Supplier or a Bailee, it is held as bailee-at-will only.

- 2.6 Limitation of Setoffs. Except for "Raw Material Setoffs", "Allowed Setoffs", "Material Setoffs", "Professional Fee Setoffs" and "Tooling Setoffs" (each as defined below), Customer agrees not to assert any defenses, rights or claims for setoffs, recoupment or deductions of any nature or kind, including in connection with any prior, existing or future defaults under the Purchase Orders or arising under otherwise applicable law, including claims for special or consequential damages. Customers agree that their right to assert a claim for setoff, recoupment or deduction does not constitute an admission by Supplier of the quantum or validity of any such claim.

The term "Raw Material Setoffs" means setoffs, recoupments or deductions for materials supplied directly by, or on behalf of, a Customer to Supplier pursuant to an existing arrangement between Supplier and that Customer under the Customer's raw material or material offload program ("Customer Raw Material Supply Program").

The term "Allowed Setoffs" means setoffs, recoupments or deductions for defective or nonconforming products, quality problems, unordered or unreleased parts returned to Supplier, short shipments, misshipments, premium freight charges (not caused by a Customer), incorrect invoices, mispricing, duplicate payments or billing errors, in each case subject to appropriate documentation, but excluding any special, incidental or

consequential damages, whether arising from or relating to the foregoing or otherwise.

The term "Material Setoffs" means any actual and documented payments for raw materials, components or other goods (but not Tooling and not materials that are part of a Customer Raw Material Supply Program) supplied or paid for by a Customer for Supplier's use in manufacturing the Component Parts, for which Supplier and Comerica has received written notice (a "Direct Payment Notice") from the Customer prior to the earlier of delivery, payment or purchase of such raw materials, components or other goods. Material Setoffs may be taken only against the Customer's accounts payable for Component Parts arising at least two (2) business days after the date that a Direct Payment Notice is received by Comerica and only if the Customer provides Supplier and Comerica with proof of such payment or purchase. In the case of any direct payment made by a Customer to a vendor as a result of a vendor's refusal to sell to Supplier, Customer shall not, without Supplier's and Comerica's prior written consent, pay to the material vendor a price in excess of the applicable price set forth in the vendor's agreement with Supplier, whether characterized as an increase in the unit price or as a request for antecedent debt to be repaid. For clarity, there is no notice requirement for Raw Material Setoffs and there is no requirement that a Raw Material Setoff be taken only against accounts generated after notice or delivery of the raw materials.

The term "Professional Fee Setoffs" means the actual and documented professional fees incurred by the Customers relating to Supplier.

The term "Tooling Setoffs" means any actual and documented payments to Tooling Vendors and/or a party with a valid and existing lien on the subject Tooling (a "Tooling Lien Claimant") for the purchase price of or costs to modify or repair Tooling, or any portion thereof (i) on account of Tooling which is necessary to protect the production of Component Parts for a Customer's production (existing and future) and as to which the payments are necessary to secure the release of Tooling, or (ii) as to which written notice of the amount paid to the Tooling Vendor or Tooling Lien Claimant has been received by Comerica within five (5) business days after each such payment. Tooling Setoffs can only be asserted against payables for Tooling. Notwithstanding the foregoing, the Customer shall not, without the prior written consent of the Monitor, pay to a Tooling Vendor or Tooling Lien Claimant a price in excess of the applicable price set out in an agreement between such Tooling Vendor or Tooling Lien Claimant and Supplier, unless Supplier is unable to timely compel such person to deliver the Tooling to the Customer or Supplier unless such price is paid, after notice from the Customer to the Monitor, Supplier and Comerica that such Tooling is required to ensure the ongoing production

of Component Parts for the Customer without a material interruption in the supply of such Component Parts.

The parties hereto agree that: (a) Allowed Setoffs, Professional Fee Setoffs, Materials Setoffs and Raw Material Setoffs may not be taken in relation to any amounts to be paid for returnable packaging pursuant to section 2.4 of this Agreement, Inventory purchased pursuant to section 2.5 of this Agreement (but for clarity, Raw Materials Setoffs are permitted as provided for in Section 2.5), Supplier Owned Tooling purchased pursuant to Section 6.1 of this Agreement, or Designated Equipment purchased pursuant to section 6.2 of this Agreement; (b) in no event shall Allowed Setoffs and Professional Fee Setoffs taken by each Customer exceed, in the aggregate, 5% of the paid amount of any unpaid invoice; and (c) each Customer may set off or recoup against any accounts arising from the shipment of Component Parts or arising from Unpaid Tooling amounts that are owed by Supplier to the Customer for materials received by Supplier from the Customer pursuant to the Customer's Raw Materials Purchasing Program in the ordinary course of business and without limitation. Any Allowed Setoffs or Professional Fee Setoffs which are not taken or prohibited by the aggregate 5% cap may be rolled forward and applied to the future invoices, provided, however, the aggregate 5% cap will still apply to any setoff of each future invoice.

Other than as provided for and restricted by this Agreement in relation to payments to be made by the Customers to or for the account of Supplier (including any trustee in bankruptcy, receiver or interim receiver of Supplier), none of which is amended or modified by this sentence, the Customers retain their rights of setoff and recoupment for defensive purposes against third parties other than Supplier and Comerica, provided that the Customers agree that they will not assert, for purposes of seeking an affirmative recovery, any special, consequential or incidental damages or any other claims which the Customers have agreed to not assert by way of setoff, deduction or recoupment under this Agreement, as claims in any estate of Supplier, whether in the context of the CCAA Proceeding or any receivership or bankruptcy in relation to Supplier. The parties further agree that after (but not before) the Comerica Indebtedness has been fully paid, the Customers may assert their respective rights of setoff and recoupment against any resolved valid Unresolved Commercial Issues (the "Determined Unresolved Commercial Issues"), provided however, such rights shall be limited, in the case of each Customer, to an amount equal to 50% of the amount of that Customer's Determined Unresolved Commercial Issues. For example, as to the last point in the preceding sentence, if there are \$1.0 million of Determined Unresolved Commercial Issues, the Customer can use any valid set off and recoupment rights for up to \$500,000.



2.7 Obligation to pay sales taxes. Customer shall pay (if not already paid) all applicable federal and provincial sales taxes or deliver such exemption certificates or elections (and Supplier shall cooperate in the preparation or delivery of any such materials) in relation to each of the transactions contemplated under this Agreement.

2.8 Waiver of Price-downs. The Customers acknowledge and confirm that during the Term, and in relation to Inventory Purchase under Section 2.5 of this Agreement, the prices to be paid for the Component Parts are not subject to any price-downs not already in effect as at December 15, 2008.

2.9 Customer Funding.

(A) Subject to the terms of this Section, Customers agree during the Term to purchase subordinated participations from Comerica as necessary to provide the funding required under the Comerica Facilities ("the Customer Operations Funding") up to US\$8,800,000 (the "Cap"), subject to mutually agreed upon adjustments to the Cap. The Customer Operations Funding shall be in an aggregate amount consistent with the budget attached as Exhibit C to this Agreement (the "Budget"), but with a permitted variance in respect of aggregate disbursements set forth in the budget for any week on a rolling net basis of up to ten 10% percent, but in no event shall the forgoing variance result in the Customer Operations Funding exceeding the Cap. For clarity, the Cap is the aggregate amount from the consolidated Budget for the U.S., Mexican, and Canadian operations.

(B) The Customer Operations Funding shall be made available through the purchase of subordinated participations in the direct borrowings of Supplier under the Comerica Facilities, pursuant to the terms of the subordinated participation agreement dated January 12, 2009, as the same may be amended or restated (the "Subordinated Participation Agreement"). Customers will (i) on the Effective Date for the working days during the week of the Effective Date, and (ii) during the Term, on or before the Friday of each week for the week that immediately follows, purchase subordinated participations from Comerica in the amounts estimated by Supplier as being required to satisfy the obligations of Supplier to operate during the applicable week in excess of the Supplier's existing availability under the Comerica Facilities (the "Weekly Funding Amount"). The Weekly Funding Amount shall be calculated in a manner to permit payment by Supplier of such estimated obligations, whether or not actually paid in that week.

(C) The allocation of the Customers Operations Funding will be allocated by and among the Customers on a basis agreed upon as among the Customers in accordance with the percentages set forth in the attached

Exhibit D. The Customers Operations Funding hereunder shall be several and not joint.

(D) Supplier will provide the Customers weekly variance reporting.

(E) The Customer Operations Funding shall be in addition to any (i) Parts Bank Costs (as defined below), (ii) vendor hostage payments not covered in the Budget, the payment of which shall not give rise to a right of setoff, recoupment or deduction by any Customer, and (iii) program launch or other Customer-specific costs, each of which shall be funded and borne by the applicable Customer, individually (the "Individual Customer Funding Events"). Supplier shall not use Customer Operations Funding for payments to be covered pursuant to Individual Customer Funding Events, which each Customer agrees will be funded to Supplier under arrangements separately agreed to by Supplier and the applicable Customer, in advance of any obligations being incurred by Supplier.

3. Supplier's Obligations.

- 3.1 Cash Management. Supplier agrees to use its best efforts to minimize expenses through cash management and conduct its operations in accordance with the Budget. Supplier shall provide the Customers and Comerica actual to Budget data on a weekly basis.
- 3.2 Continue to Manufacture. Provided that Supplier has sufficient funding and Customers are otherwise complying with their obligations in all material respects under this Agreement, during the Term Supplier will continue to manufacture and deliver Component Parts from and after the Effective Date in accordance with Purchase Orders outstanding as of the Effective Date, Purchase Orders issued after the Effective Date and any new awards entered into during the Term. The terms and conditions of the Purchase Orders shall remain in full force and effect; provided, however, in the event of any inconsistency between the terms of this Agreement and the terms of the Purchase Orders, the terms of this Agreement will control.
- 3.3 Inventory Bank. At a Customer's request, during the Term Supplier will use commercially reasonable efforts to create an inventory parts bank of Component Parts currently in production (the "Inventory Parts Bank"), subject to the limitations set forth below. At Customer's cost, Supplier will ship the Inventory Parts Bank to the Customer's designated location as it is produced and Customer will pay for same at the prices provided for in the applicable Purchase Order, on the payment terms set forth in Section 2.2(c). Such requirement of Supplier to create an Inventory Parts Bank will be subject to the following: (i) sufficient funding; (ii) capacity, including labour capacity, and time limitations (e.g., machine capacity, manpower limitations and dunnage and material availability, including equitable allocation of resources with respect to requests from Customer);

(iii) availability of raw materials, and (iv) the Customer otherwise being in compliance with this Agreement. From and after the date that Customer requests an Inventory Parts Bank, Supplier will promptly notify Customer of any issues that would prevent Supplier's ability to manufacture and deliver the Inventory Parts Bank. Customer shall pay for all documented incremental costs associated with producing the Inventory Parts Bank, such as overtime premiums, packaging and additional Tooling.

- 3.4 Access to Books and Records. Supplier agrees that each Customer and its respective designee(s), agent(s) and representative(s) will have access to Supplier's books, records, management and operations during regular business hours, upon reasonable request and prior notice, for the sole purposes of (a) inspecting and, if permitted by Section 2.1, resourcing all Tooling involved with production of the Component Parts, (b) monitoring production of the Component Parts, (c) meeting with Supplier's representatives, and (d) monitoring Supplier's compliance with the terms of this Agreement, the Purchase Orders and the Access Agreement (referenced below). Supplier further agrees to provide each Customer with its cash flow projections as filed with the Court from time to time. Notwithstanding the foregoing, Supplier shall not be required to provide access to any books, records or other information that is subject to privacy legislation or confidentiality obligations.
- 3.5 Resourcing. In the event that the Customer resources under Section 2.1, and provided that Customer is otherwise in compliance with this Agreement, Supplier will use its commercially reasonable efforts to cooperate with the Customer in resourcing production of the Component Parts, including, without limitation, by providing the Customer and its respective agents, representatives, designees, consultants, officers and employees, with reasonable access to Supplier's then remaining officers and employees, and to any of Supplier's books and records (including tool prints, tool drawings and other documents), tool line-ups or tool processing sheets, tool or other drawings or any other engineering, design and technology information, PPAP packages, test reports, books or other PPAP documents, packaging instructions or like information in its possession or control, necessary for the Customer to resource production of its Component Parts.
- 3.6 Access Agreement. Simultaneously with the execution of this Agreement, Supplier will execute the Access Agreement attached as Exhibit B to this Agreement.
- 3.7 Agreement Approval. Contemporaneous with commencement of the CCAA Proceeding, Supplier shall seek the approval of this Agreement, the Access Agreement and the Customer funding contemplated under this Agreement in the CCAA Proceeding.

- 3.8 License. Notwithstanding anything in this Agreement to the contrary, and effective upon all payments being made by a Customer to Supplier in accordance with this Agreement, in the event of a Customer's resourcing under this Agreement, Supplier will grant to such Customer and its assignee(s) or designee(s) an (a) irrevocable, fully paid, worldwide non-exclusive license to the Intellectual Property (defined below) owned by Supplier related to the production of resourced Component Parts, and (b) an irrevocable sublicense to the Intellectual Property licensed to Supplier (to the extent that Supplier has the right to grant sublicenses therein) to make, have made, use, have used, modify, improve, prepare derivative works of, distribute, display, offer to sell, sell, import and do all other things and exercise all other rights in the licensed or sublicensed Intellectual Property for production of the resourced Component Parts for a Customer. The non-exclusive license granted in (a) and (b) of the immediately preceding sentence shall extend to a Customer's existing Purchase Orders (including in the production of new vehicles by a Customer), and service obligations for used Customer vehicles. Any license granted pursuant to this Section shall also apply to any new model year changes, refreshes or follow-on platforms and programs incorporating the Intellectual Property. This Section is not intended to limit or otherwise restrict any rights granted to a Customer in the Purchase Orders or any other agreement, but is intended to expand those rights.

The term "Intellectual Property" means (a) all currently existing registered and applied-for intellectual property owned by Supplier (including, but not limited to, all patents, patent applications, trademark registrations, trademark applications, copyright registrations, and copyright applications), (b) all agreements for intellectual property licensed to Supplier and (c) any other intellectual property used to produce Component Parts (whether or not the intellectual property is identified, including, but not limited to, unregistered copyrights, inventions, discoveries, trade secrets and designs, regardless of whether such items are registerable or patentable in the future, and all related documents and software), that are used in or to produce any Component Parts that Supplier directly or indirectly sells to an Customer.

- 3.9 Other Customer Accommodations. Supplier will use commercially reasonable efforts to obtain the agreements of each of Supplier's other customers who require continuing production from Supplier during the Term, to provide accommodations substantially similar to the accommodations provided by the Customers in Section 2.1 to 2.9 of this Agreement. Instead of providing funding through the purchase of subordinated participation as provided by the Customers in Section 2.9, other customers will provide their funding in the form of surcharges or piece price increases with a similar net economic affect as that being provided by the Customers. From and after the Effective Date, Supplier will not enter into an agreement (or modify or amend an existing

agreement) with any other customer on terms that are more favorable to such other customer in any material respect than the terms and conditions described herein without the consent of the Customers.

3.10 Sale Milestones. Supplier shall undertake a sale process (the "Sale Process") to attempt to effectuate a going concern sale of its business approved by Comerica to a Qualified Buyer (as defined below). Supplier agrees to conduct the Sale Process in accordance with the following milestones (each, a "Sale Process Milestone", or collectively, the "Sale Process Milestones"):

- (a) Court Approval of the Sale Process. Obtain Court approval of the Sale Process satisfactory to Comerica within ten (10) days of commencement of the CCAA Proceeding;
- (b) Purchase Agreement. Obtain, by no later than February 18, 2009, one or more Purchase Agreements satisfactory to Comerica to sell Supplier's assets to a Qualified Buyer (as defined below);
- (c) Court Approval of the Purchase Agreement. Obtain, by February 25, 2009, approval of the Purchase Agreement to sell Supplier's assets to a Qualified Buyer (as defined below); and
- (d) Close; Implementation. By no later than February 28, 2009, close the sale of Supplier's assets to a Qualified Buyer.

For purposes of this Agreement, a "Qualified Buyer" means a buyer who is acceptable to Supplier and Comerica and who demonstrates to the reasonable satisfaction of the Customers wishing to continue production with such buyer that it: (a) possesses the financial capabilities, business plan and management structure to effect the acquisition of and operation of the facilities, in the opinion of the applicable Customer; (b) fits the applicable Customer's strategic purchasing plan; and (c) unless otherwise agreed to by the applicable Customer, would agree to assume all of the original Purchase Orders, without any modification that may have been provided to Supplier pursuant to this Agreement or other modification unless otherwise agreed to by the applicable Customer. Subject to the execution of confidentiality agreements in form and substance mutually agreeable to Supplier, Comerica and the Customers, Supplier, through the Monitor, will provide the Customers and Comerica with regular updates on the status of the Sale Process and will, through the Monitor, provide to the Customers copies of all offering memoranda and executed copies of asset purchase agreements received from prospective buyers.

3.11 Appraisal. Within 15 days following the commencement of the CCAA Proceeding, Supplier shall engage Corporate Assets Inc. (the "Appraiser"), being an appraiser acceptable to Supplier, Comerica and the Customers, to

conduct a valuation, on an orderly liquidation basis, of the Designated Equipment (as defined below).

4. **Comerica Accommodations.**

- 4.1 **Financing.** Comerica will enter into a forbearance agreement substantially in the form attached as Exhibit A (the "Forbearance Agreement"). Comerica will not institute borrowing base reserves inconsistent with the Forbearance Agreement, its loan documents and prior practices and will not modify the definition of eligible inventory or accounts receivable. Comerica will provide a component to the borrowing base under the Comerica Facilities based upon subordinated participations purchased by the Customers in accordance with the Subordinated Participation Agreement. Comerica agrees that it will apply to the Liabilities (as defined in the Forbearance Agreement) 100% of all payments in good funds on account of commercial claims from Customers and reserve 50% (as opposed to 100%).
- 4.2 **Access Agreement Consent.** Comerica consents to the Access Agreement granted in Section 3.6 and attached as Exhibit B to this Agreement and agree to memorialize such consent by signing and delivering Schedule 12(a) to the Access Agreement.
- 4.3 **Tooling Acknowledgement and Option Consent.** Comerica consents to the Tooling Acknowledgement and Option and terms thereof set forth in Sections 5 and 6 of this Agreement.

5. **Tooling Acknowledgment.**

- 5.1 For purposes of this Agreement, the term "**Tooling**" means all tooling, dies, test and assembly fixtures, gauges, jigs, patterns, and documentation regarding same, including engineering specifications, PPAP books, drawings and test reports together with any accessions, attachments, parts, accessories, substitutions, replacements, and appurtenances thereto that are necessary for the manufacture of Component Parts for a Customer, whether now or in the future. Tooling consists of three subcategories: "Customer Tooling"; "Unpaid Tooling"; and "Supplier Owned Tooling".
- (a) The term "**Customer Tooling**" means all Tooling that is not Unpaid Tooling or Supplier Owned Tooling (each as defined below). Customer Tooling is held by Supplier as a bailee-at-will and, to the extent held by a third party, is held by such third party as a bailee-at-will.
- (b) The term "**Unpaid Tooling**" means Tooling manufactured for a Customer for which such Customer (or its sub-supplier) has not made full payment under the applicable Purchase Order or agreement with Supplier.

(c) The term "Supplier Owned Tooling" means Tooling which is used to make Component Parts for a Customer but is not the subject of a purchase order or agreement with Supplier.

Upon payment by a Customer of the applicable tooling purchase order price for any item of Unpaid Tooling, such item will thereafter be included in the definition of Customer Tooling. Subject to the provisions of Sections 2.2, 2.3 and 5.5 of this Agreement, nothing in this Agreement modifies the Customer's payment obligations to Supplier on account of Unpaid Tooling.

5.2 Attached as Schedule D is a list of Unpaid Tooling that has been completed and for which PPAP has been completed or is in process. Schedule D sets forth, for each item of Unpaid Tooling, the amount Supplier believes is owed, the amounts, if any, Supplier has been paid as of the Effective Date by Customer on account thereof, and the status of the PPAP in relation to such Unpaid Tooling. Attached as Schedule E is a list of all Supplier Owned Tooling.

Any Tooling not contained on the above tooling schedules (the "Tooling Schedules") shall be deemed Customer Tooling. The Customers and Comerica shall have fifteen (15) days after the Effective Date to supplement or object to any items contained on the Tooling Schedules. A party failing to supplement or object during this period shall be deemed to accept and consent to each of the Tooling Schedules.

5.3 Neither Supplier, nor any other person or entity other than the applicable Customer (or its affiliates) will have any right, title or interest in Customer Tooling other than Supplier's ability to utilize the Customer Tooling in the manufacture of the Customer's Component Parts. Supplier acknowledges that upon a Resourcing Trigger Event, Customer, or its designee(s), will have the right to forthwith enter the premises of Supplier and take possession of any and all Customer Tooling and Supplier, and Comerica (if it has control of Supplier's premises), agrees to cooperate with such Customer in such Customer's taking possession of Customer Tooling and provide the applicable Customer or its designee(s) with such access to Supplier's premises; provided, however, the Customers will not interfere with Supplier's ongoing operations when removing the Customer Tooling, will use skilled workers or third parties, having adequate insurance coverage, in the removal of the Customer Tooling, will take reasonable and prudent care not to damage any machinery or equipment of Supplier or another customer in the process of such removal. Supplier also agrees to provide reasonable access to the Customers, or their nominee(s), during normal business hours, to affix any plate, stamp, tag, marking or other evidence of the Customers' ownership upon each item of Customer Tooling

- 5.4 Comerica agrees not to challenge Customer's ownership or rights to Customer Tooling, subject to the rights to challenge any of the lists described in Section 5.2 of this Agreement.
- 5.5 In the event of a dispute between Supplier and a Customer over whether any Tooling is Customer Tooling, Unpaid Tooling or Supplier Owned Tooling arises, the matter shall be submitted to the Court in the CCAA Proceeding for expedited resolution. The Customer will have the right to take possession of the Tooling subject to the dispute (the "Disputed Tooling"), provided that the full amount claimed due by Supplier for the Disputed Tooling, determined in accordance with Section 2.3, in the case of Tooling that Supplier asserts is Unpaid Tooling, and determined in accordance with Section 6 of this Agreement, in the case of Tooling that the Supplier asserts is Supplier Owned Tooling, is paid to the Monitor, to be held in trust for Supplier (or Customer, if the dispute is resolved in Customer's favour), prior to Customer taking possession of any Disputed Tooling. Pending resolution of the dispute, the Disputed Tooling will remain subject to any liens and security interests of Supplier and Comerica, notwithstanding Supplier's relinquishment of possession, which shall not be deemed or construed to be a release of such rights. Any disputes in relation to funds held in trust shall be dealt with in accordance with Section 13.10 of this Agreement.

6. Purchase of Supplier Owned Tooling and Designated Equipment.

- 6.1 Supplier Owned Tooling. Each Customer (or affiliate of a Customer) reserves the right and is granted an irrevocable, exclusive option, upon a Resourcing Triggering Event, to purchase any or all Supplier Owned Tooling used in the production of its Component Parts. The purchase price of Supplier Owned Tooling shall be the Supplier's cost multiplied by a fraction, the numerator of which shall be equal to the remaining production life of the vehicle program and any successor program, expressed in months, and the denominator of which shall be equal to the Customer's published estimated production life of the vehicle, expressed in months. Upon a Customer's purchase of and payment for an item of Supplier Owned Tooling, such item will thereafter be Customer Tooling. Comerica does not object to and will not oppose the exercise of such option, and upon payment of the purchase price to Comerica on Supplier's account required under this Section, will release any lien it has in the purchased Supplier Owned Tooling. Supplier acknowledges that the foregoing price to be paid for the applicable Supplier Owned Tooling constitutes a commercially reasonable price, and that any sale pursuant to the foregoing shall be deemed to be commercially reasonable in all respects, including method, time, place and terms. The option will expire fifteen (15) days after the expiration of the Term unless the Purchaser has exercised the option and paid the applicable purchase price in full by such date. If requested by Customer, upon exercise of the option and payment



to Comerica on account of Supplier of the applicable price, a Bill of Sale for the Supplier Owned Tooling will be delivered by Supplier to the Customer.

6.2 Designated Equipment. Supplier grants to the Customer or its assignee(s) or designee(s) (the "Purchaser") an irrevocable, exclusive option, upon the right of a Customer to resource under Section 2.1 above, to purchase any of the machinery and equipment owned by Supplier and used exclusively to produce Component Parts for that Customer or machinery and equipment not used exclusively to produce Component Parts for an individual Customer but for which each Customer who relies on that machinery and equipment consents (the "Designated Equipment"). The purchase price of each piece of Designated Equipment shall be paid to Comerica on Supplier's account in cash, in an amount equal to the greatest of (i) 92.5% of net book value as determined by Supplier's books and records, if it can be determined (ii) 25% of the cost of the Designated Equipment, and (iii) 100% of its appraised orderly liquidation value determined in accordance with an appraisal performed by an appraiser approved by all Parties (the "Option Price"). Comerica does not object to, and will not oppose the exercise of such option, and, upon payment of the purchase price to Comerica on account of Supplier as required under this Section, will release any lien it has in the purchased Designated Equipment. Supplier acknowledges that the foregoing price to be paid for the applicable Designated Equipment constitutes a commercially reasonable price, and that any sale pursuant to the foregoing shall be deemed to be commercially reasonable in all respects, including method, time, place and terms. This option will expire fifteen (15) days thereafter unless the Purchaser has exercised the option and paid the applicable purchase price in full by such date. If requested by Customer, upon exercise of the option and payment of the applicable price, a Bill of Sale for the Designated Equipment will be delivered by Supplier to the Customer.

6.3 Upon exercise of the foregoing options and payment of the applicable price and payment of all other amounts due and payable by the Customer under this Agreement to Comerica on account of Supplier, the Purchaser shall, subject to the provisions of this Section 6.3, be entitled to take possession of the purchased Supplier Owned Tooling and Designated Equipment free and clear of all claims and interests, liens, security interests and encumbrances. The obligations of the Purchaser to complete the purchase of any Supplier Owned Tooling or Designated Equipment, and the obligations of Supplier to convey, shall be subject to the aforesaid payments having been fully made, without setoff, recoupment or deduction, and an Order being obtained from the Court vesting title in and to the Supplier Owned Tooling and/or the Designated Equipment in the Purchaser free and clear of all claims, interests, liens, security interests and

encumbrances, in a form satisfactory to the Purchaser and Comerica, each acting reasonably. Purchaser shall be entitled following the making of such Order and the payment to Comerica, for the account of Supplier, without further payment of any kind to own, operate, use and enjoy, sell, assign, transfer and/or convey the same. Supplier hereby agrees to cooperate with the Purchaser in its taking possession and control of such Supplier Owned Tooling and Designated Equipment upon completion of the purchase transaction. If requested by Purchaser, upon exercise of the option and payment to Comerica, for the account of Supplier, of the applicable price and payment of all other amounts due and payable by the Customer under this Agreement (subject to any dispute of such amount as aforesaid), a Bill of Sale by Supplier in respect of such Supplier Owned Tooling and Designated Equipment will be delivered to the Purchaser.

7. **Events of Default.** The occurrence of any one or more of the following at any time during the Term will be "Events of Default", or individually, an "Event of Default", hereunder unless a waiver or deferral thereof is agreed to in writing, in each instance, by the applicable Customer or Customers, and Comerica:
  - 7.1 Exclusive of breaches by Supplier that are the result of a breach of this Agreement by the applicable Customer, unless cured in five (5) days after notice, Supplier materially breaches its obligations to a Customer under this Agreement, except if the consequences of such breach is a substantial likelihood that such Customer's production will be interrupted, then Supplier shall have no right to cure;
  - 7.2 Supplier repudiates or materially breaches its obligations under the Purchase Orders to a Customer, other than arising from a material breach by a Customer under this Agreement or the Purchase Orders or a material breach by a directed-buy supplier to Supplier, the consequence of which is a substantial likelihood that such Customer's production will be interrupted;
  - 7.3 the terms of this Agreement are modified or superseded by an Order made by the Court in the CCAA Proceeding or by any plan of arrangement filed by Supplier or any other Canadian insolvency proceeding; or
  - 7.4 the Customers are requested by Supplier or required to contribute any additional accommodations other than those set forth in this Agreement.
8. **Customer Defaults.** In the event that a Customer fails to perform its obligations to Supplier under this Agreement including, without limitation, its failure to make any payments contemplated hereunder as and when due, and such failure is not cured within five (5) business days after written notice to the respective Customer, Supplier shall have no continuing obligations to such Customer hereunder. For clarity, during the five (5) business day cure period set forth in the foregoing sentence, Supplier shall not be relieved from any of its obligations set

forth in this Agreement and, subject to adequate financing, must continue to manufacture and deliver Component Parts to the Customer.

9. **Disputes.** Except as otherwise provided for herein, any disputes as to the payment of amounts claimed due under this Agreement shall be resolved by the Court in the CCAA Proceeding, at a hearing to be scheduled within thirty (30) days of the date payment is otherwise due under this Agreement. Except as otherwise provided herein, any other disputes relating to this Agreement shall be resolved by the Court in the CCAA Proceeding, at a hearing to be scheduled on an expedited basis.
10. **Reservation of Rights.** Except to the extent expressly provided in this Agreement, the parties reserve and do not waive any claims, rights and remedies that they individually may have under the Purchase Orders, any other agreements between the parties or otherwise applicable law, and the parties expressly reserve all such claims, rights and remedies they have under this Agreement, any Purchase Orders, any other agreements between the parties and/or otherwise applicable law.
11. **[Intentionally Omitted].**
12. **Notice.** Any notice or other instrument to be given hereunder must be in writing and, except as otherwise provided in this Agreement, will be deemed to be duly given if mailed, delivered by hand or sent by facsimile or e-mail delivery to the party to whom such communication is intended to be given and any notice so delivered or sent will be deemed to have been duly given at the time of service on the day on which it was so delivered or sent, and if mailed, will be deemed to be given three (3) days following the date of mailing. Until changed by notice in the manner described above, the addresses of the parties for the purpose of notice will be:

If to Supplier: SKD Automotive Group  
1450 W. Long Lake Rd.  
Suite 210  
Troy, MI 48098  
Attention: John Chen  
Facsimile: (248) 267-9669  
E-Mail: [jchen@skdautomotive.com](mailto:jchen@skdautomotive.com)

With a copy to: Lang Michener LLP  
Brookfield Place, 181  
Bay Street, Suite 2500  
Toronto, Ontario M5J 2T7  
Attention: Sheryl E. Seigel  
Facsimile: (416) 365-1719  
Email: [sseigel@langmichener.ca](mailto:sseigel@langmichener.ca)

If to Comerica: Comerica Bank  
One Detroit Center  
500 Woodward Avenue, 4th Floor  
Detroit, MI 48226  
Attention: James L. Embree  
Facsimile: (313) 222-1244  
E-mail: [jlembree@comerica.com](mailto:jlembree@comerica.com)

With a copy to: Bodman LLP  
6th Floor at Ford Field  
1901 St. Antoine Street  
Detroit, Michigan 48226  
Attention: Ralph E. McDowell  
Facsimile: (313) 393-7579  
E-mail: [rmcdowell@bodmanllp.com](mailto:rmcdowell@bodmanllp.com)

If to Chrysler: Chrysler LLC  
800 Chrysler Drive  
CIMS 485-14-78  
Auburn Hills, Michigan 48326  
Attention: Sigmund Huber  
Director, Supplier Relations  
Facsimile: (248) 512-1771  
Email: [seh43@chrysler.com](mailto:seh43@chrysler.com)

With a copy to: Chrysler LLC  
CIMS 485-14-78  
1000 Chrysler Drive  
Auburn Hills, Michigan 48326-2766  
Attention: Kim R. Kolb  
Senior Staff Counsel  
Facsimile: (248) 512-1771  
Email: [krk4@chrysler.com](mailto:krk4@chrysler.com)

And: Dickinson Wright PLLC  
500 Woodward Ave., Suite 4000  
Detroit, Michigan 48226  
Attention: James A. Plemmons  
Facsimile: (313) 223-3598  
Email: [jplemmons@dickinsonwright.com](mailto:jplemmons@dickinsonwright.com)

And: Borden Ladner Gervais LLP  
Scotia Plaza  
40 King Street West  
Toronto, Ontario, Canada  
M5H 3Y4  
Attention: Craig J. Hill  
Facsimile: (416) 361-7301  
Email: chill@blgcanada.com

If to Ford: Ford Motor Company  
Building 3  
20100 Rotunda Drive  
Number 3A041  
Dearborn, Michigan 48124  
Attention: Bill Strong  
Facsimile: (313) 206-7044  
Email: wstrong@ford.com

With a copy to: Ford Motor Company  
One America Road  
World Headquarters  
Suite 416  
Dearborn, Michigan 48126  
Attention: Daniella Saltz  
Facsimile: (313) 322-3804  
Email: dsaltz@ford.com

And: Miller Canfield Paddock and Stone, PLC  
150 West Jefferson, Suite 2500  
Detroit, Michigan 48226  
Attention: Stephen S. LaPlante  
Facsimile: (313) 496-8478  
Email: laplante@mcps.com

If to Honda: Honda of America Mfg., Inc.  
North American Purchasing Office  
21001-A State Route 739  
Raymond, Ohio 43067  
Attention: Bryan Clay  
Facsimile: (937) 645-7401  
Email: Bryan\_Clay@ham.honda.com

With a copy to: Joseph F. LaFleur, Esq.  
Honda of America Mfg., Inc.  
24000 Honda Parkway  
Marysville, Ohio 43040-9251  
Facsimile: (937) 644-6583  
Email: Joe\_LaFleur@ham.honda.com

And Robert A. Bell, Jr.  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
Columbus, Ohio 43216-1008  
Facsimile: (614) 719-5169  
E-mail: rabell@vorys.com

13. **General Terms.**

- 13.1 This Agreement together with the other documents executed in connection herewith, including the Access Agreement and the Purchase Orders, and the memorandum of understanding regarding interim funding dated January 11, 2009, and the agreement by way of email exchange on January 5, 2009 regarding interim funding, constitutes the entire understanding of the parties in connection with the subject matter hereof, other than in relation to matters covered by the Forbearance Agreement, the Subordinated Participation Agreement, the agreement between the Supplier and the Customers regarding the application of proceeds on account of the subordinated participations purchased by the Customers from Comerica, and any documents related or ancillary thereto. This Agreement may not be modified, altered or amended except by an agreement in writing signed by all parties. In the event of any inconsistency between the terms of any purchase orders and this Agreement, the terms of this Agreement shall govern.
- 13.2 The parties executing this Agreement as representatives warrant that they have the power and authority to execute this Agreement on behalf of the corporation or entity that they represent and that their signatures bind said corporations or entities to the terms of this Agreement.
- 13.3 Supplier and the Customers may not assign or transfer, directly or indirectly, any of its rights under this Agreement without the prior written consent of all the parties to this Agreement. Likewise, this Agreement is not intended for the benefit of any third parties including any purchasers of Supplier's assets including, without limitation, other customers of Supplier (other than affiliates of a Customer).
- 13.4 No delay or failure of any party to exercise any right, power or privilege hereunder will affect such right, power or privilege, nor will any single or

partial exercise thereof preclude any further exercise thereof, nor the exercise of any other right, power or privilege.

- 13.5 Should any provision of this Agreement be held invalid or unenforceable, the remainder of this Agreement will not be affected thereby.
- 13.6 Supplier and the Customers agree that they will not enter into any other arrangements or agreements that would in any way materially impair their respective rights under this Agreement.
- 13.7 Nothing in this Agreement will be interpreted to constitute Supplier, Comerica or any Customer as agent for any other party to this Agreement for any purpose.
- 13.8 Except as specifically provided in this Agreement, this Agreement is not intended to modify the terms and conditions of the Purchase Orders or the Comerica loan documents or Comerica Security, which terms and conditions will otherwise remain in full force and effect.
- 13.9 This Agreement may be executed in any number of duplicate originals or counterparts, each of such duplicate originals or counterparts will be deemed to be an original and taken together will constitute but one and the same instrument. The parties agree that their respective signatures may be delivered by facsimile or electronic transmission in "pdf" format, and that facsimile signatures or signature provided in pdf format will be treated as originals for all purposes.
- 13.10 Customer shall pay any amounts in dispute under sections 5.5 and 6.3 of this Agreement to the Monitor and the Monitor shall hold such amounts in trust for the Supplier or Customer, as each or either is ultimately determined to be entitled thereto, to be released only (i) with the written consent of the Customer, Supplier and Comerica, or (ii) pursuant to an Order of the Court. The Customer, Supplier and Comerica agree to resolve any such disputed matters expeditiously. If any dispute is not forthwith resolved, any of Supplier, a Customer, Comerica and the Monitor, may seek resolution as set forth in Section 9 of this Agreement.
- 13.11 This Agreement is made in Province of Ontario and will be governed by, and construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to conflicts of law principles.

14. **REPRESENTATIONS.** THE PARTIES ACKNOWLEDGE THAT THEY HAVE BEEN GIVEN THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE BEFORE EXECUTING THIS AGREEMENT AND ARE DOING SO WITHOUT DURESS, INTIMIDATION OR COERCION, AND WITHOUT RELIANCE UPON ANY REPRESENTATIONS, WARRANTIES OR COMMITMENTS

OTHER THAN THOSE REPRESENTATIONS, WARRANTIES OR COMMITMENTS SET FORTH IN THIS AGREEMENT.


15. JURY TRIAL WAIVER. THE PARTIES ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A RIGHT, BUT THAT THIS RIGHT MAY BE WAIVED. THE PARTIES EACH HEREBY KNOWINGLY, VOLUNTARILY, AND WITHOUT DURESS, INTIMIDATION OR COERCION, WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ALL DISPUTES ARISING OUT OF OR IN RELATION TO THIS AGREEMENT OR ANY OTHER AGREEMENTS BETWEEN THE PARTIES EXECUTED IN CONNECTION WITH THIS AGREEMENT. NO PARTY WILL BE DEEMED TO HAVE RELINQUISHED THE BENEFIT OF THIS WAIVER OF JURY TRIAL UNLESS SUCH RELINQUISHMENT IS IN A WRITTEN INSTRUMENT SIGNED BY THE PARTY TO WHICH SUCH RELINQUISHMENT WILL BE CHARGED.

*[signatures on next page]*



[signature page to Accommodation Agreement]

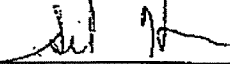
**CHRYSLER CANADA INC.**

By:   
I have authority to bind the Corporation  
Sigmund Huber  
print name

**FORD MOTOR COMPANY**

By: \_\_\_\_\_  
I have authority to bind the Corporation  
\_\_\_\_\_  
print name

**CHRYSLER LLC on behalf of itself and  
CHRYSLER MOTORS LLC**

By:   
I have authority to bind the Corporation  
Sigmund Huber  
print name

**HONDA OF AMERICA MFG., INC.**

By: \_\_\_\_\_  
I have authority to bind the Corporation  
\_\_\_\_\_  
print name

**SKD COMPANY, by its partners, NMC  
CANADA, INC. and 2515080 NOVA  
SCOTIA COMPANY**

By: \_\_\_\_\_  
I have authority to bind the NMC Canada,  
Inc.  
\_\_\_\_\_  
print name

**COMERICA BANK**

By: \_\_\_\_\_  
I have authority to bind the Corporation  
\_\_\_\_\_  
print name

By: \_\_\_\_\_  
I have authority to bind the 2515080 Nova  
Scotia Company  
\_\_\_\_\_  
print name

*[signature page to Accommodation Agreement]*

**CHRYSLER CANADA INC.**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

**FORD MOTOR COMPANY**

By: Kelly W. Bonayne <sup>1/21/09</sup>  
I have authority to bind the Corporation

Kelly W. Bonayne  
print name

**CHRYSLER LLC on behalf of itself and  
CHRYSLER MOTORS LLC**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

**HONDA OF AMERICA MFG., INC.**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

**SKD COMPANY, by its partners, NMC  
CANADA, INC. and 2515080 NOVA  
SCOTIA COMPANY**

By: \_\_\_\_\_  
I have authority to bind the NMC Canada,  
Inc.

\_\_\_\_\_  
print name

**COMERICA BANK**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

By: \_\_\_\_\_  
I have authority to bind the 2515080 Nova  
Scotia Company

\_\_\_\_\_  
print name

*[signature page to Accommodation Agreement]*

**CHRYSLER CANADA INC.**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

**FORD MOTOR COMPANY**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

**CHRYSLER LLC on behalf of itself and  
CHRYSLER MOTORS LLC**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

**HONDA OF AMERICA MFG., INC.**

By: Robert D. Nelson AVP  
I have authority to bind the Corporation

Robert D. Nelson AVP  
print name

**SKD COMPANY, by its partners, NMC  
CANADA, INC. and 2515080 NOVA  
SCOTIA COMPANY**

By: \_\_\_\_\_  
I have authority to bind the NMC Canada,  
Inc.

\_\_\_\_\_  
print name

**COMERICA BANK**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

By: \_\_\_\_\_  
I have authority to bind the 2515080 Nova  
Scotia Company

\_\_\_\_\_  
print name

*[signature page to Accommodation Agreement]*

CHRYSLER CANADA INC.

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

FORD MOTOR COMPANY

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

CHRYSLER LLC on behalf of itself and  
CHRYSLER MOTORS LLC

By: \_\_\_\_\_  
I have authority to bind the Corporation

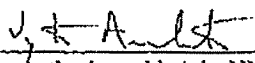
\_\_\_\_\_  
print name

HONDA OF AMERICA MFG., INC.

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

SKD COMPANY, by its partners, NMC  
CANADA, INC. and 2515080 NOVA  
SCOTIA COMPANY

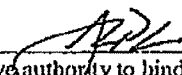
By:   
I have authority to bind the NMC Canada,  
Inc.

J. K. Amadio  
print name

COMERICA BANK

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

By:   
I have authority to bind the 2515080 Nova  
Scotia Company

John Chen  
print name

*[signature page to Accommodation Agreement]*

CHRYSLER CANADA INC.

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

FORD MOTOR COMPANY

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

CHRYSLER LLC on behalf of itself and  
CHRYSLER MOTORS LLC

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

HONDA OF AMERICA MFG., INC.

By: \_\_\_\_\_  
I have authority to bind the Corporation

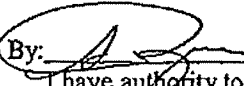
\_\_\_\_\_  
print name

SKD COMPANY, by its partners, NMC  
CANADA, INC. and 2515080 NOVA  
SCOTIA COMPANY

By: \_\_\_\_\_  
I have authority to bind the NMC Canada,  
Inc.

\_\_\_\_\_  
print name

COMERICA BANK

By:  \_\_\_\_\_  
I have authority to bind the Corporation

Gregory Ryan  
print name

By: \_\_\_\_\_  
I have authority to bind the 2515080 Nova  
Scotia Company

\_\_\_\_\_  
print name

Each of undersigned consent and agree to all terms and conditions of the foregoing Accommodation Agreement.

**SKD AUTOMOTIVE GROUP,  
LIMITED PARTNERSHIP**

By: PL International Corporation  
Its: General Partner

By: Vytas Ambutas  
Vytas Ambutas  
Its: Secretary

"GUARANTORS"

**NMC CANADA INC.**

By: Vytas Ambutas  
Vytas Ambutas  
Its: Secretary

**SKD HOLDING, L.P.**

By: SKD Holding, Inc.  
Its: General Partner

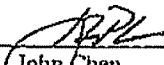
By: John Chen  
John Chen  
Its: Vice President/Treasurer

**SKD, L.P.**


By: Quincy Holdings, Inc.  
Its: General Partner

By: Vytas Ambutas  
Vytas Ambutas  
Its: Secretary

2515080 NOVA SCOTIA COMPANY

By:   
John Chen  
Its: President

LEASSA MEXICO, S. DE R.L. DE C.V.

By:   
John Williams  
Its: Treasurer

SKD DE MEXICO, S. DE R.L. DE C.V.

By:   
John Chen  
Its: Treasurer

SCHEDULE A – Chrysler Undisputed Accounts Payable, Unresolved Accounts Payable and Unresolved Commercial Issues

SCHEDULE B – Ford Undisputed Accounts Payable, Unresolved Accounts Payable and Unresolved Commercial Issues

SCHEDULE C – Honda Undisputed Accounts Payable, Unresolved Accounts Payable and Unresolved Commercial Issues

SCHEDULE D – Unpaid Tooling that has been completed and for which PPAP has been completed or is in process.

SCHEDULE E – Supplier Owned Tooling

EXHIBIT A – Forbearance Agreement

EXHIBIT B – Access Agreement

EXHIBIT C – Budget

EXHIBIT D – Allocation Percentages Among Customers



## SKD Automotive Group

### SCHEDULE A: Undisputed and Unresolved AP - Chrysler- Canada

as of January 9, 2009

BRAMPTON	Undisputed	Unresolved	Total
AR - USDS	\$ -	\$ -	\$ -
AR - CAD\$	2,660,724	398,606	3,059,331
Contra - USDS	-	-	-
Contra - CAD\$	(1,890,997)	-	(1,890,997)
<b>Net owing to SKD (CAD Converted to USD @ .82)</b>	<b>\$ 631,176</b>	<b>\$ 326,857</b>	<b>\$ 958,034</b>

Note: Excludes Tooling

Note: Contra Amount includes amount from Chrysler's system not received by SKD for CAD \$46,409

Note: Payment will be net of a holdback of \$176,000, in the aggregate from all Customers, pursuant to Section 2.2(1) of the Accommodation Agreement.

Note: Collection of unresolved accounts receivable will be handled as addressed in the Forbearance Agreement.

MILTON	Undisputed	Unresolved	Total
AR - USDS	\$ -	\$ -	\$ -
AR - CAD\$	1,722,598	387,172	2,109,770
Contra - USDS	-	-	-
Contra - CAD\$	(3,940,097)	-	(3,940,097)
<b>Net owing to SKD (CAD Converted to USD @ .82)</b>	<b>\$ (1,818,349)</b>	<b>\$ 317,481</b>	<b>\$ (1,500,868)</b>

Note: Excludes Tooling

Note: Contra Amount includes amount from Chrysler's system not received by SKD for CAD \$80,609

Note: Payment will be net of a holdback of \$176,000, in the aggregate from all Customers, pursuant to Section 2.2(1) of the Accommodation Agreement.

Note: Collection of unresolved accounts receivable will be handled as addressed in the Forbearance Agreement.

# SKD Automotive Group

## SCHEDULE A: Chrysler - Open Commercial Issues - Canada

as of January 12, 2008

Item	Description	Date	Invoice Number	Relation (G)	Part Number(s)	Amount	SKD Location	Plant Location	Responsible Party	Contact Information
1	Obsolescence Claim for cancelled platform (P.O.'s received - need payment confirmation)	12/17/2007	SKD Invoice #s 080301, 080302, and 080303	CS (direct)	04719668AB & 7AB, and 504378AC	\$17,931.07	Brampton	Windsor	Marlo Pacifici - Chrysler	office for Marlo: 248-576-6393 map13@chrysler.com
2	Obsolescence Claim for cancelled platform - balance to correct for the original error in the SEECs submission	12/17/2008	12/8/08 submission in SCRS	CS (direct)	05054375AC	\$20,801.00	Brampton	Windsor	Marlo Pacifici - Chrysler	office for Marlo: 248-576-6393 map13@chrysler.com
3	Obsolescence Claim for cancelled platform	12/17/2007	Claim 08-409	CS (Benteler)	4766814AC / AD	\$187,384.41	Brampton	Windsor	Marlo Pacifici - Chrysler Darrin Hotts - Benteler	office for Marlo: 248-576-6393 map13@chrysler.com office for Darrin: 248-225-9514
4	Obsolescence Claim for Engineering change	Aug-07	12/11/08 submission in SCRS	LX	047808714AJ & 15AI	\$110,023.00	Milton	Brampton	Joe Clchon - Chrysler	office for Joe: 248-576-3518 jac86@chrysler.com
6	Outstanding unpaid prior period invoices (due to A/R internal audit Nov 2008)	6/20/06 - 9/28/08	Various	Various	Various	\$118,368.76	Brampton	Various	Chris Mondela - Chrysler	office for Chris: 586-274-7676 cm692@chrysler.com
7	DS Control Arm 'shave' design change incremental cost recovery	Sep-08	Proto P.O.	DS	68037500 & 1	\$12,434.00	Brampton	Warren & St. Louis	Ray Durham - Chrysler	
						\$487,022.28	Cdn			

# SKD Automotive Group

## SCHEDULE B: Undisputed and Unresolved AP - Ford - Canada

as of January 6, 2009

	<u>Undisputed</u>	<u>Unresolved</u>	<u>Total</u>
AR - US\$	\$ 13,042	\$ 22,656	\$ 35,698
AR - CAD\$	4,460,304	123,243	4,583,548
Contra - US\$	(390,244)	-	(390,244)
Contra - CAD\$	(1,784,096)	-	(1,784,096)
<b>Net owing to SKD (CAD Converted to USD @ .82)</b>	<b>\$ 1,817,289</b>	<b>\$ 123,716</b>	<b>\$ 1,941,005</b>

Note: Excludes Tooling

Note: Payment will be net of a holdback of \$176,000, in the aggregate from all Customers, pursuant to Section 2.2(1) of the Accommodation Agreement.

Note: Collection of unresolved accounts receivable will be handled as addressed in the Forbearance Agreement.

# SKD Automotive Group

## SCHEDULE B: Ford - Open Commercial Issues - Canada

as of January 12, 2008

Item	Description	Invoice Dates	Invoice Number	Platform	Part Number	Amount	SKD Location	Customer Location	Contact
1	Outstanding unpaid prior period invoices (due to A/R internal audit Nov 2008)	12/03/07 - 8/27/08	Various	Various	Various	\$17,613.32	Brampton	Oakville	naocust@ford.com
						\$17,613.32	USD		

# SKD Automotive Group

## SCHEDULE C: Undisputed and Unresolved AP - Honda - Canada

as of January 6, 2009

	<u>Undisputed</u>	<u>Unresolved</u>	<u>Total</u>
AR - USDS	\$ 317,600	\$ 3,415	\$ 321,014
AR - CAD\$	925,463	34,048	959,511
Contra - USDS	-	-	-
Contra - CAD\$	(1,126,142)	-	(1,126,142)
Net owing to SKD (CAD Converted to USD @ .82)	\$ 153,042	\$ 31,334	\$ 184,376

Note: Excludes Tooling

Note: Undisputed Contra includes a steel invoice received in hard copy but not in SKD system

Note: Payment will be net of a holdback of \$176,000, in the aggregate from all Customers, pursuant to Section 2.2(1) of the Accommodation Agreement.

Note: Collection of unresolved accounts receivable will be handled as addressed in the Forbearance Agreement.

# SKD Automotive Group

## SCHEDULE C: HONDA - Open Commercial Issues - Canada

NONE

# SKD Automotive Group

## SCHEDULE D: Unpaid Tooling - Chrysler

as of January 12, 2009

Program	Component/End Item	Customer PO#(s)	Part Number on the Customer TPO	Customer's/ P.O. Amt.	PPAP Date - (Actual) or Project'd	Status	Invoice Date
DJ	52013798	T031320014-O	n/a	\$288,973	2/28/09	S	TBD
DH	52121518/7AB	T031320008 - U	n/a	\$58,000	2/5/09	S	TBD
<b>Total Chrysler</b>				<b>\$347,973</b>			

**SKD Automotive Group**  
**SCHEDULE D: Unpaid Tooling - Ford**  
as of January 12, 2009

Program	Component/End Item	Customer PO#(s)	Part Number on the Customer TPO	Customer's/ P.O. Amt.	PPAP Date - (Actual) or Project'd	Status	Invoice Date
Ford							
U387	9T43-7802106-AB	TPO92258-00	n/a	\$64,985	1/30/09	S	TBD
U387	9T43-16D784-AA	TPO 889829	n/a	\$140,000	12/15/08 (late)	S	TBD
<b>Total Ford</b>				<b>\$204,995</b>			



**SKD Automotive Group**  
**SCHEDULE D: Unpaid Tooling - Honda**

NONE

**SCHEDULE E TO THE ACCOMMODATION AGREEMENT**

**Supplier Owned Tooling**

**NONE**

**EXHIBIT A**  
**FORBEARANCE AGREEMENT**

(see attached)

January 21, 2009

SKD Automotive Group, Limited Partnership  
1965 Pratt Boulevard  
Elk Grove, IL 60007

- and -

SKD Company  
375 Wheelabrator Way  
Milton, Ontario, Canada L9T 3C1

**RE: FINANCING ARRANGEMENTS AMONG COMERICA BANK ("BANK"), SKD AUTOMOTIVE GROUP, LIMITED PARTNERSHIP ("AUTOMOTIVE"), SKD COMPANY ("SKD," TOGETHER WITH AUTOMOTIVE, "BORROWERS"), 2515080 NOVA SCOTIA COMPANY ("NOVA SCOTIA"), NMC CANADA, INC. ("NMC"), EASSA MEXICO, S. DE R.L. DE C.V. ("EASSA"), SKD DE MEXICO, S. DE R.L. DE C.V. ("SKD MEXICO"), SKD, L.P. ("SKD LP"), AND SKD HOLDING, L.P. ("HOLDING," COLLECTIVELY WITH NOVA SCOTIA, NMC, EASSA, SKD MEXICO, AND SKD LP, "GUARANTORS")**

Ladies and Gentlemen:

Please refer to any and all documents, instruments, and agreements executed in connection with the financing arrangements from Bank to Borrowers and Guarantors (collectively, the "Loan Documents"). All amounts due from Borrowers to Bank, whether now or in the future, contingent, fixed, primary and/or secondary, including, but not limited to, principal, interest, inside and outside counsel fees, audit fees, costs, expenses, and any and all other charges provided for in the Loan Documents shall be known, in the aggregate, as the "Liabilities." All capitalized terms not defined in this letter agreement ("Agreement") shall have the meanings described in the Loan Documents.

As of January 18, 2009, the Liabilities include, but are not limited to, the following:

<u>Loans (original loan amount and date)</u>	<u>Principal</u>	<u>Interest</u>
<b>Revolving Credit Agreement</b> (US\$45,000,000 (as amended); 12/14/04)	US\$15,101,374.46 <sup>1</sup>	US\$85,760.41

<sup>1</sup> Includes U. S. and Canadian portions (\$6,469,035.47) and subordinated participations of \$2,179,000 purchased by certain of Borrowers' customers.

The amounts referenced above are exclusive of interest accruing after January 18, 2009, accrued and accruing costs and expenses (including, but not limited to, inside and outside counsel fees).

Borrowers are in default under the Loan Documents. Among other things, the Revolving Facility matured on December 1, 2008 and Borrowers failed to maintain an EBITDA of not less than \$2,450,000 for the month ending August 31, 2008 and the following months ("Existing Defaults"). Other defaults may exist.

Subject to timely, written acceptance by Borrowers and Guarantors of the following conditions, and, with respect only to SKD, Nova Scotia and NMC subject to approval of this agreement by the Court in their CCAA proceeding, Bank is willing to forbear until February 28, 2009, subject to earlier termination as provided below, from further action to collect the Liabilities:

1. Borrowers and Guarantors acknowledge the Liabilities as set out in the Loan Documents, the amount of the Liabilities as stated above, and the existence of the Existing Defaults. Borrowers and Guarantors acknowledge and agree that Bank may make demand for repayment of the Liabilities, and that such demand would be timely and proper. Each of the Borrowers and Guarantors acknowledges and agrees that it received from the Bank the notice (the "244 Notice") prescribed by section 244 of the *Bankruptcy and Insolvency Act*, and it does not dispute the validity or effectiveness of the 244 Notice, and, it waives the 10 day period set out therein and consents to the immediate enforcement of the Loan Documents immediately upon termination of the forbearance hereunder. Borrowers and Guarantors further acknowledge and agree that they received a demand letter from Bank demanding payment in full of the Liabilities and that Bank has not withdrawn and will not withdraw the demand letters or the 244 Notice, all of which remain in full force and effect.
2. Future administration of the Liabilities and the financing arrangements among Bank, Borrowers, and Guarantors shall continue to be governed by the covenants, terms, and conditions of the Loan Documents, which are ratified and confirmed and incorporated by this reference (for clarity, this includes, without limitation, a ratification and confirmation of all guaranties of the Liabilities by Guarantors), except to the extent that the Loan Documents have been superseded, amended, modified, or supplemented by this Agreement or are inconsistent with this Agreement, then this Agreement shall govern.
3. Except as provided in paragraph 4(b) below with respect to the Participation Amount (defined below), Borrowers and Guarantors acknowledge Bank is under no obligation to advance funds or extend credit to Borrowers under the Loan Documents, or otherwise. Notwithstanding anything in the Loan Documents or this Agreement to the contrary, Bank is under no obligation to, and does not intend to, issue any Letters of Credit for the benefit of Borrowers or Guarantors or enter into any Hedge Contracts with Borrowers or Guarantors.
4. (a) Provided there are no defaults under the terms of this Agreement, and no defaults under the Loan Documents (other than the Existing Defaults), Bank may, in its sole discretion, continue to advance to Borrowers under the Revolving Credit

Agreement, in accordance with the Loan Documents, through February 28, 2009. Effective immediately, the maximum principal amount available under the Revolving Facility shall be reduced from US\$45,000,000 to US\$18,000,000 (including L/C Obligations, if any) plus the amount of participations purchased from Bank under a separate Subordinated Participation Agreement dated January 12, 2009 ("Participation Amount"). In the event, at any time, the balance on the Revolving Facility (including L/C Obligations, if any) exceeds (i) US\$18,000,000 plus the Participation Amount or (ii) the Borrowing Base, no advances will be allowed. Each borrowing request must be accompanied by an accounts receivable report, in form satisfactory to Bank, with a minimum of one report every Monday and Thursday.

- (b) Absent a default under this Agreement or the Loan Documents (other than the Existing Defaults), in the event Bank in its discretion determines not to continue to lend to Borrowers prior to February 28, 2009, Bank will nonetheless advance to Borrowers the balance of any Participation Amount not previously advanced to Borrowers by Bank, provided that, and only to the extent that, such advance will constitute an in-formula advance under the Borrowing Base. For the purposes of this section 4(b), advances under the Revolving Credit Agreement will be deemed to be advances of the Participation Amount component of the Borrower Base first, as opposed to advances under any other component of the Borrowing Base.

5. Effective immediately, Section 1.14.1 of the Revolving Credit Agreement dated December 13, 2007, as amended, is amended to read in its entirety as follows:

"1.14.1 Borrowing Base means, as of any date of determination, the aggregate of (i) 90.0% of Eligible Accounts owing to each Formula Party, plus (ii) the amount of participations purchased from Bank under that certain separate Subordinated Participation Agreement, dated January 12, 2009, as it may be modified, amended or restated, plus (iii) 50.0% of Eligible Inventory owned by such Formula Party, plus (iv) the Fixed Asset Allowance, less (v) the Reserve Amount, less (vi) such reserves as Lender may, in the normal course of its operations from time to time having reference to its credit policies in force at the relevant time, determine in connection with Priority Payables (the reserve for Priority Payables at all times in an amount that is no less than 100% of the amount of the Priority Payables existing from time to time, as reported by Canadian Borrower), less (vii) a reserve with respect to Hedge Contracts entered into by a Borrower with Lender as established by Lender from time to time based on Lender's determination of Borrowers' Hedging Liabilities to Lender, less (viii) reserves under paragraph 14 of that certain Forbearance Agreement among Lender, Borrowers and others dated January 21, 2009," and less (ix) any charges senior to the Liabilities created by order of the Court in any CCAA proceedings".

6. From and after the date of this letter, non-default interest shall accrue on the Liabilities as provided in the attached Addendum A. Upon the occurrence of a default under the terms of this Agreement or any further defaults under the Loan Documents (other than Existing Defaults), then interest shall accrue on the Liabilities at the rate otherwise provided in this paragraph plus three percent (3%).
7. Borrowers shall continue to employ Conway MacKenzie & Dunleavy, or another consulting firm acceptable to Bank, to assist Borrowers with the orderly wind-down or sale of their operations.
8. Borrowers and Guarantors acknowledge and agree the Loan Documents presently provide for and they shall reimburse for any and all costs and expenses of Bank, including, but not limited to, all inside and outside counsel fees of Bank whether in relation to any CCAA proceeding, drafting, negotiating, or enforcement or defense of the Loan Documents or this Agreement, including any preference or disgorgement actions as defined in this Agreement and all of Bank's audit fees, incurred by Bank in connection with the Liabilities, Bank's administration of the Liabilities, and any efforts of Bank to collect or satisfy all or any part of the Liabilities. Borrowers and Guarantors shall immediately reimburse Bank for all of Bank's costs and expenses upon Bank's demand.
9. Loan payments, interest on the Liabilities, loan administration expenses, including, but not limited to, all inside and outside counsel fees of Bank and Bank's audit fees, may be charged directly to any of Borrowers' accounts maintained with Bank.
10. Borrowers and Guarantors acknowledge and agree that they are on a "remittance basis" under Section 3 of the Security Agreements dated December 15, 2004 among Borrowers, Guarantors and Bank. Borrowers and Guarantors shall hold in express trust for Bank and immediately surrender in the form received all of its cash inflows (other than in-formula borrowings from Bank) to Bank by depositing such inflows into accounts maintained at Bank or subject to a control agreement for the benefit of the Bank. All such inflows will be subject to paragraph 14 applied to the Liabilities.
11. Unless otherwise agreed by Bank in writing, by the later of January 23, 2009, or three business days after the forms of control agreements, blocked account agreements and attendant documents are provided to Borrowers and Guarantors for execution, Borrowers and Guarantors will maintain all commercial accounts with Bank under the Financial Services Agreement(s) and other related documentation entered into by the Borrowers and Guarantors in favor of Bank (in accounts with respect to which Bank has an account control agreement if such account control agreement is required by Bank to perfect its security interest in the accounts or the collateral maintained therein) (the "Comerica Accounts") or in accounts at other banks with respect to which Bank has an account control agreement (if such account control agreement is required by Bank to perfect its security interest in the account or the collateral maintained therein) and a blocked account agreement. For Borrowers' and Guarantors' existing accounts (other than the Comerica Accounts), Borrowers shall enter into account control agreements (if such account control agreements are required by Bank to perfect its security interest in the accounts or the

collateral maintained therein) and blocked account agreements with Bank by the later of January 23, 2009, or three business days after the forms of control agreements, blocked account agreements and attendant documents are provided to them for execution. Effective immediately, on a daily basis, Borrowers and Guarantors shall wire transfer any funds held at Toronto Dominion Bank, Bank of America, or any other financial institution, to the cash collateral account at Bank (account no. 1852504693). Borrowers may fund from in-formula borrowings from Bank only: (i) its separate payroll accounts for estimated accrued but unpaid payroll obligations (which are payroll, vacation pay, contributions to registered pension plans, and related governmental remittances for Income Tax, Employment Insurance and Canada Pension Plan), issued but uncashed payroll checks, vacation pay and other ordinary course payroll obligations, all such items not to exceed \$2,500,000 at any given time, and (ii) one or more other accounts not to exceed amounts from time to time agreed to by a Borrower or Guarantor and Bank to fund other trust obligations, including, without limitation, Canadian federal goods and services tax and provincial retail sales tax obligations (the accounts in (i) and (ii), the "Trust Accounts"). All Trust Accounts must be trust accounts for the benefit of the payees of the obligations described above. Notwithstanding the termination of Bank's forbearance, Bank agrees: (x) not to sweep the Trust Accounts, but only to the extent funds are deposited there in accordance with this paragraph, and (y) to permit the continued issuance and clearance of checks drawn against and other withdrawals of funds in the Trust Accounts for the purpose of paying the obligations for which such accounts were funded. Borrowers and Guarantors shall provide Bank with a weekly report of all transactions from any account that Borrowers or Guarantors have with any financial institution besides Bank, and Borrowers and Guarantors shall provide Bank with a copy of all monthly statements from such accounts.

12. Borrowers and Guarantors are parties to certain Loan Documents with or between them and Comerica Bank, a Michigan banking corporation (the "Merged Bank"). The Merged Bank has been merged with and into Comerica Bank, a Texas banking association (the "Surviving Bank"). Borrowers and Guarantors acknowledge and agree that any reference in the Loan Documents to Comerica Bank, a Michigan banking corporation, shall mean Comerica Bank, a Texas banking association, as successor by merger to the Merged Bank.
13. Borrowers and Guarantors acknowledge and agree the Loan Documents presently provide and they shall permit Bank to conduct such fair market value appraisals, inspections, surveys, and testing, whether for environmental contamination or otherwise, that Bank deems necessary, on any and all real and personal property upon which Bank may possess a mortgage or security interest securing the Liabilities, and the cost of such appraisals, inspections, surveys, and testing are part of the costs and expenses for which the Borrowers and Guarantors must reimburse Bank.
14. Notwithstanding anything to the contrary herein, Bank reserves the right, in its sole discretion, to determine the application of the proceeds of all unusual or extraordinary items (including, by way of example, tax refunds, insurance proceeds, or sale proceeds, other than collection of accounts for inventory sold in the ordinary course of business) to



the various obligations of Borrowers to Bank. Those proceeds may be held as cash collateral, or if Bank applies them to the Revolving Facility, Bank may impose a reserve equal to the amount applied. This reserve will be in addition to the Reserve Amount and any other reserves provided under the Loan Documents. Notwithstanding the foregoing, Bank agrees that it will apply to the Liabilities 100% of all payments in good funds on account of commercial claims from those customers of Borrowers that are parties to an accommodation agreement with Borrowers and Bank and reserve 50% (as opposed to 100%).

15. To the extent any payment received by Bank is deemed a preference, fraudulent transfer, or otherwise by a court of competent jurisdiction which requires the Bank to disgorge such payment then, such payment will be deemed to have never occurred and the Liabilities will be adjusted accordingly.
16. This Agreement shall be governed and controlled in all respects by the laws of the State of Michigan, without reference to its conflict of law provisions, including interpretation, enforceability, validity, and construction.
17. Bank expressly reserves the right to exercise any or all rights and remedies provided under the Loan Documents and applicable law except as modified herein. Bank's failure to exercise immediately such rights and remedies shall not be construed as a waiver or modification of those rights or an offer of forbearance.
18. This Agreement will inure to the benefit of Bank and all its past, present, and future parents, subsidiaries, affiliates, predecessors, and successor corporations and all of their subsidiaries and affiliates.
19. Bank anticipates that discussions addressing the Liabilities may take place in the future. During the course of such discussions, Bank, Borrowers, and Guarantors, may touch upon and possibly reach a preliminary understanding on one or more issues prior to concluding negotiations. Notwithstanding this fact and absent an express written waiver by Bank, Bank will not be bound by an agreement on any individual issues unless and until an agreement is reached on all issues and such agreement is reduced to writing and signed by Borrowers and Guarantors and Bank.
20. As of the date of this Agreement, there are no other offers outstanding from Bank to Borrowers and Guarantors. Any prior offer by Bank, whether oral or written is hereby rescinded in full. There are no oral agreements between Bank and Borrowers and Guarantors; any agreements concerning the Liabilities are expressed only in the existing Loan Documents. The duties and obligations of Borrowers and Guarantors and Bank shall be only as set forth in the Loan Documents and this Agreement, when executed by all parties.
21. Borrowers and Guarantors acknowledge that they have reviewed (or have had the opportunity to review) this Agreement with counsel of their choice and have executed

this Agreement of their own free will and accord and without duress or coercion of any kind by Bank or any other person or entity.

22. **BORROWERS, GUARANTORS, AND BANK ACKNOWLEDGE AND AGREE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS AGREEMENT, THE LOAN DOCUMENTS OR THE LIABILITIES.**
23. **DEFAULTS HAVE OCCURRED UNDER THE LOAN DOCUMENTS. BORROWERS AND GUARANTORS, TO THE FULLEST EXTENT ALLOWED UNDER APPLICABLE LAW, WAIVE ALL NOTICES THAT BANK MIGHT BE REQUIRED TO GIVE BUT FOR THIS WAIVER, INCLUDING ANY NOTICES OTHERWISE REQUIRED UNDER SECTION 6 OF ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE AS ENACTED IN THE STATE OF MICHIGAN OR THE RELEVANT STATE CONCERNING THE APPLICABLE COLLATERAL (AND UNDER ANY SIMILAR RIGHTS TO NOTICE GRANTED IN ANY ENACTMENT OF REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE). FURTHERMORE, BORROWERS AND GUARANTORS WAIVE (A) THE RIGHT TO NOTIFICATION OF DISPOSITION OF THE COLLATERAL UNDER § 9-611 OF THE UNIFORM COMMERCIAL CODE, (B) THE RIGHT TO REQUIRE DISPOSITION OF THE COLLATERAL UNDER § 9-620(E) OF THE UNIFORM COMMERCIAL CODE, AND (C) ALL RIGHTS TO REDEEM ANY OF THE COLLATERAL UNDER § 9-623 OF THE UNIFORM COMMERCIAL CODE.**
24. **BORROWERS AND GUARANTORS, IN EVERY CAPACITY, INCLUDING, BUT NOT LIMITED TO, AS SHAREHOLDERS, PARTNERS, OFFICERS, DIRECTORS, INVESTORS AND/OR CREDITORS OF BORROWERS AND/OR GUARANTORS, OR ANY ONE OR MORE OF THEM, HEREBY WAIVE, DISCHARGE AND FOREVER RELEASE BANK, BANK'S EMPLOYEES, OFFICERS, DIRECTORS, ATTORNEYS, STOCKHOLDERS, AFFILIATES AND SUCCESSORS AND ASSIGNS, FROM AND OF ANY AND ALL CLAIMS, CAUSES OF ACTION, DEFENSES, COUNTERCLAIMS OR OFFSETS AND/OR ALLEGATIONS BORROWERS AND/OR GUARANTORS MAY HAVE OR MAY HAVE MADE OR WHICH ARE BASED ON FACTS OR CIRCUMSTANCES ARISING AT ANY TIME UP THROUGH AND INCLUDING THE DATE OF THIS AGREEMENT, WHETHER KNOWN OR UNKNOWN, AGAINST ANY OR ALL OF BANK, BANK'S EMPLOYEES, OFFICERS, DIRECTORS, ATTORNEYS, STOCKHOLDERS, AFFILIATES AND SUCCESSORS AND ASSIGNS.**

25. This Agreement may be executed in counterparts and delivered by facsimile and the counterparts and/or facsimiles, when properly executed and delivered by the signing deadline, will constitute a fully executed complete agreement.
26. Borrowers and Guarantors shall properly execute this Agreement and deliver same to the undersigned by no later than January 21, 2009.

Bank reserves the right to terminate its forbearance prior to February 28, 2009, in the event of any new defaults under the Loan Documents, defaults under this Agreement, defaults under either of the Accommodation Agreements among Borrowers, Guarantors, Bank and certain customers of approximate even date with this Agreement, in the event of further deterioration in the financial condition of Borrowers or Guarantors, or further deterioration in Bank's collateral position, or in the event Bank, for any reason, believes that the prospect of payment or performance is impaired.

Very truly yours,

---

Gregory M. Ryan  
Vice President  
Comerica Bank  
One Detroit Center  
500 Woodward Avenue, 4th Floor  
Detroit, MI 48226  
(313) 222-9467  
Fax: (313) 222-1244

ACKNOWLEDGED AND AGREED:

**"BORROWERS"**

**SKD AUTOMOTIVE GROUP,  
LIMITED PARTNERSHIP**

By: PL International Corporation  
Its: General Partner

By: \_\_\_\_\_  
Vytas Ambutas  
Its: Secretary

**SKD COMPANY**

By: 2515080 Nova Scotia Company  
Its: General Partner

By: \_\_\_\_\_  
John Chen  
Its: Vice President

**"GUARANTORS"**

**NMC CANADA INC.**

By: \_\_\_\_\_  
Vytas Ambutas  
Its: Secretary

**SKD HOLDING, L.P.**

By: SKD Holding, Inc.  
Its: General Partner

By: \_\_\_\_\_  
John Chen  
Its: Vice President/Treasurer

**SKD, L.P.**

By: Quincy Holdings, Inc.  
Its: General Partner

By: \_\_\_\_\_  
Vytas Ambutas  
Its: Secretary

**2515080 NOVA SCOTIA COMPANY**

By: \_\_\_\_\_  
John Chen  
Its: Vice President

**EASSA MEXICO, S. DE R.L. DE C.V.**

By: \_\_\_\_\_  
John Williams  
Its: Treasurer

**SKD DE MEXICO, S. DE R.L. DE C.V.**

By: \_\_\_\_\_  
John Chen  
Its: Treasurer

**NMC CANADA INC.**

By: \_\_\_\_\_  
Vytas Ambutas  
Its: Secretary

## ADDENDUM A

Subject to the terms and conditions of this Addendum A, the unpaid principal balance of the Liabilities outstanding from time to time shall bear interest at the Daily Adjusting LIBOR Rate, except during any period of time during which, in accordance with the terms and conditions of this Addendum A, the Liabilities shall bear interest at the Prime-based Rate.

Interest shall be computed on the basis of a 360 day year and shall be assessed for the actual number of days elapsed, and in such computation, effect shall be given to any change in the Applicable Interest Rate as a result of any change in the Daily Adjusting LIBOR Rate or, to the extent applicable, the Prime-based Rate on the date of each such change in the Daily Adjusting LIBOR Rate or, to the extent applicable, the Prime-based Rate.

In no event shall the interest payable on the Liabilities at any time exceed the maximum rate permitted by law.

In the event that the Daily Adjusting LIBOR Rate is not available to Borrower(s) as the Applicable Interest Rate hereunder for the Liabilities outstanding, the Prime-based Rate shall be the Applicable Interest Rate hereunder in respect of such Liabilities for such period, subject in all respects to the terms and conditions of this Addendum A.

If Bank shall designate a LIBOR Lending Office which maintains books separate from those of the rest of Bank, Bank shall have the option of maintaining and carrying the Liabilities on the books of such LIBOR Lending Office.

If Bank determines that, (a) Bank is unable to determine or ascertain the Daily Adjusting LIBOR Rate, or (b) by reason of circumstances affecting the foreign exchange and interbank markets generally, deposits in eurodollars in the applicable amounts or for the relative maturities are not being offered to Bank, or (c) the Daily Adjusting LIBOR Rate will not accurately or fairly cover or reflect the cost to Bank of maintaining any of the Liabilities at the Daily Adjusting LIBOR Rate, then Bank shall forthwith give notice thereof to Borrower(s). Thereafter, until Bank notifies Borrower(s) that such conditions or circumstances no longer exist, any obligation of Bank to maintain any of the Liabilities at the Daily Adjusting LIBOR Rate shall be suspended, and the Prime-based Rate shall be the Applicable Interest Rate for all Liabilities during such period of time.

If, after the date hereof, the introduction of, or any change in, any applicable law, rule or regulation or in the interpretation or administration thereof by any governmental authority charged with the interpretation or administration thereof, or compliance by Bank (or its LIBOR Lending Office) with any request or directive (whether or not having the force of law) of any such authority, shall make it unlawful or impossible for the Bank (or its LIBOR Lending Office) to make or maintain any portion of the Liabilities with interest at the Daily Adjusting LIBOR Rate, Bank shall forthwith give notice thereof to Borrower(s). Thereafter, (a) until Bank notifies Borrower(s) that such conditions or circumstances no longer exist, any obligation of Bank to maintain any of the Liabilities at the Daily Adjusting LIBOR Rate shall be suspended, and the Prime-based Rate shall be the Applicable Interest Rate with respect to the Liabilities, and (b) if

Bank may not lawfully continue to maintain the Liabilities at the Daily Adjusting LIBOR Rate, the Prime-based Rate shall be the Applicable Interest Rate with respect to the Liabilities.

Further, at any time upon prior written notice to Borrower(s), Bank may, in its sole discretion, based upon its good faith belief that the Prime-based Rate is an appropriate basis for its floating rate loans, suspend use of the Daily Adjusting LIBOR Rate as the Applicable Interest Rate hereunder, at which time, the Prime-based Rate shall thereafter be the Applicable Interest Rate for all the Liabilities, unless Bank, in its sole discretion based upon its good faith belief that the Prime-based Rate is no longer an appropriate basis for its floating rate loans, rescinds such notice, in which case, the Daily Adjusting LIBOR Rate shall, upon written notice from Bank to Borrower(s), again be the Applicable Interest Rate for all the Liabilities.

If the adoption after the date hereof, or any change after the date hereof in, any applicable law, rule or regulation (whether domestic or foreign) of any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by Bank (or its LIBOR Lending Office) with any request or directive (whether or not having the force of law) made by any such authority, central bank or comparable agency after the date hereof: (a) shall subject Bank (or its LIBOR Lending Office) to any tax, duty or other charge with respect to the Liabilities, or shall change the basis of taxation of payments to Bank (or its LIBOR Lending Office) of the principal of or interest with respect to the Liabilities or any other amounts due with respect to the Liabilities (except for changes in the rate of tax on the overall net income of Bank or its LIBOR Lending Office imposed by the jurisdiction in which Bank's principal executive office or LIBOR Lending Office is located); or (b) shall impose, modify or deem applicable any reserve (including, without limitation, any imposed by the Board of Governors of the Federal Reserve System), special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by Bank (or its LIBOR Lending Office), or shall impose on Bank (or its LIBOR Lending Office) or the foreign exchange and interbank markets any other condition affecting the Liabilities; and the result of any of the foregoing is to increase the cost to Bank of maintaining any part of the Liabilities or to reduce the amount of any sum received or receivable by Bank with respect to the Liabilities by an amount deemed by the Bank to be material, then the applicable Borrower(s) shall pay to Bank, within fifteen (15) days of receipt by Borrower(s) of written notice from Bank demanding such compensation, such additional amount or amounts as will compensate Bank for such increased cost or reduction.

A certificate of Bank, prepared in good faith and in reasonable detail by Bank and submitted by Bank to Borrower(s), setting forth the basis for determining such additional amount or amounts necessary to compensate Bank shall be conclusive and binding for all purposes, absent manifest error.

In the event that any applicable law, treaty, rule or regulation (whether domestic or foreign) now or hereafter in effect and whether or not presently applicable to Bank, or any interpretation or administration thereof by any governmental authority charged with the interpretation or administration thereof, or compliance by Bank with any guideline, request or directive of any such authority (whether or not having the force of law), including any risk-based capital guidelines, affects or would affect the amount of capital required or expected to be maintained by

Bank (or any corporation controlling Bank), and Bank determines that the amount of such capital is increased by or based upon the existence of any obligations of Bank with respect to the Liabilities or the maintaining of any of the Liabilities, and such increase has the effect of reducing the rate of return on Bank's (or such controlling corporation's) capital as a consequence of such obligations or the maintaining of such Liabilities to a level below that which Bank (or such controlling corporation) could have achieved but for such circumstances (taking into consideration its policies with respect to capital adequacy), then Borrower(s) shall pay to Bank, within fifteen (15) days of receipt by Borrower(s) of written notice from Bank demanding such compensation, additional amounts as are sufficient to compensate Bank (or such controlling corporation) for any increase in the amount of capital and reduced rate of return which Bank reasonably determines to be allocable to the existence of any obligations of the Bank with respect to the Liabilities or to maintaining any of the Liabilities.

A certificate of Bank as to the amount of such compensation, prepared in good faith and in reasonable detail by the Bank and submitted by Bank to Borrower(s), shall be conclusive and binding for all purposes absent manifest error.

For the purposes of this Addendum A, the following terms have the following meanings:

- (a) "Applicable Interest Rate" means either the Daily Adjusting LIBOR Rate or (subject to the terms of this Addendum) the Prime-based Rate, as determined in accordance with the terms and conditions of this Addendum A.
- (b) "Applicable Margin" means four and one half percent (4.5%).
- (c) "Business Day" means any day, other than a Saturday, Sunday or any other day designated as a holiday under Federal or applicable State statute or regulation, on which Bank is open for all or substantially all of its domestic and international business (including dealings in foreign exchange) in Detroit, Michigan, and, in respect of notices and determinations relating to the Daily Adjusting LIBOR Rate, also a day on which dealings in dollar deposits are also carried on in the London interbank market and on which banks are open for business in London, England.
- (d) "Daily Adjusting LIBOR Rate" means, for any day, a per annum interest rate which is equal to the sum of the Applicable Margin, plus the quotient of the following:
  - (i) for any day, the per annum rate of interest determined on the basis of the rate for deposits in United States Dollars for a period equal to one (1) month, appearing on Page BBAM of the Bloomberg Financial Markets Information Service as of 11:00 a.m. (Detroit, Michigan time) (or as soon thereafter as practical), on such day, or if such day is not a Business Day, on the immediately preceding



Business Day. In the event that such rate does not appear on Page BBAM of the Bloomberg Financial Markets Information Service (or otherwise on such Service) on any day, the "Daily Adjusting LIBOR Rate" for such day shall be determined by reference to such other publicly available service for displaying eurodollar rates as may be agreed upon by Bank and Borrower(s), or, in the absence of such agreement, the "Daily Adjusting LIBOR Rate" for such day shall, instead, be determined based on the average of the rates at which Bank is offered dollar deposits at or about 11:00 a.m. (Detroit, Michigan time) (or soon thereafter as practical), on such day, or if such day is not a Business Day, on the immediately preceding Business Day, in the interbank eurodollar market in an amount comparable to the principal amount of Indebtedness hereunder which is to bear interest at such Daily Adjusting LIBOR Rate and for a period of one (1) month;

divided by

- (ii) a percentage (expressed as a decimal) equal to 1.00 minus the maximum rate on such date at which Bank is required to maintain reserves on "Euro-currency Liabilities" as defined in and pursuant to Regulation D of the Board of Governors of the Federal Reserve System or, if such regulation or definition is modified, and as long as Bank is required to maintain reserves against a category of liabilities which includes eurodollar deposits or includes a category of assets which includes eurodollar loans, the rate at which such reserves are required to be maintained on such category.
- (e) "LIBOR Lending Office" means Bank's office located in the Cayman Islands, British West Indies, or such other branch of Bank, domestic or foreign, as it may hereafter designate as its LIBOR Lending Office by notice to the Borrower(s).
- (f) "Prime Rate" shall mean the per annum interest rate established by Bank as its prime rate for its borrowers, as such rate may vary from time to time, which rate is not necessarily the lowest rate on loans made by Bank at any such time.
- (g) "Prime-based Rate" shall mean a per annum interest rate which is equal to the sum of the Applicable Margin plus the greater of (i) the Prime Rate; or (ii) the rate of interest equal to the sum of (a) one percent (1%) and (b) the rate of interest equal to the average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers (the "Overnight Rates"), as published by the Federal Reserve Bank of New York, or, if the Overnight Rates are not so published for any day, the average of the quotations for the Overnight

Rates received by Bank from three (3) Federal funds brokers of recognized standing selected by Bank, as the same may be changed from time to time.

**THE MAXIMUM INTEREST RATE SHALL NOT EXCEED 25% PER ANNUM, OR THE HIGHEST APPLICABLE USURY CEILING, WHICHEVER IS LESS.**

**EXHIBIT B**  
**ACCESS AGREEMENT**

(see attached)

## ACCESS AND SECURITY AGREEMENT

This Access and Security Agreement (the "Agreement"), by and among SKD Company ("Supplier"), and Ford Motor Company ("Ford"), Chrysler Canada Inc. ("Chrysler Canada"), Chrysler LLC, on behalf of itself and Chrysler Motors LLC (together with Chrysler Canada, "Chrysler"), Honda of America Mfg., Inc., for itself and on behalf of Honda Canada Mfg., a division of Honda Canada, Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC (collectively, "Honda") (collectively, the "Customers") is entered into this 21<sup>st</sup> day of January, 2009 (the "Effective Date").

### RECITALS

A. Pursuant to various commitments, purchase orders, supply agreements and/or releases issued by each Customer and accepted by Supplier (collectively, the "Purchase Orders" or individually, a "Purchase Order"), Supplier is obligated to manufacture, and each Customer is obligated to pay for, each Customer's requirements of certain component parts, service parts or assembled goods (collectively, the "Component Parts" or individually, a "Component Part").

B. Supplier is currently indebted to Comerica (the "Comerica Indebtedness") pursuant to certain credit facilities provided by Comerica Bank ("Comerica") to Supplier and SKD Automotive Group, Limited Partnership (the "Comerica Facilities"). To secure the Comerica Indebtedness, Comerica has been granted security over the real and personal property and assets of Supplier.

C. The Comerica Facilities have matured, but Comerica has agreed to enter into forbearance arrangements with Supplier, provided that arrangements acceptable to Comerica can be entered into between Supplier and the Customers.

D. As a result of Supplier's financial difficulties, Supplier currently anticipates that it will commence a proceeding (the "CCAA Proceeding") under the *Companies' Creditors Arrangement Act* (the "CCAA") in the Ontario Superior Court of Justice (the "Court"). Supplier has requested that the Customers provide financial and other accommodations to Supplier during the CCAA Proceeding, and the Customers have requested that Comerica and Supplier provide certain assurances and acknowledgements to the Customers regarding, among other things, Supplier's ongoing production of Component Parts for the Customers.

E. The financial advisor to Supplier, Conway MacKenzie, Inc., and RSM Richter Inc., the proposed court-appointed monitor in CCAA Proceeding (the "Monitor"), are working with Supplier to consider alternatives to restructure Supplier's business, that may include a sales process (the "Restructuring Process").

F. Supplier has requested that the Customers provide certain financial and other accommodations to Supplier during the Restructuring Process and, similarly, due to the concerns and uncertainties surrounding Supplier's financial condition, Comerica and the Customers have requested certain acknowledgements and agreements from Supplier and each other to induce Comerica and the Customers to provide those accommodations, all as set forth in the Accommodation Agreement (the "Accommodation Agreement") of even date herewith. In

consideration of the accommodations provided by Customers, Supplier has agreed to grant Customers a "Right of Access" (as defined below) to those facilities listed in Exhibit A attached hereto (the "Facilities").

G. Supplier acknowledges that any material delay in production of the Component Parts or a default under the Purchase Orders will cause Customers irreparable harm.

H. Supplier is entering into this Agreement to afford Customers the right to use certain of Supplier's assets located at the Facilities as provided below if a Default (as defined below) occurs.

**BASED ON THE FOREGOING RECITALS** which are incorporated as representations and warranties of the parties, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Customers and Supplier agrees as follows:

**TERMS AND CONDITIONS**

1. Defined Terms. In addition to those terms defined elsewhere in this Agreement, the following terms have the indicated meanings, unless the context otherwise requires:

"Accounts" means (i) all accounts receivable, contract rights, book debts, notes, drafts, instruments, documents, acceptances, payments under leases and other forms of obligations, now owned or hereafter received or acquired by or belonging or owing to the Supplier (including under any trade name, styles, or division thereof) whether arising out of goods sold or leased or services rendered by the Supplier or from any other transaction, whether or not the same involves the sale of goods or services by the Supplier (including, without limitation, any such payment obligation or right to payment which might be characterized as an account, contract right, general intangible, or chattel paper under the Code in effect in any jurisdiction); (ii) all monies due to or to become due to the Supplier under all contracts for the sale or lease of goods or the performance of services by the Supplier (whether or not yet earned by performance on the part of the Supplier) now in existence or hereafter arising; and (iii) deposit accounts, insurance refunds, tax refunds, tax refund claims and related cash and cash equivalents, now owned or hereafter received or acquired by or belonging or owing to Supplier.

"Contract Rights" means all rights of the Supplier (excluding payments) under each "Contract" (defined below).

"Contracts" or individually, "Contract", means, any licensing agreements and any and all other contracts, supply agreements, or other agreements used in the manufacture, production or assembly of Component Parts and in or under which the Supplier may now or hereafter have any right, title, or interest and which pertain to the manufacture, production or assembly of Component Parts and which pertain to the lease, sale, or other disposition by the Supplier of "Equipment" (defined below), "Inventory" (defined below), fixtures, real property, or the right to use or acquire personal property, as any of the same may from time to time be amended, supplemented, or otherwise modified.

"Default" means an "Event of Default" occurs under the Accommodation Agreement or if Comerica ceases funding prior to February 28, 2009 for any reason.

"Documents" means all documents of title now owned or hereafter acquired by Supplier as an owner.

"Equipment" means all machinery, equipment, vehicles, furnishings, and fixtures now owned or hereafter acquired by Supplier, including, without limitation, all items of machinery and equipment of any kind, nature and description, whether affixed to real property or not, as well as all additions to, substitutions for, replacements of or accessions to any of the foregoing items and all attachments, components, parts (including spare parts), and accessories whether installed thereon or affixed thereto in each case to the extent used in the manufacture or production of the Component Parts.

"General Intangibles" means all customer lists, rights in intellectual property, goodwill, trade names, service marks, trade secrets, patents, trademarks, copyrights, applications therefore, permits, licenses, now owned or hereafter acquired by Supplier which pertain to the manufacture, production or assembly of Component Parts, but excluding items described in the definition of Accounts.

"Instruments" means all negotiable instruments now owned or hereafter acquired by Supplier.

"Intellectual Property" means all now existing or hereafter acquired patents, trademarks, copyrights, inventions, licenses, discoveries, processes, know-how, techniques, trade secrets, designs, specifications and the like (regardless of whether such items are now patented or registered, or registerable, or patentable in the future), and all technical, engineering, or other information and knowledge, production data and drawings, which are used in the manufacture, production or assembly of the Component Parts.

"Inventory" means all goods and other personal property now or hereafter owned by Supplier which are leased or held for sale or lease or are furnished or are to be furnished under a contract of service or which constitute raw materials, work in process or materials used or consumed or to be used or consumed in Supplier's business, or in the processing, packaging or shipping of the same, and all finished goods.

"Loan Documents" means collectively, any loan agreements, any notes, any security agreements, pledge agreements, assignments, deeds of trust, mortgages or other encumbrances or agreements which secure or relate to any obligations owing to Comerica.

"Obligations" means the obligation to provide any Customer or its designee(s) the "Right of Access" (as defined below).

"Operating Assets" means Supplier's assets, wherever located, including those located at or about the facilities listed on Exhibit A which are necessary or useful for

production of the Component Parts, including Equipment, Contract Rights, and General Intangibles (other than deposit accounts, insurance refunds, tax refund claims and related cash and cash equivalents), but specifically excluding any Accounts, Inventory, Documents, Instruments, Chattel Paper, payments under Contracts and Proceeds of such excluded items and Proceeds of General Intangibles.

"Proceeds" means (i) any and all proceeds of any insurance, indemnity, warranty, or guarantee payable to the Supplier from time to time with respect to any of the "Collateral" (defined in paragraph 2 below); (ii) any and all payments (in any form whatsoever) made or due and payable to the Supplier from time to time in connection with any requisition, confiscation, condemnation, seizure, or forfeiture of all or any part of the Collateral by any governmental body, authority, bureau, or agency (or any Person acting under color of governmental authority); and (iii) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

"Real Estate" means all real property listed on Exhibit A.

2. Grant of Liens and Security Interests. As collateral security for the Obligations, Supplier hereby grants to Customers a continuing security interest (the "Customers' Security") in the Operating Assets and the Real Estate, whether now owned or hereafter acquired by Supplier, or in which Supplier now has or at any time in the future may acquire any right, title or interest (collectively, the "Collateral"). Further, Supplier hereby grants Customers permission to file any financing statements and/or mortgages deemed necessary by Customers to perfect its security interest granted hereby. The security interests granted to Customers pursuant to this Agreement to secure the Obligations is junior to the liens and security interests granted to Comerica and to the charges granted in the initial order made in the CCAA Proceeding (the "CCAA Charges"), but in all cases, Comerica's exercise of its rights and remedies with respect to its liens and security interests is subject to the terms of this Agreement. Comerica and the holders of any CCAA Charges may take any necessary action to protect their rights in the Collateral, conditioned upon such action not impairing the Customer's "Right of Access" (as defined below). The last day of the term of any lease, sublease or agreement therefor is specifically excepted from the security interest created hereunder, but the Supplier agrees to stand possessed of such last day in trust for the Customer. To the extent that the creation of the security interest hereunder would constitute a breach or cause the acceleration of any agreement, contract, lease, license or permit to which the Supplier is a party, the security interest shall not attach thereto, but the Supplier shall hold its interest therein in trust for the Customer, and the security interest shall attach to such agreement, contract, lease, license or permit forthwith upon obtaining the consent of the other party thereto.

Supplier shall not grant any person not a party hereto a similar right of access except on terms acceptable to the Customers and Comerica.

3. Right of Access.

(a) General. Supplier acknowledges that any delay in the production, processing or shipment of Component Parts, and any defaults under the Purchase Orders or the Accommodation Agreement may cause Customers irreparable harm. To address Customers'

concern in this regard, subject to termination pursuant to Section 13, Supplier hereby grants to each Customer or its designee(s) the non-exclusive right, without creating an obligation, to use and occupy the Operating Assets and the Real Estate, to manufacture, process and/or ship Component Parts (the "Right of Access") for a period of up to 90 days from the date such Customer provides the written notice referenced below ("Occupancy Period") upon the occurrence of a Default. In any event, the Occupancy Period and the Right of Access terminate on the sale of the Operating Assets to a "Qualified Buyer" as defined in the Accommodation Agreement. Any one or more of the Customers, as applicable, may invoke the Right of Access at any one or more of the Facilities at any time after the occurrence of a "Default" by delivering written notice to Supplier (with a copy to Comerica and the other Customers) indicating such Customer's intention to invoke the Right of Access. If the Customer does not issue such notice or take steps to exercise the Right of Access on or before the earlier of (i) ten (10) business days following the delivery of a notice by Supplier that a Default has occurred, and (ii) the last day of the Term, the Right of Access arising from that specific Default shall terminate. Customers have no right to sell, transfer, or dispose of the Operating Assets or the Real Estate as part of the Right of Access. If the Right of Access is not invoked as to all of the Facilities, subject to the terms of this Agreement, it may be invoked thereafter as to additional Facilities within ten (10) business days of the first such exercise, otherwise the Right of Access for such additional Facilities is deemed to be waived.

(b) Customers' Obligations. If any one or more of the Customers, as applicable, invokes the Right of Access for itself or its designee(s) (such Customer an "Exercising Customer"), in lieu of payment to Supplier for Component Parts that are produced by the Exercising Customer after exercise of the Right of Access, the Exercising Customer will, as to each Facility at which the Exercising Customer has exercised the Right of Access:

- (i) use reasonable care in the use, custody and preservation of Supplier's assets, and indemnify, defend and hold Supplier, its officers, directors, and employees, and any landlord of the Facility, harmless from any injury, physical damage to property or physical injury suffered by third parties and all claims, costs, damages, liabilities (including reasonable legal fees), and obligations of and/or against the Supplier arising out of or caused by the Exercising Customer's or its designee's use of the Operating Assets and the Real Estate during the Occupancy Period; provided, however, the foregoing obligations shall not apply to claims arising out of or related to conditions which existed or events that occurred before the Occupancy Period;
- (ii) indemnify, defend and hold Comerica harmless from any damage to property or injury suffered by third parties directly caused by either or both of the Customer's or its designee's use of the Operating Assets and Real Estate during the Occupancy Period;
- (iii) provide reasonable access to the Real Estate to Comerica and its designee(s), and to any receiver, interim receiver, receiver and manager or trustee in bankruptcy appointed in respect of the



Supplier or its property, for the purpose of permitting Comerica to forthwith undertake efforts to liquidate any property and assets of Supplier, other than Operating Assets and Real Estate provided such access does not in any material way interfere, delay or hinder the Exercising Customer's Right of Access;

- (iv) insure and maintain the Operating Assets and the Real Estate in the same condition as existed on the date the Exercising Customer exercised the Right of Access, ordinary wear and tear excepted,, and provide evidence of property and third party liability insurance, to Supplier in advance of the commencement of the Occupancy Period, which insurance shall name Supplier, any landlord and any owner of the Real Estate as additional named insureds and otherwise be in form and substance and for an amount satisfactory to Supplier, acting reasonably;
- (v) (a) directly pay the actual costs, expenses and liabilities incurred in connection with the manufacturing of Component Parts during the Occupancy Period including, without limitation, utilities, security and all other overhead expenses required to keep a Facility open and operating, and prorated property taxes and assessments attributable to the Operating Assets and Real Estate, any payments on account of any of the Operating Assets or the Real Estate which are leased from third parties, any rent, additional rent or other payments due or accrued during the Occupancy Period in relation to any real or personal property leases, all costs and expenses related to raw materials, components and supplies; and (b) pay to Comerica for the account of Supplier, in advance, the monthly access fee set out on Exhibit A for each Facility in respect of which the Right of Access is exercised, such amount being payable for the use of that Facility and the Operating Assets owned by Supplier located thereon.
- (vi) subject to the Exercising Customer's or its designee's non-exclusive right to use and occupy the Operating Assets and the Real Estate during the Occupancy Period, afford Supplier's representatives including the agents and advisors to the Supplier, the Monitor appointed in the CCAA Proceeding and any receiver, interim receiver, receiver and manager or trustee in bankruptcy appointed in respect of the Supplier or its property (and representatives of the Comerica, secured creditors or mortgagees of the Operating Assets and/or Real Estate) reasonable access to inspect the Operating Assets and Real Estate, to prepare for a liquidation of the Operating Assets and Real Estate at the end of the Occupancy Period, to preserve and protect the property and assets situated on the Real Estate, to remove property and assets other than the Operating Assets from the Real Estate and to sell

any asset, other than the Operating Assets and Real Estate, prior to expiration of the Occupancy Period provided such access does not in any material way interfere, delay or hinder the Exercising Customer's Right of Access. Supplier shall not grant to any third party, other than a Customer, the right, during the Occupancy Period, to use or occupy the Operating Assets and Real Estate to manufacture that Customer's Component Parts;

- (vii) subject to Supplier's other customers agreeing to: (a) make payment to the Exercising Customer, or its designee(s) as applicable, on account of its allocable share of overhead and related expenses and all direct expenses related to such other customer's production and (b) Supplier making the necessary tangible personal property available for use during the Occupancy Period, the Exercising Customer agrees, for itself and its designee(s), to produce component parts for such other customers during the Occupancy Period or to provide the other customers access provided such customers do not in any material way interfere, delay or hinder the production of the Exercising Customer's Component Parts;
- (viii) pay the amounts owing by the Customer under Section 3(c)(i);
- (ix) observe all applicable laws, rules and regulations and ordinances relating to the use, operation and occupancy of the Operating Assets (including the Real Estate) and to the manufacturing, processing and shipping of the Component Parts; and
- (x) with respect to amounts that the Exercising Customer is required to pay in accordance with the foregoing provisions of this Section 3, the Exercising Customers shall, where applicable, make payment to the Supplier of such amounts in advance, before such amounts are due or become payable (unless expressly provided to the contrary in the foregoing provisions of this Section 3), without assertion of any rights of set-off, recoupment or deduction, or, where applicable, shall make payment of such amounts to third parties (and, upon request, provide to the Supplier and Comerica evidence of such payment), without set off, recoupment or deduction.

(c) Supplier's Obligations. If any one or more of the Customers invokes the Right of Access, Supplier will comply with the following:

- (i) At each Exercising Customer's election in its sole discretion, Supplier will use its reasonable commercial efforts to continue to employ those of its employees which the Exercising Customer determines are necessary to maintain production of Component

Parts for such Exercising Customer (the "Retained Employees") and each Exercising Customer or its designee(s) will provide one or more upfront advance payments to Supplier prior to the cost and expense being incurred by Supplier on account of all costs and expenses relating to Supplier's employment of any Retained Employees to be incurred during the Occupancy Period. Without limiting the generality of the foregoing, each Exercising Customer or its designee(s) shall be obligated to pay to Supplier, in advance of Supplier's retention of any employees under this Agreement, all amounts estimated to be incurred by Supplier to meet its regular payroll and related obligations, including salaries, wages, payroll taxes (employment insurance, income tax and Canada Pension Plan), payroll service provider fees, vacation pay, workers' compensation, unemployment insurance, disability, medical, dental, drug, travel group life and like insurance, welfare, pension contributions and other payments and contributions required to be made by Supplier with respect to the Retained Employees in accordance with the regular compensation practice of the Supplier and, in the case of members of the Union, in accordance with the applicable collective agreement, which are incurred during the Occupancy Period, but in no event will an Exercising Customer be liable for any costs for unfunded pension liability, actuarial liability, past service unfunded actuarial liability or solvency or other deficiency relating to any pension plan or other obligations relating to service prior to the time the Exercising Customer exercised the Right of Access. Notwithstanding the foregoing, under no circumstances will an Exercising Customer be responsible for reimbursing Supplier for costs and expenses relating to Supplier's employment of the Retained Employees to the extent the Retained Employees are performing services unrelated to the production of the Component Parts. The Exercising Customer shall have no responsibility for severance and termination pay owing to any Retained Employees subsequently terminated. The Supplier shall use all funding provided under this Section 3(c)(i) towards compensating Retained Employees and for no other purpose including, without limitation, payment to Comerica;

- (ii) From the date hereof, Supplier will not increase compensation or benefits of the Retained Employees without the written consent of each Exercising Customer except as may be required by applicable law or pre-existing contract;
- (iii) Supplier will indemnify, defend and hold each Exercising Customer, its designee(s) and its respective employees and agents, harmless from any and all costs and expenses of the nature set forth in Sections 3(b)(v) and 3(c)(i) which are obligations of

Supplier in respect of the period prior to the date of the Exercising Customer's exercise of the Right of Access; and

- (iv) During the Occupancy Period, Supplier agrees that each Exercising Customer and its designee(s) and agents and representatives will have access to Supplier's books and records during normal business hours for the purposes of confirming any estimates and calculating amounts to be paid by such Exercising Customer prior to payment, and for the purpose of reconciling actual payments by such Exercising Customer against estimates in order to determine if any adjustments are necessary.

(d) Right to Terminate. Each Exercising Customer will have the absolute right to terminate the Right of Access with respect to any one or more of the Facilities upon ten (10) business days' written notice to Supplier and Comerica. Upon expiration of the notice period with respect to the Facility to which the notice applies, the Occupancy Period will terminate and, except for the Exercising Customer's obligations under Section 3(b)(i) and payment of any amounts payable under Sections 3(b)(i) through (x) and 3(c)(i) above not paid as of the termination of the Occupancy Period and relating to the Facility to which the notice applies, the Exercising Customer will have no further obligations or liabilities to Supplier, or Comerica, or any other person or entity on account of the Right of Access for the respective Facility.

(e) Indemnification. To the extent Supplier ("Indemnitee") makes a claim against an Exercising Customer for indemnification under sub-paragraph (b)(i), Indemnitee agrees the following shall apply:

- (i) Exercising Customer's indemnity obligations are secondary to any applicable insurance coverage or indemnities from third parties. In addition, the Exercising Customer's indemnity does not include any losses, liabilities, claims or damages or expenses to the extent the same are determined in a final, non-appealable judgment of a court of competent jurisdiction to have arisen from the gross negligence or willful misconduct of Indemnitee.
- (ii) If an Indemnitee becomes aware of any claims, demands, actions or proceedings for which it will be seeking indemnification, it must use its best efforts in good faith to notify promptly the Exercising Customer in writing of same; failure to provide such notice must only affect the Exercising Customer's liability to the extent that the Exercising Customer suffers damage or injury as a result of the failure to give such prompt notice. The Exercising Customer must have the right, at its expense, to assume the defense thereof (retaining counsel of its choosing who must be reasonably acceptable to Supplier or Comerica, as applicable) and the Exercising Customer will have the right, in its unfettered discretion, to settle any such claims or actions on any basis they

deem appropriate. An Indemnitee may, but is not required to engage a single firm of separate counsel of its choice in connection with any matters to which Exercising Customer's indemnification relates, provided that Exercising Customer shall at no time be obligated to pay for more than one firm on behalf of Indemnitee.

- (iii) Indemnitee agrees that it must: (1) refrain from taking action that has a material adverse impact on the defense of such claim; (2) cooperate fully with the defense of any claims made hereunder at Exercising Customer's cost and expense; and (3) upon Exercising Customer's request, provide reasonable assistance to Exercising Customer (at Exercising Customer's cost and expense) in the defense of such claim.

(f) **SPECIFIC PERFORMANCE.** IN CONNECTION WITH ANY ACTION OR PROCEEDING TO ENFORCE THE RIGHT OF ACCESS, SUPPLIER ACKNOWLEDGES THAT CUSTOMERS WILL NOT HAVE AN ADEQUATE REMEDY AT LAW, THAT THE OPERATING ASSETS AND REAL ESTATE ARE UNIQUE AND THAT CUSTOMERS WILL BE ENTITLED TO SPECIFIC PERFORMANCE OF SUPPLIER'S OBLIGATIONS TO AFFORD EACH CUSTOMER ITS RIGHT OF ACCESS UNDER THIS AGREEMENT. SUPPLIER FURTHER AGREES THAT THE CUSTOMERS MAY SEEK EXPEDITED RELIEF FROM A COURT OF PROPER JURISDICTION AND THAT TWO (2) BUSINESS DAYS' NOTICE (OR SUCH SHORTER NOTICE AS MAYBE NECESSARY IN THE CIRCUMSTANCES) OF SUCH REQUESTED EXPEDITED RELIEF SHALL BE ADEQUATE NOTICE THEREOF.

(g) **Appointment of Receiver.** In addition to any rights and remedies Customers may have as secured creditors or under the terms of this Agreement or any other agreement between any Customer and Supplier, Customers will have the right to the appointment of a receiver or a receiver and manager to effectuate the Right of Access. In connection with any hearing on the appointment of a receiver, Supplier agrees that two (2) business days' notice (or such shorter notice as may be necessary in the circumstances) of any request for a hearing on such appointment will be adequate notice and that the only issue to be litigated at the hearing will be whether or not a Default has occurred.

(h) **IRREPARABLE HARM; LIMITATION OF NOTICE.** SUPPLIER ACKNOWLEDGES THAT THE CUSTOMERS WILL SUFFER IRREPARABLE HARM IF ANY ONE OR MORE CUSTOMERS INVOKE THE RIGHT OF ACCESS AND SUPPLIER FAILS TO COOPERATE WITH ANY CUSTOMER IN ALLOWING THE CUSTOMER TO EXERCISE THE RIGHT OF ACCESS UNDER THIS AGREEMENT. ACCORDINGLY, PROVIDED THAT SUPPLIER RECEIVES NOTICE IMMEDIATELY UPON CUSTOMER'S DETERMINATION TO REQUEST HEARINGS, BUT AT LEAST TWO (2) BUSINESS DAYS' NOTICE (OR SUCH SHORTER NOTICE AS MAYBE NECESSARY IN THE CIRCUMSTANCES) OF ANY REQUEST FOR HEARINGS IN CONNECTION WITH PROCEEDINGS INSTITUTED BY THE EXERCISING CUSTOMER, SUPPLIER WAIVES, TO THE FULLEST

**EXTENT POSSIBLE UNDER APPLICABLE LAW, THE RIGHT TO NOTICE IN EXCESS OF TWO (2) BUSINESS DAYS IN CONNECTION WITH ANY JUDICIAL PROCEEDINGS INSTITUTED BY THE EXERCISING CUSTOMER TO ENFORCE THE RIGHT OF ACCESS.**

4. License. Provided Customers are otherwise in compliance with their obligations under this Agreement, Supplier hereby grants each Customer or its designee(s) a non-exclusive worldwide, irrevocable, fully paid right and license to use any of its Intellectual Property to develop, manufacture, and assemble the Component Parts for each Exercising Customer's use and/or use by third parties during the Occupancy Period in accordance with this Agreement, whether or not any such development or manufacture uses any part of the Operating Assets (the "License"). The Exercising Customer's right to use the License will include the right to sublicense third parties for the manufacture or sub-assembly of the Component Parts during the Occupancy Period; provided, however, that any sublicense must satisfy the terms of this Agreement and sublicensing will have no effect on Customers' obligations under this Agreement. The License is in addition to and not intended to replace any license or similar rights arising under or in connection with the Purchase Orders and the Accommodation Agreement.

(a) Right to Use License. Although the License is being granted to Customers as of the date set forth above, each Customer agrees that neither it nor its sublicensee(s) will utilize the License unless such Customer exercises the Right of Access (and then it or any sublicense(s) will only use the License during the Occupancy Period after which the rights granted in this Section 4 automatically expire and will have no further force and effect).

(b) No Royalty. For all purposes, Supplier has been fully paid for the License and other rights granted to Customers under this Agreement (except as otherwise provided in this Agreement) and no royalties, fees, payments, charges or other consideration will be due from Customers on account of the License or this Agreement or any one or more Customer's (or sublicensee's) use of the License or other rights granted pursuant to this Agreement (except as otherwise provided in this Agreement).

(c) Protection of Ownership. The Customer and any third party licensee shall treat and preserve the Intellectual Property in accordance with the same practices employed by the Customer to safeguard its own intellectual property against unauthorized use and disclosure and will only use such information, data and trade secrets during the Occupancy Period in connection with producing Component Parts. The foregoing obligations of Customers will not be applicable to information which is now or becomes hereafter available to the public through no action, conduct, omission or fault of Customers. The provisions of this Section 4 will survive termination of this Agreement.

5. Court Approvals. Upon the commencement of the CCAA Proceeding, Supplier hereby agrees that it will exercise its commercial best efforts in good faith to obtain the applicable court's entry of an order authorizing Supplier to enter into this Agreement, which order will be sought commensurately with the commencement of the CCAA Proceeding. The order approving this Agreement shall also approve the Customers' Security granted under this Agreement and shall otherwise be in a form satisfactory to Customers.

6. Rights of Customers; Limitations on Customers' Obligations. Unless a Customer exercises the Right of Access, in which case the Exercising Customer will have the obligations as set forth in this Agreement, Customers will not have any obligation or liability by reason of or arising out of this Agreement. In addition, regardless of whether any Customer exercises the Right of Access, Customers will not be required or obligated in any manner to perform or fulfill any of the obligations of Supplier.

7. Remedies. Subject to the terms of Section 2 above, upon a Default, Customers will have all rights and remedies provided in this Agreement, in any other agreements with Supplier, and all rights and remedies available to a secured creditor under applicable law, provided that nothing herein shall restrict the Supplier (subject to Supplier's agreements with, and the rights of, Comerica) from having continuing use of its cash collateral or shall be construed or deemed to prevent Supplier, or any of its representatives, from having access to the Facilities, Operating Assets, Real Property and/or the books and records of Supplier except as such right may be limited during the Occupancy Period and provided such rights do not unreasonably interfere, hinder or delay the Exercising Customer's Right of Access in relation to Operating Assets and Real Property. Any rights of the Customers under the Customers' Security shall rank subsequent to and be postponed to the security and associated rights of Comerica granted in relation to the Comerica Facilities and the beneficiaries of the CCAA Charges. Further, in connection with Customers' rights and remedies under this Agreement:

(a) Supplier waives any right it may have to require Customers to foreclose their security interests and liens and/or reduce the Obligations to a monetary sum; Customer shall not have any rights of foreclosure, sale, transfer, assignment, lease or other disposition in relation to the Collateral;

(b) If any one or more Customers exercise the Right of Access, the Exercising Customer will be treated as a secured party in possession and the Exercising Customer's use and occupancy of the Operating Assets will not be deemed to be acceptance of such assets in satisfaction of the Obligations; and

(c) All of Customers' rights and remedies under this Agreement are cumulative and not exclusive of any rights and remedies under any other agreement or under applicable law or at equity.

8. Injunctive Relief. Given that Customers will incur significant damages if Supplier fails to timely satisfy its obligations to Customers and Customers' respective assembly or other plant operations will be negatively impacted, and because Customers do not have an adequate remedy at law and would be irreparably harmed by such events, Supplier agrees that Customers will be entitled to injunctive relief (both prohibitive and mandatory) in connection with any violations by Supplier of any terms or conditions of this Agreement. Customers agree to provide Comerica notice of any proceeding seeking injunctive relief simultaneously with providing such notice to Supplier.

9. Representations and Warranties. Supplier represents and warrants to Customers that:

(a) Title; No Other Security Interests. Except for: (i) the security interest granted under this Agreement to Customers, (ii) liens and security interests granted to Comerica, (iii) the CCAA Charges, and (iv) all other valid and perfected liens and security interests against the property and assets of Supplier on the date of this Agreement, and all liens created by operation of federal, provincial and municipal law that currently exist (collectively, the "Permitted Liens"), Supplier owns the Collateral free and clear of any and all liens, security interests or claims of others. Except for the liens and security interests granted to Comerica, the CCAA Charges, the Permitted Liens and the security interest granted under this Agreement to the Customers, no other person or entity (including any person or entity holding any lien of record) has a lien or security interest on any material portion of the Operating Assets or Real Estate.

(b) Addresses. The address of Supplier's chief executive office is set forth in Section 22 and will not be changed without prior written notice to Customers, but the Operating Assets, wherever located, are covered by this Agreement. Supplier must immediately advise Customers in writing of any change in its name, trade name, address, or form of organization.

(c) Trade Names. Any and all trade names under which Supplier transacts any part of its business, and all former names of Supplier, are those which have been previously disclosed to Customers in writing or may be obtained from a search of a public registry system.

(d) Accuracy of Information. All information, certificates, or statements given to Customers in connection with this Agreement must be true and complete in all material respects, when given.

10. Covenants. Supplier covenants and agrees with Customers that from and after the date of this Agreement until the Obligations are fully performed:

(a) Further Documentation. At any time and from time to time, upon the written request of any Customer, and at Customers' sole expense, Supplier will promptly and duly execute and deliver any and all such further instruments and documents and take such further action as the Customer may reasonably request for the purpose of obtaining the full benefits of this Agreement and of the rights and powers herein granted. Further, Supplier hereby grants each Customer a power of attorney to execute on its behalf and file necessary registrations or financing or continuation statements to perfect the security interest granted hereby.

(b) Payment of Obligations. Prior to an exercise of the Right of Access by any one or more Customers, if any, Supplier will pay promptly when due, all taxes, assessments and governmental charges or levies imposed upon the Collateral and the Real Estate or in respect of Supplier's income or profits.

(c) Sales or Dispositions of Operating Assets, Certain Uses Prohibited. During the Term, without the written consent of the Customers, which consent will not be unreasonably withheld, and the consent of Comerica, Supplier shall not: (i) sell or otherwise dispose of any of the Operating Assets or the Real Estate except in the ordinary course of business; (ii) encumber the Operating Assets or the Real Estate (except for liens granted in connection with the CCAA Charges); or (iii) use, or contract for the use of, any of the Operating



Assets or the Real Estate in any way which would materially adversely affect the Customers' Right of Access or the Customers' other rights and remedies under this Agreement. Supplier acknowledges and agrees that it will be reasonable for the Customers to withhold consent if the proposed sale or encumbrance impairs, or may impair, the Customers' rights under this Agreement. Notwithstanding the foregoing, nothing herein shall impair the right of Supplier to market and sell or transfer its business and related assets, including the Operating Assets and the Real Estate in accordance with the Accommodation Agreement and so long as such purchaser agrees not to impair any Customer's Right of Access under this Agreement or right to use the Operating Assets and the Real Estate during the Occupancy Period

(d) Limitations on Modifications of Agreements, etc. Supplier will not, other than in the ordinary course of business (i) amend, modify, terminate or waive any provision of any Contract, or enter into any Contract, which might materially adversely affect Customers' Right of Access, or (ii) fail to exercise promptly and diligently each and every right which it may have under each Contract in any manner which could materially and adversely affect Customers' Right of Access or Customers' other rights and remedies under this Agreement or any other right or agreement between Customers and Supplier or otherwise.

(e) Maintenance of Insurance. Prior to the Occupancy Period, Supplier will, at its expense, keep and maintain insurance on the Operating Assets and Real Estate which insures the Operating Assets and Real Estate against all risk of loss or damage from fire, theft, malicious mischief, explosion, sprinklers, and all other hazards and risks of physical damage included within the meaning of the term "extended coverage" in such amounts as are ordinarily insured against by other owners of similar businesses. Supplier will furnish Customers evidence of said insurance, but Customers will not be named as an additional insured or loss payee.

(f) Right of Inspection; Cooperation. In addition to any rights Customers may have under the Purchase Orders or any other agreements with Supplier (including the Accommodation Agreement), each Customer and its representatives will, upon reasonable request and reasonable times, have the right to enter into and upon any premises where any of the Operating Assets and Real Estate are located for the purpose of inspecting the same, observing its use or otherwise protecting the Customer's interests therein. Each Customer will maintain the confidentiality of information obtained by it, and will only disclose such information if required by law to do so.

(g) Notice of Default. Supplier will provide immediate notice to Customers, by way of facsimile transmission and overnight express mail service, of its or its attorneys' or agents' receipt of any notice of default under the Loan Documents from Comerica, or from any other secured creditors including, but not limited to, taxing authorities. Supplier hereby grants to Customer the option, but not the obligation, to exercise whatever rights to cure defaults that Supplier has under such agreements or by law.

#### 11. Secured Party and Lessor Acknowledgments.

(a) Supplier will provide to Customers, commensurately with execution of this Agreement, Comerica's acknowledgment to the rights and interests granted to Customers under this Agreement by providing a copy of the Lender's Acknowledgment and Consent

attached as Schedule 11(a) attached hereto executed by a duly authorized representative of Comerica.

(b) If subsequent to the execution of this Agreement, Supplier intends to grant additional or further security interests, liens or mortgages in any of the Collateral to any party other than Customers, five (5) business days prior to granting such liens, security interests, mortgages, or leaseholds, Supplier must deliver to Customers an acknowledgment from such secured creditors, mortgagees, and/or lessees in a form substantially similar to Schedule 11(a) attached hereto.

(c) Supplier shall seek, commensurately with execution of this Agreement, acknowledgments from any lessor(s) of the Real Estate and the Operating Assets (to the extent leased) to Customers' rights hereunder, in the form of Schedule 11(b) attached hereto.

12. Effect on Purchase Orders. The purpose of this Agreement is to preserve the rights and interests of the parties under the Purchase Orders and, by entering into this Agreement, no party is waiving or limiting any rights it may have under the Purchase Orders. This Agreement will be deemed to be incorporated by reference into, and will constitute an amendment to all existing and future Purchase Orders regardless of whether any specific reference to this Agreement is made in any such Purchase Orders. To the extent that any term or provision in this Agreement is inconsistent with any term or condition of any such Purchase Order, the terms and conditions of this Agreement will control.

13. Term. The rights granted to Customers under this Agreement shall continue until the date that is the earlier of: (a) fifteen (15) days after notice is given by Comerica that it intends to exercise its rights in relation to the Operating Assets or the Real Estate, unless the Occupancy Period with respect to the Exercising Customer in relation to the Facility or Facilities where Operating Assets are located commences prior to the end of that fifteen (15) day period, and (b) March 15, 2009 (the resulting period being referred to as the "Term") at which time such rights will terminate and, without limiting the generality of the foregoing, the Customers' Security will be released and discharged and of no further force or effect, and any interest in the Collateral will be automatically reconveyed to Supplier, unless:

(a) any one or more Customers, following the occurrence of a Default, have exercised the Right of Access prior to the expiration of the Term, in which case the Term is extended to the expiration of the Occupancy Period in relation to such Exercising Customer only, and at the end of the Occupancy Period in relation to such Exercising Customer the rights granted to Customers under this Agreement will terminate and, without limiting the generality of the foregoing, the Customers' Security will be released and discharged and of no further force or effect, and any interest in the Collateral will be automatically reconveyed to Supplier; or

(b) with respect to any Facility, there has been a sale of the Operating Assets in relation to such Facility to a "Qualified Buyer" as that term is defined in the Accommodation Agreement, in which case the Term will expire on the effective date of such sale.

Notwithstanding the termination of this Agreement, all indemnification obligations in this Agreement shall survive termination of this Agreement.

14. Discharges. Upon the release of the security interest pursuant to Section 13 above, each Customer will, at such Customer's expense, promptly execute and deliver all such discharges, releases, reassignments and further assurances as may be reasonably required to record the discharge of the security interest or charge.

15. Payments by Customers. All payments to be made by Customers to Supplier hereunder shall be without setoff, recoupment or deduction, including in relation to any special, consequential or incidental damages that a Customer may suffer or incur giving rise to any Customer's exercise of a Right of Access.

16. Confidential Information and Data. Without limiting Customers' rights under this Agreement, to the extent the Operating Assets include, or Customers or their respective designee(s) otherwise come into possession of or become aware of, Supplier's trade secrets or proprietary information during a Customer's exercise of the Right of Access, Customers and their respective designees must, (a) except as required by applicable law, keep the information, data, and trade secrets confidential; and (b) only use the information, data, and trade secrets during the Occupancy Period in connection with producing Component Parts. The provisions of this Section will survive termination of this Agreement.

17. Severability. Should any provision of this Agreement be held invalid, prohibited or unenforceable in any one jurisdiction it will, as to that jurisdiction only, be ineffective to the extent of such holding without invalidating the remaining provisions of this Agreement, and any such holding does not invalidate or render unenforceable that provision in any other jurisdiction wherein it would be valid and enforceable.

18. Authorization. The parties executing this Agreement as representatives warrant that they have the power and authority to execute this Agreement on behalf of the corporation that they represent and that their signatures bind said corporations to the terms of this Agreement.

19. Section Headings. The Section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation of this Agreement. All references to Sections, Schedules, and Exhibits are to Sections, Schedules, and Exhibits in or to this Agreement unless otherwise specified.

20. No Waiver; Cumulative Remedies. The Customers will not by any act, delay, indulgence, omission, or otherwise be deemed to have waived any right or remedy under this Agreement or of any breach of the terms and conditions of this Agreement. A waiver by the Customers of any right or remedy under this Agreement on any one occasion will not be construed as a bar to any right or remedy which the Customers would otherwise have had on a subsequent occasion. No failure to exercise nor any delay in exercising on the part of the Customers any right, power, or privilege under this Agreement, will operate as a waiver, nor will any single or partial exercise of any right, power or privilege under this Agreement preclude any

other or future exercise thereof or the exercise of any other right, power or privilege. The rights and remedies under this Agreement are cumulative, may be exercised singly or concurrently, and are not exclusive of any rights and remedies provided by any other agreements or applicable law or at equity.

21. Accommodation Agreement. Nothing in this paragraph or this Agreement, shall be deemed to amend, modify or supersede any agreements by the Customers under the Accommodation Agreement and, to the extent of any conflict or inconsistency between the terms of this Agreement and the Accommodation Agreement, the Accommodation Agreement shall govern.

22. Waivers and Amendments; Successors and Assigns. No term or provision of this Agreement may be waived, altered, modified, or amended except by a written instrument, duly executed by Supplier and the Customers. This Agreement and obligations under this Agreement are binding upon the successors and assigns of Supplier, and together with the rights and remedies of the Customers under this Agreement, inure to the benefit of the Customers and their respective successors and assigns. This Agreement and obligations under this Agreement are binding upon the successors and assigns of Customer, and together with the rights and remedies of the Supplier under this Agreement, inure to the benefit of the Supplier and its successors and assigns. Supplier and Customers may not assign or transfer any right or obligation under this Agreement without the prior written consent of the other.

23. Governing Law and Forum. This Agreement is made in Province of Ontario and will be governed by, and construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to conflicts of law principles, and each of the parties hereby irrevocably attorns to the non-exclusive jurisdiction of the Courts of the Province of Ontario.

24. Notices. All notices, requests, and other communications that are required or may be given under this Agreement must be in writing, and will be deemed to have been given on the date of delivery, if delivered by hand, facsimile or courier, or three (3) days after mailing, if mailed by certified or registered mail, postage prepaid, return receipt requested, addressed as set forth below (which addresses may be changed, from time to time, by notice given in the manner provided in this Section):

If to Supplier:

SKD Automotive Group  
1450 W. Long Lake Rd., Suite 210  
Troy, Michigan 48098  
Attention: John P. Chen  
Facsimile: (248) 267-9669

with a copy to: Lang Michener LLP  
Brookfield Place, 181  
Bay Street, Suite 2500  
Toronto, Ontario M5J 2T7  
Attention: Sheryl E. Seigel  
Facsimile:(416)365-1719  
Email: sseigel@langmichener.ca

If to Chrysler: Chrysler LLC  
800 Chrysler Drive  
CIMS 485-14-78  
Auburn Hills, MI 48326  
Attention: Sigmund Huber  
Director, Supplier Relations  
Facsimile: (248) 512-1771

With a copy to: Chrysler LLC  
CIMS 485-13-32  
1000 Chrysler Drive  
Auburn Hills, MI 48326-2766  
Attention: Kim R. Kolb,  
Senior Staff Counsel  
Facsimile: (248) 512-4885

And: Dickinson Wright PLLC  
500 Woodward Ave., Suite 4000  
Detroit, MI 48226  
Attention: James A. Plemmons  
Facsimile: (313) 223-3598

If to Ford: Ford Motor Company  
One America Road  
World Headquarters  
Suite 416  
Dearborn, Michigan 48126  
Attention: Daniella Saltz  
Facsimile: (313) 322-3804

With a copy to: Ford Motor Company  
Building 3  
20100 Rotunda Drive  
Number 3A041  
Dearborn, Michigan 48124  
Attention: Bill Strong  
Facsimile: (313) 206-7044

And: Miller Canfield Paddock and Stone, PLC  
150 West Jefferson, Suite 2500  
Detroit, Michigan 48226  
Attention: Stephen S. LaPlante  
Facsimile: (313) 496-8478

If to Honda: Honda of America Mfg., Inc.  
North American Purchasing Office  
21001-A State Route 739  
Raymond, Ohio 43067  
Attention: Bryan Clay  
Facsimile: (937) 645-7401

With a copy to: Joseph F. LaFleur, Esq.  
Honda of America Mfg., Inc.  
24000 Honda Parkway  
Marysville, Ohio 43040-9251  
Facsimile: (937) 644-6583

And: Robert A. Bell, Jr.  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
Columbus, Ohio 43216-1008  
Facsimile: (614) 719-5196

If to Comerica: Comerica Bank  
One Detroit Center  
500 Woodward Avenue, 4th Floor  
Detroit, MI 48226  
Attention: James L. Embree  
Facsimile: (313) 222-1244

With a copy to: Bodman LLP  
6th Floor at Ford Field  
1901 St. Antoine Street  
Detroit, Michigan 48226  
Attention: Ralph E. McDowell  
Facsimile: (313) 393-7579

25. No Intended Third Party Beneficiary. The parties hereto acknowledge and agree that the rights and interests of the parties under this Agreement are intended to benefit solely the parties to this Agreement, Comerica and the beneficiaries of the CCAA Charges.

26. Counterparts. This Agreement may be executed in any number of counterparts and by each party hereto on separate counterparts, each of which when so executed and delivered will be an original, but all of which together will constitute one and the same instrument, and it

will not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Facsimile copies of signatures will be treated as originals for all purposes.

27. Entire Agreement; Conflicts. This Agreement together with the Accommodation Agreement and any other agreements and schedules executed in connection with this Agreement constitutes the entire understanding of the parties in connection with the subject matter hereof. This Agreement may not be modified, altered, or amended except by an agreement in writing signed by Customers and Supplier. Although this Agreement constitutes an amendment to the Purchase Orders, the terms and conditions of the Purchase Orders will be unaffected by this Agreement except to the extent that an inconsistency or conflict exists between the express terms of the Purchase Orders and this Agreement in which event the terms of this Agreement will govern and control. To the extent any term or condition of this Agreement is inconsistent or in conflict with the terms of any other agreements between the parties, the terms of this Agreement will govern and control.

28. CONSULTATION WITH COUNSEL. THE PARTIES HERETO ACKNOWLEDGE THAT THEY HAVE BEEN GIVEN THE OPPORTUNITY TO CONSULT WITH COUNSEL BEFORE EXECUTING THIS AGREEMENT AND ARE EXECUTING SUCH AGREEMENT WITHOUT DURESS OR COERCION AND WITHOUT RELIANCE ON ANY REPRESENTATIONS, WARRANTIES OR COMMITMENTS OTHER THAN THOSE REPRESENTATIONS, WARRANTIES AND COMMITMENTS SET FORTH IN THIS AGREEMENT.

29. WAIVER OF JURY TRIAL. THE PARTIES HERETO ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT, BUT THAT THIS RIGHT MAY BE WAIVED. THE PARTIES EACH HEREBY KNOWINGLY, VOLUNTARILY AND WITHOUT COERCION, WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ALL DISPUTES ARISING OUT OF OR IN RELATION TO THIS AGREEMENT OR ANY OTHER AGREEMENTS BETWEEN THE PARTIES. NO PARTY WILL BE DEEMED TO HAVE RELINQUISHED THE BENEFIT OF THIS WAIVER OF JURY TRIAL UNLESS SUCH RELINQUISHMENT IS IN A WRITTEN INSTRUMENT SIGNED BY THE PARTY TO WHICH SUCH RELINQUISHMENT WILL BE CHARGED.

*[signatures on next page]*

*[signature page to Access and Security Agreement]*

**HONDA OF AMERICA MFG., INC.**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

**CHRYSLER CANADA INC.**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

**FORD MOTOR COMPANY**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

**CHRYSLER LLC on behalf of itself and  
CHRYSLER MOTORS LLC**

By: \_\_\_\_\_  
I have authority to bind the Corporation

\_\_\_\_\_  
print name

**SKD COMPANY, by its partners, NMC  
CANADA, INC. and 2515080 NOVA  
SCOTIA COMPANY**

By: \_\_\_\_\_  
I have authority to bind the NMC Canada,  
Inc.

\_\_\_\_\_  
print name

By: \_\_\_\_\_  
I have authority to bind the 2515080 Nova  
Scotia Company

\_\_\_\_\_  
print name

**Schedules and Exhibits:**

- Exhibit A: Facilities
- Schedule 11(a): Lender's Acknowledgment and Consent
- Schedule 11(b): Lessor's Acknowledgment and Consent



**EXHIBIT A  
FACILITIES**

<b>Facility</b>	<b>Monthly Access Fee (USD)</b>
<b>A. Owned Real Property</b>	
1. 40 Holtby Avenue, Brampton, Ontario	\$76,000
2. 375 Wheelabrator Way, Milton, Ontario	\$62,000
<b>B. Leased Real Property</b>	
1. 7345 East Danbro Crescent, Mississauga, Ontario	\$4,000
2. 6495 Tomken Road, Mississauga, Ontario	\$8,000



**SCHEDULE 11(b)**  
**LESSOR'S ACKNOWLEDGEMENT AND CONSENT**

While not a party to the Access and Security Agreement ("Access Agreement") made between \_\_\_\_\_ (the "Customers") and \_\_\_\_\_ ("Supplier") dated as of January \_\_, 2009, the undersigned leases certain real estate and/or equipment to Supplier, and, in such capacity, the undersigned acknowledges, consents to, and agrees with, and agrees to be bound by, the terms and conditions of the Access Agreement, including Customers' right to use the Operating Assets and the Real Estate during any Occupancy Period.

**WITNESSED**

\_\_\_\_\_  
*(Name of Lessor)*

\_\_\_\_\_  
 Name

By: \_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_  
 Name

Title: \_\_\_\_\_

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

STATE OF \_\_\_\_\_ )  
 )ss  
 COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_ day of \_\_\_\_\_, 2008 by \_\_\_\_\_, the duly authorized \_\_\_\_\_ of \_\_\_\_\_ on behalf of such corporation.

\_\_\_\_\_  
 Notary Public

County, \_\_\_\_\_

My commission expires: \_\_\_\_\_

**EXHIBIT C**

**BUDGET**

(see attached)

**SKD Automotive Group LP**  
**Borrowing Base Calculation Estimate**  
*(USD)*

	1/9/09	1/16/09	1/23/09	1/30/09	2/6/09	2/13/09	2/20/09	2/27/09
Beginning AR	\$23,791	\$23,791	\$25,077	\$15,176	\$17,613	\$17,118	\$16,398	\$16,449
+ Sales (excl Mexico) (2)	-	1,286	2,785	3,226	2,581	2,725	2,424	2,969
- Receipts (excl Mexico) (2)	-	-	12,687	789	3,077	3,445	2,374	2,635
Total AR for BBC	23,791	25,077	15,176	17,613	17,118	16,398	16,449	16,782
- Ineligible	(22,034)	(22,985)	(10,584)	(11,157)	(11,370)	(11,182)	(11,228)	(11,171)
Total Eligible AR	1,757	2,092	4,592	6,457	5,748	5,217	5,221	5,612
Collateral Value AR (1)	1,406	1,674	4,133	5,811	5,174	4,695	4,699	5,051
Inventory Value (3)	5,381	4,994	4,886	4,849	4,729	4,524	4,435	4,321
Other Collateral Reliance	14,995	14,909	14,909	14,909	14,909	14,909	14,909	14,909
Less Reserve	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)
Less Admin Reserve		(1,445)	(1,445)	(1,445)	(1,445)	(1,445)	(1,445)	(1,445)
Less Other Reserve		(471)	(471)	(471)	(471)	(471)	(471)	(471)
Plus Customer Participation	1,073	2,179	3,425	4,567	5,773	6,761	7,301	8,799
Less Estimated Setoff Reserve		(960)	(182)	(323)	(304)	(274)	(289)	(144)
Total Loanable Collateral	17,854	15,880	20,255	22,897	23,364	23,699	24,139	26,019
Total Liability	17,808	15,191	19,177	21,961	22,410	22,715	23,169	24,905
Bank	16,736	13,012	15,752	17,394	16,637	15,954	15,868	16,106
Customer	1,073	2,179	3,425	4,567	5,773	6,761	7,301	8,799
Excess (Deficit) availability	46	689	1,078	937	954	984	969	1,114
Cash Balance per model	6,562	(47)	0	0	0	0	0	0
Adjusted availability	\$6,608	\$642	\$1,078	\$937	\$954	\$984	\$969	\$1,114
Estimated Weekly Customer Participation	\$1,073	\$1,107	\$1,246	\$1,142	\$1,206	\$988	\$540	\$1,498
Estimated Cumulative Customer Participation	\$1,073	\$2,179	\$3,425	\$4,567	\$5,773	\$6,761	\$7,301	\$8,799
Contra								
Beginning	\$12,580	\$12,935	\$13,819	\$522	\$1,095	\$1,308	\$1,120	\$1,166
+ Purchases	288	885	885	885	1,262	1,262	1,262	1,262
- Offsets	-	-	14,182	312	1,049	1,450	1,216	1,319
End Contra	\$12,868	\$13,819	\$522	\$1,095	\$1,308	\$1,120	\$1,166	\$1,109

- (1) The initial 80% advance rate for A/R is increased to 90% on 1/23/09.  
(2) Receipts for January and February are based on SKD estimates.  
(3) Inventory for January and February 2009 are based on SKD estimates.

**SKD Automotive Group LP**  
**Estimated Cash Flow Forecast - Consolidated**  
*(USD)*

	9-Jan	16-Jan	23-Jan	30-Jan	Jan 2009	6-Feb	13-Feb	20-Feb	27-Feb	Feb 2009	Total Jan/Feb
Total Receipts	10,675	953	19,241	1,190	32,058	4,035	3,969	2,725	3,531	14,259	46,317
Disbursements											
Customer Steel Autodebit/Scrap Rebate	-	-	18,387	342	18,729	2,436	1,621	1,343	1,905	7,306	26,035
Accounts Payable - Trade	242	1,030	968	1,400	3,640	587	633	636	1,414	3,270	6,910
Payroll - Hourly	199	371	798	469	1,836	216	193	427	415	1,251	3,087
Payroll - Salaried	283	2,364	79	1,059	3,785	489	1,048	43	721	2,300	6,085
Restructuring Fees and Setoffs	211	1,180	1,525	634	3,550	755	779	731	738	3,003	6,552
Interest	150	-	-	128	277	-	-	-	128	128	405
Other Fees	-	-	-	(58)	(58)	-	-	-	(55)	(55)	(113)
Accrued Payroll	-	-	1,423	-	1,423	-	-	-	-	-	1,423
Accounts Payable - Tooling	-	-	-	-	-	-	-	-	-	-	-
Capital	-	-	-	-	-	-	-	-	-	-	-
Total Disbursements	1,084	4,944	23,180	3,973	33,181	4,484	4,274	3,180	5,266	17,203	50,384
Net Cash Flow	9,592	(3,992)	(3,939)	(2,783)	(1,123)	(449)	(305)	(455)	(1,735)	(2,944)	(4,067)
Line Paydown/(Advance)	5,890	2,617	(3,986)	(2,783)	1,737	(449)	(305)	(455)	(1,735)	(2,944)	(1,207)

**SKD Automotive Group**

**EXHIBIT D - ALLOCATION PERCENTAGES BY CUSTOMER**  
**FOR THE PERIOD JANUARY 1 - FEBRUARY 27, 2009**

Historical Sales	Brampton	Milton	Mexico	U.S.
Chrysler	56%	57%	38%	40%
Ford	44%	21%	0%	21%
Honda	0%	22%	0%	27%
GM	0%	0%	62%	12%
Total	100%	100%	100%	100%

**RSM! Richter**

**Report of RSM Richter Inc.  
as Proposed CCAA Monitor of  
NMC Canada, Inc. and 2515080 Nova  
Scotia Company**

**RSM Richter Inc.**  
Toronto, January 21, 2009



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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
- COMMERCIAL LIST -**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, C.C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
NMC CANADA, INC. AND 2515080 NOVA SCOTIA COMPANY**

**REPORT OF RSM RICHTER INC.  
AS PROPOSED CCAA MONITOR OF  
NMC CANADA INC. AND 2515080 NOVA SCOTIA COMPANY**

**January 21, 2009**

**1. INTRODUCTION**

RSM Richter Inc. ("Richter") has been advised that NMC Canada, Inc. ("NMC") and 2515080 Nova Scotia Company ("2515") intend to make an application to this Honourable Court to commence proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA"). It is proposed that Richter would be appointed as the monitor ("Proposed Monitor") in the CCAA proceedings.

The order ("Initial Order") being sought by NMC and 2515 seeks to have the provisions of the Initial Order apply to SKD Company ("SKD"), a general partnership through which NMC and 2515 carry on business. In this report, NMC, 2515 and SKD are collectively referred to as the "Company".

The primary purpose of the CCAA application is to allow the Company the opportunity to conduct a sale process and to consider restructuring alternatives in a stabilized environment.

This report (“Report”) has been drafted in Richter’s capacity as Proposed Monitor.

Richter has consented to act as Monitor in these proceedings.

## 1.1 Purposes of this Report

The purposes of this Report are to:

- a) Provide background information about the Company;
- b) Discuss the terms of an accommodation agreement (the “Accommodation Agreement”) among SKD, Comerica Bank (“Comerica”), the Company’s primary secured lender, Ford Motor Company (“Ford”), Chrysler Canada Inc. and Chrysler LLC (jointly, “Chrysler”) and Honda of America Mfg. Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC (collectively, “Honda”), (Ford, Chrysler and Honda are referred to as the “Customers”);
- c) Summarize the terms of an access and security agreement (the “Access Agreement”) among SKD, Comerica and the Customers;
- d) Summarize the Company’s banking arrangements with Comerica, as well as an opinion rendered by Goodmans LLP (“Goodmans”), the Proposed Monitor’s counsel in this matter, regarding the validity and enforceability of Comerica’s security;
- e) Summarize the terms of the proposed sale and marketing process for the Company’s business and assets (the “Sale Process”); and
- f) Recommend that this Honourable Court make an order:
  - Granting the relief requested by the Company;
  - Approving the Forbearance Agreement (as defined in the Initial Order);
  - Approving the Accommodation Agreement, including the Access Agreement; and
  - Approving the Sale Process detailed in Section 6 below.

## 1.2 Currency

Unless otherwise noted, all currency references in this Report are to Canadian dollars.

## 1.3 Terms of Reference

In preparing this Report, the Proposed Monitor has relied upon unaudited financial information prepared by the Company's management, the Company's advisors, Conway MacKenzie, Inc. ("Conway"), the Company's books and records and discussions with its management. The Proposed Monitor has not performed an audit or other verification of such information. An examination of the Company's financial forecasts as outlined in the *Canadian Institute of Chartered Accountants Handbook* has not been performed. Future oriented financial information relied upon in this Report is based on management's assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Proposed Monitor expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Report, or relied upon by the Proposed Monitor in preparing this Report.

## 2. BACKGROUND

NMC and 2515 are the general partners of SKD. The only assets and liabilities of NMC and 2515 relate to SKD. NMC and 2515 own 1% and 99% of SKD, respectively. In addition to SKD's Canadian manufacturing operations, automotive parts manufacturing is carried on by SKD L.P. in the US ("SKD US") and SKD de Mexico, S. de R.L. de C.V. in Mexico ("SKD Mexico") (collectively, SKD US, SKD Mexico, SKD and related entities are referred to as the "SKD Group"). A corporate organizational chart is attached as Appendix "A".

The SKD Group is a tier one supplier of stampings and welded assemblies to the North American automotive industry.

The Company's primary customers are the Customers<sup>1</sup>. Chrysler is the Company's largest customer, comprising approximately 51% of the Company's total sales for the 10 months ending October 31, 2008.

The Company operates from two leased facilities in Mississauga, Ontario, as well as owned facilities in Milton and Brampton, Ontario.

The affidavit of John Chen (the "Chen Affidavit"), the President of NMC, provides further details concerning the Company, its creditors and its financial position.

## 2.1 Employees

As of December 1, 2008, the Company employed 661 individuals, of which 192 were salaried employees and 469 were hourly unionized employees. The Company's operations are supported by a sales and engineering office in Troy, Michigan.

SKD's hourly employees are represented by three unions, as follows:

- Employees of the Brampton facility are represented by the National Automobile, Aerospace, Transportation and General Workers of Canada and its Local 1285 (the "CAW");
- Employees of the Milton facility are represented by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers Union (the "USW"); and
- Employees of the Mississauga and Danbro facilities are represented by Teamsters Local Union No. 419 (the "Teamsters").

There are currently 109 CAW employees, 194 USW employees and 166 Teamsters employees. The CAW, USW and Teamsters are collectively referred to as the "Unions".

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<sup>1</sup> General Motors Corporation ("GM") was a customer of the Company; however, GM recently determined it would resource the production being done for it by SKD to other suppliers. As of the date of this Report, GM has removed certain of its tooling, dies and equipment and has cancelled its purchase orders with the Company.

On January 2, 2009, representatives of the Company, the Company's counsel, Lang Michener LLP, Conway and Richter attended at meetings convened separately with each of the Unions. The purpose of the meetings was to update the Unions regarding the Company's financial situation, negotiations then ongoing among the Company, Comerica and the Customers with respect to the Accommodation Agreement and the possible direction of the Company, including a sale process for the Canadian operations in the context of a CCAA proceeding.

The Company and the Proposed Monitor intend to keep the Unions apprised of material developments during these proceedings.

## **2.2 Unsecured Obligations**

As at January 13, 2009, SKD's unsecured obligations totalled approximately \$9.1 million, excluding payroll liabilities, litigation and extraordinary claims, payables to Customers for steel (subject to setoff from these parties against their accounts payable to the Company) and intercompany balances.

## **3. ACCOMMODATION AGREEMENT**

Comerica's credit facilities matured on November 30, 2008. During November, 2008, the Company commenced discussions with Comerica regarding the Company's financial and operational challenges, as well as the maturation of Comerica's credit facility. Comerica agreed to forbear following November 30, 2008, as long as the Company remained within its margin formula and provided that the Company approached its major customers and negotiated interim funding arrangements and accommodation agreements with those customers.

Following its meetings with Comerica, the Company and Conway approached the Customers and General Motors Corporation (“GM”), and requested that they enter into accommodation agreements with the Company, which, among other things, would provide additional interim operating financing to the Company and other entities within the SKD Group.

In the course of negotiations it was determined that separate accommodation agreements should be put in place for the US and Mexican operations of the SKD Group and for the Canadian operations of the SKD Group.<sup>2</sup>

For the past several weeks, the Company, Comerica and the Customers (as well as the various legal and financial advisors to the Company and the Customers) have been involved in extensive negotiations with respect to the accommodation agreements. During these negotiations, the Company, the Customers and Comerica negotiated short-term funding agreements (the “Short Term Funding Agreements”) to allow the Company to operate on a limited basis.

### **3.1 Summary of Key Provisions of the Accommodation Agreement**

The following is a summary of the key provisions of the Accommodation Agreement:

- a) Parties: SKD, Comerica and the Customers.
- b) Termination: The Accommodation Agreement terminates on the earlier of (i) February 28, 2009; (ii) the closing of a sale of SKD’s business as a going concern to a Qualified Buyer (as defined in the Accommodation Agreement); (iii) an event of default (as defined in the Accommodation Agreement); (iv) Comerica ceasing to provide financing to SKD; and (v) Comerica commencing any enforcement action with respect to a material portion of SKD’s real or personal property constituting collateral.

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<sup>2</sup> GM is not a party to the Accommodation Agreement.



- c) Summary of key issues addressed by Accommodation Agreement:
- The terms and conditions under which SKD will continue to supply the Customers during these proceedings;
  - The terms and conditions under which Comerica will continue to make advances to SKD;
  - The terms pursuant to which Customers will provide funding for SKD's operations during the term of the agreement;
  - An acknowledgement by each Customer of the basis on which it would pay its pre-filing and post-filing accounts payable owing to SKD;
  - The terms pursuant to which the Customers can resource, if required;
  - Limitations on the extent and manner in which each Customer can assert setoffs against their obligations to SKD;
  - The terms for dealing with Customer and Company owned tooling, including, *inter alia*, terms upon which tooling would be completed and the terms of sale of unpaid tooling to the Customers;
  - Provisions to assist Customers to transition to another vendor, should that be necessary, including inventory bank build provisions, the Customers' rights to acquire certain SKD-owned assets necessary for them to secure an uninterrupted supply of product, and the basis for establishing the selling price for these assets; and
  - The terms pursuant to which the Customers may secure access to SKD's premises at which production for them is conducted, should SKD be unable to produce for them. (The terms of access, as detailed in the Access Agreement, grant the Customers a right to use and occupy the SKD facilities for a period of time for production of component parts.) The Access Agreement also grants the Customers a security interest in the assets of SKD, subordinate to the charges contemplated by the Initial Order sought by the Company and to Comerica's security interests, to secure their access rights. In the event that a right of access is exercised by a Customer, the Access Agreement requires the applicable Customer(s) to make payments to SKD in order to allow SKD to continue to operate for the benefit of that Customer(s). A copy of the Access Agreement is appended to the Accommodation Agreement.

At the end of the Term (as defined in the Accommodation Agreement) or in the event of resourcing, the Accommodation Agreement requires Customers to (i) acquire the Company's inventory related to production of the Customer's component parts; and (ii) at the Customers' option, purchase Company-owned tooling and/or designated equipment, on terms set out in the Accommodation Agreement. The Customers agreed to these terms on the condition that any inventory or equipment to be sold to them will be sold free and clear of any and all claims and pursuant to an order being obtained from the Court vesting title in and to the those assets to the respective Customer. Richter has been advised that it is the Company's intention to return to Court prior to any such sales to seek an order (on appropriate notice) with respect to the vesting provisions of the Accommodation Agreement.

A copy of the Accommodation Agreement is attached as Exhibit "J" to the Chen Affidavit.

The Proposed Monitor recommends that this Honourable Court issue an order approving the Accommodation Agreement and the Access Agreement for the following reasons:

- a) The Company entering into the Accommodation Agreement on terms acceptable to Comerica is a condition precedent to the continuation of Comerica funding under its current facility;
- b) The Customers will not fund the Company absent the approval by this Court of the Accommodation Agreement and the Access Agreement;
- c) The Accommodation Agreement sets out the terms pursuant to which the Customers have agreed to fund the Company's operations during the term of the agreement; and
- d) Entering into the Accommodation Agreement and the Access Agreement will provide the Company with the framework to enter these proceedings, which will thus provide the Company with the stability it requires to operate and to execute the Sale Process, as detailed in Section 6 below.

## **4. FUNDING**

### **4.1 Comerica Facility**

Comerica was owed a principal amount of approximately US\$13 million as at January 16, 2009, excluding interest, costs and expenses and excluding Customer funding under the Short-Term Funding Agreements. SKD is a joint borrower, together with SKD Automotive Group, Limited Partnership (the US borrower), under a revolving loan working capital facility. The loans made by Comerica matured on November 30, 2008.

The Company maintains bank accounts and oversees cash management independently of other entities in the SKD Group. The Company's bank accounts are managed pursuant to one or more control agreements with Comerica. The Company intends to continue to utilize its existing accounts, and to open and utilize additional trust accounts, as permitted under the forbearance agreement (the "Forbearance Agreement"), a copy of which is appended as Exhibit "H" to the Chen Affidavit filed in these proceedings.

Pursuant to the Forbearance Agreement, the maximum borrowing limit under the Comerica facilities is US\$18 million, plus the amount of subordinated participations purchased from Comerica by the Customers, as described in Section 4.2 below. Comerica has agreed to forbear through February 28, 2009, provided that Comerica will not provide out-of-formula financing. Further, as noted in the Forbearance Agreement, Comerica's continued funding is discretionary and Comerica is not required to continue to fund even if the Company is within its margin formula. The Company forecasts that absent funding from the Customers it would be substantially out-of-margin immediately, and that it would continue to be out-of-margin through the end of February, 2009.

The Forbearance Agreement requires that all cash receipts be swept/transferred to the Company's accounts at Comerica. It is the Proposed Monitor's experience that cash sweep mechanisms are common when dealing with asset based lenders (such as Comerica) in Canadian insolvency proceedings. As the cash sweep process reflects an amendment to the Company's present cash management system, the Proposed Monitor requested that Goodmans provide it with an opinion in advance of these proceedings on the validity and enforceability of Comerica's security.

#### 4.1.1 Security Opinion

Goodmans has provided the Proposed Monitor with a review of the security held by Comerica in respect of the assets, property and undertaking of NMC, 2515 and SKD. Based on Goodmans' review, and subject to certain assumptions and qualifications contained in the security opinion provided by Goodmans, it appears that:

- (a) Comerica holds a validly perfected security interest in all of the personal property assets and undertaking of each of NMC, 2515 and SKD located in the Province of Ontario and charged under security agreements executed by each of those companies in favour of Comerica (save and except for any deposit accounts maintained in the name of these entities with Royal Sun required to be maintained with Royal Sun in connection with various pension plans for employees of SKD). Goodmans has noted that there are other parties with registrations under the *Personal Property Security Act* (Ontario) against 2515 and SKD subsequent to those in favour of Comerica, all of which appear to be in respect of equipment specific collateral and some of which may be in respect of leasing arrangements between 2515 or SKD and the registrants in question; and
- (b) Comerica has validly registered charges in respect of the real properties owned by SKD, which properties are municipally known as (i) 375 Wheelabrator Way in Milton, Ontario; and (ii) 38 Holtby Avenue and 40 Holtby Avenue in Brampton, Ontario.

A copy of Goodmans' written opinion is attached as Appendix "B".

## **4.2 Customer Funding**

The funding by the Customers is being made available to the Company through the purchase of subordinated participations in the Comerica facilities, pursuant to a subordinated participation agreement entered into among SKD, the Customers and GM on January 12, 2009 (the "Participation Agreement"), which agreement is being amended and restated to reflect amendments agreed to since that date. These advances are to be paid by the Customers to Comerica, which will then fund advances to the Company. Funding is to be advanced by the Customers weekly, in advance, in accordance with an agreed budget.

The budgets have been prepared by the Company and reviewed by its advisors. The Company has advised that it is satisfied that it can operate within budget through to February 28, 2009. The aggregate budget for the funding of the Canadian, US and Mexican operations has an overall limit of approximately US\$8.8 million, of which approximately US\$6.4 million relates to funding the operations of SKD.

As of the date of this Report, the Customers and GM have collectively advanced approximately US\$2.2 million in accordance with the Short Term Funding Agreements, which constitute subordinated participations under the Participation Agreement.

### **4.2.1 Additional Participations and Allocation Agreement**

The Company, SKD Automotive Group, Limited Partnership, SKD Holding, L.P., SKD US, Eassa Mexico, S. de R.L. de C.V., SKD Mexico, Comerica, GM and the Customers intend to enter into an agreement (the "Additional Participations and Allocation Agreement"). The Additional Participations and Allocation Agreement will be entered into in connection with the Participation Agreement and is intended, after payment in full to Comerica, to allocate the remaining proceeds of Canadian realizations to Canadian secured debt and the proceeds

of US and Mexican realizations to US secured debt. The Additional Participations and Allocation Agreement also provides certain accommodations from the Customers that benefit Canadian unsecured creditors. A summary of the negotiated scheme of distribution in respect of the proceeds of the “US Collateral<sup>3</sup>” after repayment in full of the Comerica debt is as follows:

- i. to the Customers and GM with respect to the portion of their respective advances used to fund the operations of SKD US;
- ii. in the event that there are insufficient proceeds from the Canadian collateral to satisfy amounts owed to the Customers with respect to their advances used to fund the operations of SKD (the “Canadian Customers’ Deficiency”), to repay up to 50% of the Canadian Customers’ Deficiency;
- iii. holders of unsecured claims against SKD US (excluding intercompany claims and the unpaid portion of the Canadian Customers’ Deficiency), which payments in the aggregate amount are not to exceed US\$4 million; and
- iv. remaining proceeds from US collateral would be distributed *pro rata* amongst holders of unsecured intercompany claims (as described on Exhibit 2 to the Additional Participations and Allocation Agreement) and the unpaid portion Canadian Customers’ Deficiency, as if it were unsecured.

A copy of the Additional Participations and Allocation Agreement is attached as Exhibit “M” to the Chen Affidavit.

Based upon the information available to it, the Monitor is satisfied that the Additional Participation and Allocation Agreement will not prejudice the Canadian estate as the Customers are foregoing rights as secured creditors of SKD Group as against any surplus in SKD US. As these proceedings unfold, the Monitor will report to this Honourable Court on the impact, if any, of this arrangement on the unsecured creditors of SKD.

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<sup>3</sup> As that term is defined in the Additional Participations and Allocation Agreement.

### **4.3 Cash Flow**

The Company's cash flow projection for the period ending February 28, 2009 is appended to the Chen Affidavit as Exhibit "I". The projected cash flow reflects the Customers' production requirements throughout the period, as well as the terms of the Accommodation Agreement, including the Customer funding and the accelerated payment terms.

The Proposed Monitor has reviewed the projected cash flow and believes it to be reasonable.

## **5. ADMINISTRATION AND DIRECTORS' CHARGE**

The Proposed Monitor has reviewed the Administration Charge (as defined in the Initial Order) and the Directors' Charge (as defined in the Initial Order) (collectively, the "Charges") and has discussed the Charges and the underlying expenses with the Company and its advisors. Based on its review, the Proposed Monitor believes the Charges to be reasonable to cover the intended obligations.

## **6. SALE PROCESS**

Commencing in the late fall of 2008, prospective purchasers were canvassed regarding their interest in the purchase of the operating businesses in the SKD Group. The SKD Group has now received letters of intent from two parties, one for the purchase of the business and assets of SKD US and SKD Mexico (the "First LOI") and the other for the purchase of SKD US, SKD Mexico and expressing a possible interest in certain Canadian assets of the SKD Group (the "Second LOI"). The Company advised that due diligence with respect to the First LOI has been completed and the transactions set out in the First LOI could close on or before the end of January, 2009. The Company advised that due diligence with respect to the Second LOI has not been completed and that the transactions set out in the Second LOI could close by February 28, 2009. The SKD Group is in the process of reviewing the First

and Second LOIs. The Proposed Monitor understands that final decisions have not been made with respect to the acceptance of either LOI.

Given the uncertainty surrounding the outcome of a sale of the business, or a portion of the business, of SKD in respect of either LOI, the Proposed Monitor believes that it is appropriate that the Sale Process detailed below be executed.

- The Proposed Monitor, with the assistance of the Company and its advisors, would compile a list of prospective purchasers to which sale process materials would be distributed. The list of prospective purchasers would include strategic parties, financial buyers and others;
- The Proposed Monitor would distribute to prospective purchasers a brief interest solicitation letter detailing this opportunity. Attached to the interest solicitation letter would be a confidentiality agreement;
- The Proposed Monitor, with the assistance of the Company, would prepare a summarized confidential information memorandum (“CIM”) which would provide an overview of the Company’s business, assets and financial results; it would also detail procedures for submitting offers. The CIM would be made available to interested parties that execute a confidentiality agreement;
- Prospective purchasers would have an opportunity to perform due diligence, including reviewing information in an electronic “data room”;
- The Proposed Monitor would facilitate due diligence efforts by, *inter alia*, arranging site visits and meetings between management and interested parties, provided that such meetings are supervised by the Proposed Monitor, and the Proposed Monitor is of the view that such prospective purchasers are *bona fide*;
- The Proposed Monitor, with the assistance of the Company, would work with legal counsel to draft a standardized form of offer which would be circulated to prospective purchasers in hard and soft form. The Proposed Monitor would recommend to prospective purchasers (but not require) that they submit offers in this format (or substantially in this format). The form of offer would be available for circulation by January 30, 2009;
- Should the Proposed Monitor determine that it is necessary to amend or terminate the sale process, it would seek the prior approval of this Honourable Court;
- Prospective purchasers would be required to submit binding offers by 4:00 p.m. (EST) on February 18, 2009;



- The Company, with the assistance of the Monitor, will select the offer(s) to be accepted and settle a form of purchase agreement with one or more prospective purchasers; and
- On or about February 25, 2009, the Company will make an application to the Court for approval of any sale transaction that it wishes to complete.

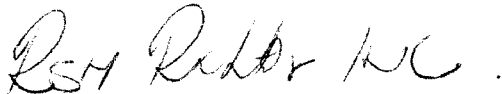
Although a sale process for SKD was previously undertaken by SKD Group, that process has not resulted at this time in a transaction for the business and assets of SKD. The initial sale process canvassed a limited number of parties thought to have a possible interest and ability to complete a purchase transaction outside of a formal proceeding. It is the Proposed Monitor's experience that a sale process conducted in the context of insolvency proceedings may attract potential purchasers that would not have had an acquisition interest outside of such process. It is contemplated that the above described sale process would be more exhaustive - in terms of parties contacted - than the process undertaken previously.

## 7. CONCLUSION AND RECOMMENDATION

Based on the foregoing, the Proposed Monitor respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1 of this Report.

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All of which is respectfully submitted,



**RSM RICHTER INC.  
IN ITS CAPACITY AS PROPOSED CCAA MONITOR OF  
NMC CANADA, INC. AND 2515080 NOVA SCOTIA COMPANY  
AND NOT IN ITS PERSONAL CAPACITY**

COURT FILE NO. 09-CL-

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF NMC CANADA INC. AND  
2515080 NOVA SCOTIA COMPANY

Applicants

AFFIDAVIT OF JOHN CHEN  
(SWORN JANUARY 21, 2009)

I, John Chen, of the City of Birmingham, in the State of Michigan, U.S.A.

MAKE OATH AND SAY:

1. I am the President of the Applicant, NMC Canada Inc. ("NMC"), and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated to be on the information and belief of others, in which case I verily believe them to be true.

**BACKGROUND – CORPORATE STRUCTURE**

2. NMC is incorporated under the Ontario *Business Corporations Act*. The Applicant, 2515080 Nova Scotia Company ("2515080"), is an unlimited liability company incorporated under the Nova Scotia *Companies Act*. Its shareholders are SKD Holding, L.P. and SKD Holding Inc. ("SKD Holding").

3. NMC and 2515080 (collectively, the "Applicants") are each general partners of SKD Company, a general partnership registered under the Ontario *Partnerships Act*. NMC is the managing partner of SKD Company.

4. The Applicants are holding companies whose only assets and liabilities relate to SKD Company and who carry on business through SKD Company.

5. SKD Company, NMC, and 2515080 are part of a group of affiliated corporations and partnerships carrying on business in Canada, the United States and Mexico (collectively, the "SKD Group"). Attached as Exhibit "A" to this my affidavit is the organizational chart for the SKD Group.

6. In the United States, SKD L.P., with operations in Jonesville, Michigan and offices in Troy, Michigan, carries on a similar business to that of SKD Company. SKD de Mexico, S. de R.L. de C.V. ("SKD Mexico"), with operations in Tlalnepantla, Mexico, also carries on a similar business to that of SKD Company. EASSA Mexico, S. de R.L. de C.V. ("EASSA Mexico"), is a Mexican company that employs the labour used to perform the production work carried on by SKD Mexico. There are no current plans to initiate insolvency proceedings in the United States or Mexico.

#### **NATURE OF APPLICATION**

7. This affidavit is sworn in support of an application by the Applicants for protection from their creditors pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), and the approval of the Forbearance Agreement, Accommodation Agreement and Access Agreement described below to help facilitate the restructuring. In addition, the Applicants are seeking an extension of the stay of proceedings to SKD Company, being the Ontario partnership through which the Applicants' business is conducted, and related relief. (The Applicants and SKD Company are referred to collectively below as "SKD Canada".)

#### **BACKGROUND – BUSINESS OPERATIONS**

##### **I. History of the SKD Group**

8. The SKD Group is a Tier I supplier of metal stampings and welded assemblies to automotive manufacturers ("OEMs") in the North American automotive industry. Its principal operations include metal stamping, welding (resistance, projection and arc) and other light assembly. The manufacturing operations of SKD Group are conducted by SKD L.P. in the United States, SKD Company in Canada and SKD Mexico in Mexico.

9. In 1985, National Material, L.P. ("NMLP"), through NMC, formed a partnership with an unrelated entity, S.K.D. Technologies Inc. ("Technologies"), in which NMC held a 50% interest in SKD Company. In 1995, 2515080 acquired Technologies' 50% ownership interest in SKD Company. In 1996, 2515080 acquired 98% of NMC's interest in SKD Company, thereby acquiring a 99% interest in SKD Company. During the period since 1995, SKD Group transitioned from being a supplier of predominately small to medium sized stamped products, into a supplier of medium to large welded and assembled products. Production capacity was also increased, and investments were made in larger stamping presses and upgraded welding technology. Through these efforts and the expansion of its customer base, the sales revenues of SKD Group grew from approximately US\$130 million in 1995 to approximately US\$400 million in 2007.

## **II. Overview of the Business of SKD Company**

10. SKD Company is a tier one automotive parts supplier that designs and manufactures metal stampings, components and weldments for OEM customers that as at December 2008 included Chrysler, LLC ("Chrysler"), Ford Motor Company ("Ford"), General Motors Corporation ("GM") and Honda of America ("Honda"). The parts it produces are medium to large size and complexity, and include control arms, cross members, floor pans, rails and cradles. Typical processes employed in Canada include progressive and transfer stamping, and resistance, projection and arc robotic welding.

11. The operations of SKD Company are supported by the sales and engineering office of SKD L.P. and the head offices of the SKD Group located in Troy, Michigan. SKD L.P. also performs or secures certain head office and administrative functions for or on behalf of SKD Company. In addition, other administrative services are provided to or secured for SKD Company by entities affiliated with the SKD Group.

12. Commencing in 2006, after years of profitability and growth, SKD Company began to lose money. This was in part occasioned by a period of rapid unsustainable expansion. In 2007, changes to management and the manufacturing processes were implemented, and new sales efforts were curtailed, as SKD Company attempted to adjust and refine its business model. In late 2007 and early 2008, indicators of improvement were consistently trending in the right

direction. A confluence of factors affecting both the North American automotive industry and the credit markets, however, reversed this trend, leading to the circumstances now facing SKD Company and to these proceedings being commenced. Some of the macroeconomic factors specifically contributing to the challenges currently facing SKD Company include the collapse of the North American automotive market precipitated by the ongoing U.S. credit crisis, the rapid escalation of fuel prices, the dramatic change in the strength of the U.S. dollar relative to the Canadian dollar, the collapse of the scrap steel market and rising unemployment. These factors, combined with a severe decline in consumer spending and availability of lease financing programs, has led to the lowest new vehicle sales being experienced in North America in the past 25 years.

13. SKD Company also designs and procures tooling for its OEM customers. In 2007, approximately 91.7% of the annual sales revenues of SKD Company were generated from three major OEM's (sometimes collectively hereafter referred to as the "Detroit Three") being Chrysler, as to approximately 55%, Ford, as to approximately 25.7%, and GM, as to approximately 11%. In 2007, other customers included Honda, as to approximately 7.7%, as well as Mitsubishi Motors North America, Inc. ("Mitsubishi"), as to approximately 0.6%. In 2008, as of October 31, 2008, sales revenues generated in relation to Chrysler, Ford, GM, Honda and Mitsubishi were approximately 50.7%, 28.8%, 10.3%, 10.1% and 0%, respectively.

14. SKD Company's major vendors are those who supply it with inventory components such as rubber bushings, nuts, bolts, fasteners and welding supplies, stamping services, packaging, freight services and utilities. Most of SKD Company's OEM customers purchase steel for production by SKD Company and, as a matter of course, contractually set-off such steel purchases against the amounts that they owe to SKD Company.

15. SKD Company conducts its operations from two leased facilities located in Mississauga, Ontario ("SKD Mississauga"), as well as owned facilities located in Milton, Ontario ("SKD Milton") and Brampton, Ontario ("SKD Brampton"). SKD Mississauga is utilized for welding and light assembly activities, and SKD Milton and SKD Brampton for stamping, welding and light assembly activities. SKD Company is a single source supplier to many of its OEM customers. Delivery of product to such customers, as is customary in the

automotive industry, is on a "just in time" basis, such that delays in meeting production deadlines can impact upon a customer's operations and subject SKD Company to significant penalties.

16. SKD Company is operationally efficient, has considerable industry experience, and has generated favourable performance ratings from its customers. It has a skilled work force and most of its manufacturing operations are well utilized. Like other automotive part suppliers, however, over the past year it has been forced to deal with the circumstances facing the North American automotive industry, which have been exacerbated by a downturn in the economy, lack of consumer confidence and buying power, heightened consumer concern over high gas prices and the desire for more fuel efficient vehicles than those in current production by the Detroit Three that has resulted in a dramatic reduction in its sales.

### **III. Credit Facilities of SKD Company**

17. SKD Company is a borrower, together with SKD Automotive Group, Limited Partnership ("SKD AG" and, together with SKD Company, the "SKD Borrowers"), under a revolving working capital credit facility extended by Comerica Bank ("Comerica") to the SKD Borrowers, as more particularly described below. The loans made by Comerica to the SKD Borrowers matured on November 30, 2008.

18. The current credit crisis and the increasing unease regarding the uncertainty of the automotive industry, and particularly the economic health of the Detroit Three, have made the procurement of replacement financing from a financial institution extremely difficult.

### **IV. Senior Management**

19. SKD Company's operations are managed and directed by senior management within the SKD Group, including persons who are not employees of the Applicants or SKD Company.

### **V. Employees of SKD Company**

20. As of December 1, 2008, SKD Company had approximately 661 employees, comprised of approximately 469 unionized and 192 salaried employees. Approximately 27 of

the unionized employees are on temporary lay-off, and a total of 35 salaried and unionized employees are either on short-term or long-term disability. In addition, SKD Company uses an outside employment agency to provide temporary personnel assistance from time to time.

21. SKD Company is a party to collective bargaining agreements with the National Automobile, Aerospace, Transportation and General Workers of Canada and its Local 1285 (the "CAW") in relation to the Brampton facility, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers Union (the "USW") in relation to the Milton facility, and the Teamsters Local Union No. 419 (the "Teamsters" and, together with the CAW and USW, sometimes collectively hereinafter referenced as the "Unions") in relation to the Mississauga and Danbro facilities. Currently, there are approximately 109 CAW employees, approximately 194 USW employees and approximately 166 Teamsters employees.

22. Over the past year, some downsizing of the workforce has taken place to react to the declining purchase volumes of SKD Company's customers and as a result of the efforts of SKD Company to reduce its costs and attempt to stem its operating losses.

#### **INTERCOMPANY MATTERS**

23. Certain administrative functions for SKD Company are centralized and managed out of the offices of SKD Group in Troy, Michigan. Such activities include sales, product engineering, finance, program management, legal, tax, product quoting, manufacturing services and certain benefits and human resources and accounting services (collectively, the "Administrative Services"). As a result, charges for the Administrative Services and related overhead costs are incurred or paid by either SKD L.P. or SKD AG and then are allocated by these entities to SKD Company. These fees currently consist of a flat annual fee of \$600,000 paid to SKD AG, plus a fee equal to 5.0% of SKD Company's monthly budgeted operating revenues (as set out in each facility's annual operating plan), paid to SKD L.P. SKD Company does not have the internal personnel required to perform the Administrative Services. Accordingly, it is proposed on an interim basis that SKD L.P. and/or SKD AG continue to provide and be compensated for providing the Administrative Services needed by SKD Company. It is contemplated that RSM Richter Inc. ("Richter"), the proposed Monitor in these

proceedings (the "Monitor"), will monitor the allocation of these expenses to help ensure that they are appropriately allocated to SKD Company during the proceedings.

24. Through NMLP, SKD Company sells scrap metal to third party scrap brokers. NMLP is paid a service commission of US\$1.50 per gross ton relating to such sales. Currently, there are several contracts which, while originally in the name of one entity in the SKD Group, are actually performed by a different entity within the SKD Group. For example, SKD L.P. performs work for Chrysler under a contract originally negotiated by SKD Company. Chrysler pays SKD Company for the goods supplied by SKD L.P. SKD Company then reflects the monies it receives as a payable owing to SKD L.P. In other cases, SKD Company produces parts for Honda and Ford, for which SKD L.P. is paid. SKD L.P. then reflects the monies it receives as a payable to SKD Company. In addition, from time to time, SKD Company pays certain tooling and other invoices on behalf of SKD L.P. and SKD Mexico, normally from Canadian vendors requiring payment in Canadian dollars. On a periodic basis, SKD L.P. and SKD Company reconcile these intercompany payables, with the net balance being paid by one to the other, as applicable.

#### **BANK ACCOUNTS AND CASH MANAGEMENT SYSTEM**

25. Currently, SKD Company maintains bank accounts and oversees cash management independently of other entities in the SKD Group. Attached as Exhibit "B" to my affidavit is a chart which shows the bank accounts that are presently maintained by, or on behalf of, SKD Company, including branch addresses and account numbers. As Exhibit "B" indicates, SKD Company currently maintains Canadian and U.S. dollar bank accounts with The Toronto-Dominion National Bank ("TD"), and Royal Bank of Canada ("RBC"), which in the case of RBC are operated under a control agreement with Comerica. SKD intends to continue to continue to utilize their existing bank accounts and any other bank accounts as permitted under the Forbearance Agreement (as defined below). Pursuant to the terms of the Forbearance Agreement, SKD may be required to enter into additional account control agreements and blocked account agreements and is being required to transfer funds held at TD and any other banks not subject to an account control agreement to an account agreed to by Comerica.



26. SKD Company provides certain banking support for the Administrative Services group in the Troy, Michigan head office, for operational expenses excluding payroll, such as rent, utilities, phone, tooling payments, and the like. SKD Company proposes to continue its existing banking accounts and cash management systems during the restructuring.

#### **OBLIGATIONS SUBJECT TO SECURITY INTERESTS AND POTENTIAL LIENS**

27. SKD Company and SKD AG (the "**SKD Borrowers**") are co-borrowers under a revolving credit agreement among Comerica and SKD Company (as Canadian borrower), SKD AG (as U.S. Borrower) and SKD L.P., EASSA Mexico, SKD Mexico, and the Applicants (as additional loan parties) (the "**Comerica Credit Agreement**") made December 14, 2004, as subsequently amended. Pursuant to the Comerica Credit Agreement, Comerica provides working capital financing (the "**Comerica Facility**") to the SKD Group through loans made to the SKD Borrowers.

28. The amount of the aggregate borrowings under the Comerica Facility (the "**Comerica Indebtedness**") was approximately US\$12.9 million as at January 16, 2009, comprised of approximately US\$6.5 million of outstanding advances of Comerica to SKD Company and approximately US\$6.4 of outstanding advances of Comerica to SKD AG. (These amounts exclude interest, costs and expenses, and interim funding provide by the Funding Customers (defined below) through the purchase of subordinated participations of approximately US\$2.2 million.) In addition to being a co-borrower under the Comerica Facility with SKD AG, SKD Company has guaranteed the indebtedness of SKD AG to Comerica. SKD Company's obligations to Comerica are secured by security agreements granted by SKD Company and the Applicants dated December 14, 2004, covering all of the present and after acquired personal property and undertaking of SKD Company and the Applicants (the "**SKD Canada SAs**"), as well as real property charges against the lands and premises municipally known as 38-40 Holtby Avenue, Brampton, Ontario and 375 Wheelabrator Way, Milton, Ontario (collectively, the "**Charges**").

29. A copy of the Comerica Credit Agreement relating to the Comerica Facility has not been attached due to its bulk, but will be provided to this Honourable Court upon its request.

Copies of the SKD Canada SAs are attached as Exhibit "C" to my affidavit. Copies of the real property Charges are attached as Exhibit "D" to my affidavit.

30. Comerica has also been granted a guarantee and security by each of the Applicants and SKD L.P. and an unsecured guarantee from SKD Holding, L.P. and SKD Mexico.

31. SKD Company is a party to various equipment leases in respect of which registrations under the PPSA have been made. Attached as Exhibit "E" to this affidavit is a summary of the registrations made against the Applicants and SKD Company.

#### **UNSECURED CREDITORS**

32. As at January 13, 2009, SKD Company had aggregate accounts payable, including trade debt, of approximately \$9.1 million. This amount does not include liabilities in relation to payroll, litigation claims and other extraordinary items, customer payables for steel subject to setoff against receivables, or inter-company balances.

33. SKD Company pays its hourly employees on a weekly basis and its salaried employees two times per month. As of January 19, 2009 (but depending on weekly production requirements as of that date and thereafter), the weekly payroll obligations of SKD Company are expected to be approximately \$484,746 in respect of hourly employees (paid on Thursday of each week), and the semi-monthly payroll obligations of SKD Company are approximately \$591,577 (paid on or about the 15<sup>th</sup> and last day of each month), in respect of its salaried employees, in each case inclusive of all employee and employer-related remittances for income tax, employment insurance and Canada Pension Plan amounts. Automatic Data Processing, Inc. processes payment of SKD Company's payroll payments and associated deductions. The foregoing payroll amounts may adjust upward or downward depending on production requirements during the restructuring period.

34. In December 2008, SKD Company implemented an employee retention plan (the "ERP") in relation to approximately 39 of its key salaried employees. The ERP provides that the subject employees will receive a retention incentive payment equal to three months' current salary (with the exception of two particularly critical employees, who will receive the equivalent

of eight and ten months' salary, respectively), less statutory deductions, in the event that the employees remain with SKD Company until the earlier of the termination of their employment without cause, or September 30, 2009. It is in the best interests of SKD Company to retain these employees during the restructuring period, as their leaving would affect SKD Company's ability to effectively operate and to perform its obligations under the Accommodation Agreement (defined below). SKD Company has calculated its maximum obligations under the ERP to be approximately \$836,491.

35. In January 1997, SKD Company announced the closure of its Amherstburg plant. In fiscal 1998, \$20,602,000 was charged to operations, representing management's best estimate of the Amherstburg plant closure costs. As at January 2, 2008, the remaining reserve for post-retirement liabilities (medical and associated benefits) calculated with reference to actuarial standards of practice for post-employment benefits associated with Amherstburg was approximately \$3.6 million, in respect of which SKD Company is currently making payments of approximately \$36,500 per month. Other costs associated with the closure of Amherstburg include (i) approximately \$2.2 to 2.4 million in obligations related to a wound-up defined benefit pension plan, and (ii) an undetermined amount for a pension plan relating to a small number of former Amherstburg employees, in relation to which current service costs amount to approximately \$5,000 per month.

36. SKD Company has three active defined benefit pension plans. One is in place for the hourly employees of the Brampton facility (the "**Brampton DB Plan**"), and another for the hourly employees of the Milton facility (the "**Milton DB Plan**"). The third defined benefit pension plan was maintained for the salaried employees of SKD Company (the "**Salaried DB Plan**"). Defined benefit pensions under the Salaried DB Plan were frozen based on member employees' earnings average as at December 31, 2003 (or December 31, 2002, in the case of certain members who elected to enter the defined contribution portion of the salaried Plan as at January 1, 2003). On a wind-up basis, as of September, 2008, the Brampton DB Plan, the Milton DB Plan and the Salaried DB Plan are estimated to have aggregate liabilities that are more than the estimated market value of the assets held in each of such plans, estimated in September of 2008 to give rise to a potential shortfall (unfunded liability) on an actuarial basis aggregating approximately \$9 million, \$3.8 million of which is referable to the Brampton DB Plan, \$3.6

million of which is referable to the Milton DB Plan and \$1.6 million of which is referable to the Salaried DB Plan. These numbers do not take into account any impacts resulting from the declines in the markets since September 2008.

37. SKD Company has an estimated liability valued at approximately \$1.6 million, calculated with reference to actuarial standards of practice, for post-employment benefits (medical and associated retiree obligations).

38. SKD Company also has certain other unsecured contingent obligations, mostly related to potential or threatened litigation relating to contract disputes, employee terminations, union grievances and other matters, the amounts of which cannot be ascertained at this time. In addition, if SKD Company ceases to operate, it will have liabilities for non-performance of contractual obligations, including in relation to its real property leases.

#### **FINANCIAL INFORMATION**

39. The fiscal year end of SKD Company is January 2<sup>nd</sup>. Attached hereto and marked as Exhibit "F" is a true copy of the unconsolidated audited financial statements of SKD Company for the year ended January 2, 2008. Attached as Exhibit "G" is a true copy of the unaudited financial statements for SKD Company for the period to and including November 30, 2008.

40. SKD Company had sales revenues, including trade sales and tooling sales, of approximately \$310.1 million in 2006 (year ended January 2, 2007), approximately \$331.6 million in 2007 (year ended January 2, 2008) and approximately \$203.3 million (as estimated, but subject to year end adjustments) in 2008 (year ending January 2, 2009). During 2006 and 2007, SKD Company incurred operating losses of approximately \$23.0 million and \$23.2 million, respectively. As at November 2008, SKD Company had an operating loss of approximately \$17.6 million and was projecting a year end operating loss of approximately \$13.7 million.

#### **EXTERNAL FACTORS AFFECTING SKD COMPANY AND THE SKD GROUP**

41. North American OEMs in the automotive industry have suffered financial challenges for the past several years, including by reason of increasing global competition and

legacy wage, pension and retiree obligations. For some time now, the U.S. and Canadian economies have been experiencing the effects of decreasing consumer confidence in the U.S. arising from the subprime mortgage crisis and a corresponding decrease in consumer spending that has had a severe impact on new vehicle sales. Most recently, the deepening credit crisis has further constrained credit, including for vehicle leasing, and eroded consumer confidence, resulting in industry-wide year over year reducing new vehicle sales volumes in North America. High fuel costs in 2008 and a growing environmental trend are driving a demand in North America for smaller and more fuel efficient vehicles. The dramatic decline in new vehicle sales, combined with the recent turmoil in the stock markets and the credit crunch, have resulted in unprecedented operating losses that are threatening the long term viability of the Detroit Three. This, in turn, has fuelled concern among all parties in the supply chain, leading both vendors and lenders to automotive parts manufacturers to take steps to limit their credit exposure.

42. The continued support of OEM customers, both in terms of honouring their payment obligations and in awarding new work, is critical to the long and short term success of SKD Company, and its ability to secure operating financing.

43. OEMs enter into long-term supply contracts for new programs, sometimes up to three years in advance of production. This requires SKD Company to incur upfront costs for design and development, including the acquisition and manufacturing of tooling, which does not result in the generation of revenue until vehicle production begins. The market for awarding new contracts is competitive and mandating competitive pricing when bidding for new work and lower profit margins. In addition, the largest (in dollar value) vendor purchases of SKD Company (being directed "buys" from single source vendors) are paid for in U.S. dollars. These purchased components are then incorporated into parts supplied to customers who pay SKD Company in Canadian dollars.

44. A by-product of the production done by SKD Company is scrap metal. SKD Company is able to sell the scrap metal it generates for a profit. SKD Company's revenues are also suffering from a dramatic decline in scrap metal prices; while in July of 2008 scrap metal was selling for approximately US\$800 per gross ton, as of October 2008, the price had decreased to US\$148 per gross ton. If the proceeds of scrap reach a certain designated dollar threshold,

SKD Company is required to share a portion of such proceeds with the OEM customers that originally purchased the steel for SKD Company's production. Such OEM customers, in turn, have the right to offset their rights to receive such scrap steel sale proceeds against the amounts that they owe to SKD Company.

45. All of the foregoing factors are contributing to the strains currently being experienced by SKD Company, most of which are completely beyond its control.

#### **FINANCIAL PRESSURES AND LIQUIDITY CONCERNS THREATENING SKD COMPANY**

46. The principal reasons for the financial pressures SKD Company is currently facing are as follows:

- a) its existing credit facilities with Comerica matured November 30, 2008, and the current Forbearance Agreement (defined below) provides only until February 28, 2009 for these facilities to be repaid;
- b) a decrease in North American automotive sales from approximately 15.1 million vehicles in 2007 to an estimated 12.7 million vehicles in 2008, representing a 15 percent decline in production, which has dampened SKD Company's ability to grow or even maintain its past years' revenues;
- c) projected North American automotive sales for 2009 are approximately 10.1 million, foreshadowing continuing decreasing sales for automotive parts suppliers in 2009, over that experienced in 2008, representing a 33% decline in North American production in the period from 2007 to 2009;
- d) the price of scrap metal remains depressed, which will curtail the revenues available to SKD Company from the sale of scrap metal generated from its production;
- e) the term of SKD Company's collective bargaining agreement with the USW ended in November 2008. While the term has been extended by agreement until the end of January 2009, a new collective bargaining agreement has yet to be negotiated;

- f) the Canadian dollar remains low relative to the U.S. dollar, significantly reducing SKD Company's profits on parts it sells in Canadian dollars that have been manufactured using components that SKD Company purchases in U.S. dollars;
- g) there is a pervasive lack of certainty in the market place due to the publicized and unprecedented challenges facing OEM customers, with particular unease and concern focussed on the Detroit Three; and
- h) in the current environment of uncertainty, it is difficult to reliably project sales revenues and put forward a business plan for 2009 or beyond.

All of these factors are making it exceedingly difficult for SKD Company to obtain replacement financing for the Comerica Facility. Without replacement financing, SKD Company cannot sustain its operations.

#### **EFFORTS MADE TO RESTRUCTURE PRIOR TO FILING**

47. Since 2007, SKD Company has been actively taking measures to return to profitability by working on productivity improvements, including a strategy to stabilize and improve its manufacturing operations through the development and implementation of robust processes to increase operating efficiencies and reduce production and administration costs. In 2008, the Company opened its Mississauga operation in order to relieve the space constraints and resulting inefficiencies that it experienced through its rapid growth in sales in 2005 to 2007. The new facility allowed the Company to move products from Brampton and ancillary warehouses to improve its operating efficiency as well as its quality and delivery record.

48. In October 2008, SKD Group engaged Conway MacKenzie, Inc. ("CMD"), a consulting firm with significant consulting expertise in the automotive industry, to advise SKD Company in relation to a restructuring process and assist it in its relationships with its OEM customers. CMD is well recognized for its experience and expertise in automotive restructurings and has been critical to the progress that has been made thus far with significant stakeholders. CMD's expertise will be required going forward to assist SKD Company in its dealings with customers and Comerica, including in relation to the financial reporting, cash flow forecasting

and budgeting that is required as a term of the Comerica Facility, the Forbearance Agreement and the Accommodation Agreement.

49. In December of 2008, SKD Company and CMD initiated discussions with SKD Company's OEM customers to apprise them of the current circumstances and explore ways to immediately improve the liquidity position of SKD Company. During this period, Comerica agreed, on terms, to temporarily forbear from requiring the Comerica Indebtedness to be repaid.

50. Following these discussions, GM determined it to be in its best interests to resource the production being done by SKD Company to replacement suppliers. GM also commenced proceedings as a result of impediments it encountered with two of the Unions in relation to GM's efforts to extract tooling it owns from the facilities operated by SKD Company, which proceedings have now been resolved.

51. Other customers have agreed to enter into an accommodation agreement with SKD Company more particularly described below, which will permit SKD Company a period of time to attempt to effect a sale of its business operations to a solvent owner with the prospects of continuing employment for employees of SKD Company or, failing that, will facilitate an orderly wind-down of the operations of SKD Company and the sale to such customers, or replacement suppliers, of inventories and possibly some of the production assets of SKD Company.

52. SKD Company has held meetings and is engaging in continuing communications with representatives of each of the Unions to update them on SKD Company's current financial circumstances and the proposed restructuring process.

#### **FORBEARANCE AGREEMENT**

53. SKD Company has been negotiating forbearance arrangements with Comerica and is the course of finalizing a forbearance agreement (the "Forbearance Agreement"), pursuant to which Comerica, on terms, will agree to forbear in requiring repayment of the Comerica Indebtedness from the date of the agreement to February 28, 2009 (the "Forbearance Period"). A copy of proposed form of the Forbearance Agreement (which is to be attached as



Exhibit "A" to the Accommodation Agreement described below) is attached as Exhibit "H" to this affidavit.

54. Pursuant to the Forbearance Agreement, SKD Company will be on a "remittance basis" in accordance with its security agreement with Comerica and will be required to immediately surrender all of its cash inflows (other than in formula borrowing and participations purchased from the Funding Customers as described below) to Comerica. Comerica has agreed not to sweep certain bank accounts of SKD Company (being (i) payroll accounts, and (ii) accounts maintained for payment of certain statutory obligations (collectively, the "Trust Accounts")), to the extent of funds deposited to those accounts, and will permit cheques to be drawn on the Trust Accounts for the purpose of paying the obligations for which they were funded.

55. Pursuant to the Forbearance Agreement, the borrowing base under the Comerica Facility is being amended and, absent a default, Comerica is agreeing, in its discretion, to continue to make available advances to the SKD Borrowers under the Comerica Facility, inclusive of the Customer Operations Funding (defined below) that is being provided through subordinated participations purchased by GM, Ford, Chrysler and Honda (collectively, the "Funding Customers")

#### **CASH FLOW PROJECTIONS**

56. SKD Company has prepared cash flow projections (the "Cashflow Projections") for the period ending February 28, 2009, which are attached as Exhibit "I" to this Affidavit. The Cashflow Projections have been prepared based on certain assumptions, including that Comerica will continue to forbear in requiring repayment in full of the Comerica Indebtedness through to February 28, 2009, that SKD Company will be able to secure additional advances under the Comerica Credit Agreement, inclusive of the Customer Operations Funding, and that Customers will comply with the expedited payments as provided for under the Accommodation Agreement (defined below).

#### ACCOMMODATION AND ACCESS AGREEMENTS AND INTERIM FUNDING

57. As noted above, the Comerica Facility have matured. While Comerica appears prepared to continue to make in formula advances to SKD Company in accordance with the terms of the Forbearance Agreement, it is not prepared to make any out of formula advances, as a result of which, without additional funding, SKD Company would not have sufficient funds with which to operate during the restructuring period.

58. Subject to the approval of this Honourable Court, SKD Company has negotiated a multi-party customer agreement (the "Accommodation Agreement") with Comerica and certain of its OEM customers, including Ford, Chrysler and Honda, that, among other things, deals with the terms of continued production by SKD Company for the Customers during the restructuring process. GM is not a party to the Accommodation Agreement, as it does not require further production from SKD Company and is proceeding with arrangements to resource the production of the component parts that SKD Company had been producing. A copy of the proposed form of Accommodation Agreement is attached as Exhibit "J" to this Affidavit.

59. The Accommodation Agreement provides, among other things, for expedited payment of accounts receivable by the Customers, a mechanism for the resolution of existing commercial issues, and the provision of additional funding for the SKD Borrowers (the "Customer Operations Funding") for a period of time during which SKD Company will continue production of component parts for the Customers and also pursue a marketing and sales process (the "Sales Process"). The Accommodation Agreement provides for resourcing by the Customers in the event that a sales process acceptable to the Customers is not completed within the stipulated time frames and provides restrictions on certain Customer setoff rights. At the end of the Term or in the event of a resourcing, the Accommodation Agreement also includes agreements by the Customers to purchase inventories and returnable packaging, as well as, at the Customers' option, certain tooling, machinery, and equipment owned by SKD Company used in relation to the production of component parts for the Customers.

60. The Customer Operations Funding is being made available to the SKD Borrowers through the purchase by the Funding Customers of subordinated participations in the Comerica Facility pursuant to an Amended and Restated Subordinated Participation Agreement (the

“Participation Amount”). A copy of the Amended and Restated Participation Agreement is attached as Exhibit “K” to this Affidavit. The additional advances funded by the Funding Customers are being advanced by Comerica to the SKD Borrowers, pursuant to an amendment to the Comerica Credit Agreement implemented through the Forbearance Agreement. Pursuant to the terms of the Accommodation Agreement, the Funding Customers are to fund borrowings under the Comerica Facility in an aggregate amount consistent with an agreed upon budget (the “Budget”) and subject to an overall cap.

61. The Customers Operations Funding is to be paid by Funding Customers to Comerica and loaned by Comerica to SKD Company based on weekly estimates provided by SKD Company of the amounts necessary to satisfy its operating obligations during the applicable week. The Customer Operations Funding is not to be used for program launch or other Customer-specific costs, which are to be funded and borne by the applicable Customer. The Budget is for the period to and including February 28, 2009, being the same date that the Forbearance Period expires. Even though the Accommodation Agreement is not yet effective, the Funding Customers have agreed to provide interim financing to and including January 20, 2009, to permit the SKD Group, including SKD Company, to operate in order to complete the negotiations of all required agreements and to commence this proceeding. This interim funding is being provided by way of purchased participations under the Comerica Facility and as part of the Customer Operations Funding.

62. SKD Company does not currently have operating funding for the period following February 28, 2009.

63. The Accommodation Agreement contemplates that SKD Company will conduct the Sales Process and establishes certain milestones for SKD Company in relation to the Sales Process.

64. Absent the Accommodation Agreement being entered into, SKD Company will not have the financial means to continue its operations. The Funding Customers are, among other things, agreeing to restrict setoff rights, to resolve outstanding commercial issues and to purchase (subject to the prior receipt of vesting orders, which will be sought at a later date) assets designated to the production of their respective component parts in the event a going concern

sale cannot be concluded prior to the end of the Forbearance Period. As such, if a sale cannot be concluded, the Accommodation Agreement will also facilitate an orderly wind down process with the prospect of increasing the realizations available from the assets of SKD Company over those which would be realized in a forced liquidation (bankruptcy) process.

65. It is a term of the Accommodation Agreement that SKD Company also enter into an access and security agreement (the "Access Agreement"), and that Comerica acknowledge and consent to the Access Agreement. A copy of the proposed form of Access Agreement (to be attached as Exhibit "B" to the Accommodation Agreement) is attached as Exhibit "L" to this Affidavit. The Access Agreement grants to the Funding Customers a right to use and to occupy the facilities of SKD Company and its operating assets for a period of time for the purposes of production of component parts (the "Right of Access").

66. The Access Agreement also grants to the Funding Customers a security interest in the assets of SKD Company as collateral security for the obligations of SKD Company to provide any Customer or its designee a Right of Access as provided for under the Access Agreement. The security interest granted to Funding Customers under the Access Agreement does not attach to accounts nor does it permit such Funding Customers to sell or foreclose upon the property and assets of SKD Company. Such security interest expires at the end of the Term (as defined in the Access Agreement), or should a Right of Access be exercised before the end of the Term, upon conclusion of the Occupancy Period. In the event that the Right of Access is exercised, the Access Agreement requires the applicable Customer to assume responsibility for the costs of production of its component parts, including in relation to the use of the Operating Assets and Real Estate relating to the facilities of SKD Company that are to be occupied, all as more particularly set forth in the Access Agreement (with capitalized terms not otherwise defined having the meaning set forth in the Access Agreement).

67. It is my belief that entering into the Accommodation Agreement and the Access Agreement will permit SKD Company to operate for a period of time, allow it to proceed with the Sales Process, and will result in a better recovery scenario for creditors than will otherwise be the case.

68. Comerica is willing, subject to the terms of the Forbearance Arrangement, to defer its requirement that the Comerica Indebtedness be repaid during the Forbearance Period. It is not, however, prepared to forbear indefinitely.

69. Absent additional funding, SKD Company has insufficient funding to continue to operate.

#### **ADDITIONAL PARTICIPATIONS AND ALLOCATION AGREEMENT**

70. In connection with the Subordinated Participation Agreement, Comerica, the Funding Customers, SKD AG, SKD Company, NMC, SKD Holding, SKD, L.P., 2515080, EASSA Mexico and SKD Mexico entered into an Additional Participations and Allocation Agreement (the "**Additional Participations and Allocation Agreement**") which sets forth certain requirements for the distribution of the proceeds of the collateral of SKD Company and SKD AG. A copy of the Additional Participations and Allocation Agreement is attached as Exhibit "**M**" to this Affidavit.

71. Among other things, the Additional Participations and Allocation Agreement provides a mechanism (the "**Waterfall**") for the payment of the proceeds remaining after repayment of the senior obligations of the SKD Borrowers to Comerica (being the loan obligations other than the Participation Amount) (the "**Remaining Proceeds**") from the collateral (a) owned by the SKD Group in Canada (the "**Canadian Collateral**"), and (b) owned by the SKD Group in the United States and Mexico (the "**U.S. Collateral**"). The Remaining Proceeds are to be paid by Comerica to a disbursing agent, for allocation pursuant to the Waterfall. The Waterfall provides for repayment of advances made under the subordinated participations to SKD Company from the Canadian Collateral, and for advances made under the subordinated participations to SKD AG from the U.S. Collateral. In the event that there are insufficient proceeds from the Canadian Collateral to repay the amounts owed to the Funding Customers in relation to amounts advanced to SKD Company (the "**Canadian Participants Deficiency**"), 50% of the Canadian Participants Deficiency shall be paid to the Funding Customers from the proceeds of the U.S. Collateral in accordance with their respective percentages. The Waterfall further provides for the manner of disposition of the remaining proceeds from the U.S. Collateral.

### **PROPOSED CCAA MONITOR**

72. Richter was engaged by SKD Company in December 2008 and since then has been working with SKD Company in the period leading up to the filing of this application. Richter is well qualified to act as Monitor. Its professionals have recognized experience and competency in acting as monitor in CCAA proceedings. Richter is not the auditor of SKD Company.

73. Richter is consenting to being appointed as Monitor. Its written consent will be filed with the Court as part of these application materials. Richter will file its first report to this Honourable Court on the hearing of this application to provide its initial views and perspectives on various matters to assist this Honourable Court (the "**First Report**") in relation to the relief requested in the initial order in these proceedings (the "**Initial Order**").

74. In addition to the powers and obligations provided for under the CCAA, the Applicants are seeking an order from this Honourable Court to grant the Monitor the powers, rights and obligations set forth in the draft Initial Order they are requesting be made, as well as the benefit of the Administration Charge (defined below).

### **SALES PROCESS**

75. The Applicants believe that the core business of SKD Company may be viable and, if restructured and properly financed, could operate profitably.

76. Given the nature of SKD Company's business and the need for its customers to have uninterrupted operations and continuity in the delivery of the component parts produced by SKD Company, I believe that a lengthy sales process could permanently impair a successful restructuring or going concern sale. I also believe it is essential that any sales process be conducted on an expedited basis, in order to minimize the risk of losing key customers and employees. In any event, Comerica is only willing to forbear and the Funding Customers are only agreeable to providing the Customer Operations Funding through to the end of February. There are only a limited number of suppliers operating in this market that would likely be considered suitable candidates by the continuing customers of SKD Company.

77. The proposed Monitor concurs with SKD Company that its businesses be marketed for sale pursuant to the proposed Sales Process. During this period, the Applicants and the Monitor will attempt on an expedited basis to identify parties potentially interested in a sale transaction, including by approaching parties who have expressed an interest in the businesses of SKD Company prior to this filing and other business competitors that would be considered acceptable candidates to the customers of SKD Company. If considered advisable, the Monitor will advertise the acquisition opportunity in appropriate publications, contact prospective purchasers and take such other measures as the Applicants and the Monitor consider appropriate to canvass the sales of the businesses and assets of SKD Company and to secure one or more agreements of purchase and sale. It is a term of the Accommodation Agreement that any sale must be to a Qualified Buyer (as defined therein), and that any sale transaction be approved by this Honourable Court by February 25, 2009.

78. In the event that a sales transaction or other restructuring opportunity is not successfully completed, I believe that orderly arrangements with the Funding Customers and an orderly wind down process will provide employment to the employees of SKD Company for a period of time and will maximize the prospect of recoveries to unsecured creditors of SKD Company.

79. As a result of the current financial circumstances of SKD Company, it is necessary for the Applicants to obtain an Order under the CCAA providing for a stay of proceedings in relation to both the Applicants and SKD Company to ensure that the business and operations of SKD Company are, to the fullest extent possible, protected until a sales process can be conducted.

**PROPOSED CCAA ADMINISTRATION AND DIRECTOR AND OFFICER CHARGES AND RELATED MATTERS**

80. A successful restructuring of the Applicants will only be possible with the continued participation of the persons providing direction and executive management for SKD Company, who are essential to its ongoing viability and operations, and who are concerned about their potential personal liability for acting in their capacities as such during a period of time in which SKD Company is insolvent and is attempting to restructure.

81. It is in the best interests of SKD Company for the Applicants to have in place executive direction and governance, as disruption to its business activities and the momentum and direction of the restructuring could otherwise occur. The Applicants and SKD Company believe that it is necessary and appropriate that the Initial Order include an indemnity in favour of former, existing and future directors and officers of the Applicants, as well as a charge to secure such indemnity (the "Directors' Charge").

82. The Applicants have reviewed with the proposed Monitor the amount of the potential director and officer liabilities to be covered by the Directors' Charge. The Applicants are seeking to include in the Initial Order a Directors' Charge in the amount of \$3,000,000. This estimate has been prepared taking into consideration estimated potential directors and officers' obligations, including in relation to payroll and related remittances, pension plan contributions and vacation pay liabilities.

83. For the reasons set out herein and in the First Report, the Applicants are seeking to include in the Initial Order an Administration Charge (the "Administration Charge") in the amount of \$1,000,000 to secure the payment obligations to the Monitor, counsel to the Monitor, and the legal and financial advisors to SKD Company, incurred both prior to and after the making of the Initial Order, in addition to any other retainers provided to such professionals. Of necessity, in light of the limitations on operations funding available to SKD Company, the Sales Process that has been proposed is to be conducted in a very compressed time frame. Also, the terms of the Accommodation and other agreements to which SKD Company are a party will require intensive administration and reporting. The amount of the proposed Administration Charge has been established having regard to the nature and magnitude of the work that is anticipated must be performed by the Monitor and its counsel and the legal and financial advisors to SKD Company, as well as the experience of the various professionals that are involved. I believe that the Monitor considers the proposed amount of the Administration Charge to be reasonable in the circumstances.

#### **TECHNICAL FILING REQUIREMENTS**

84. As set forth herein, the Applicants have indebtedness well in excess of \$5,000,000. Absent a filing, and the continued financial support of Comerica during the



restructuring, SKD Company has insufficient funding with which to operate. In addition, on a liquidation basis, SKD Company's assets are insufficient to meet all of its obligations.

#### **NATURE OF RESTRUCTURING CONTEMPLATED**

85. SKD Company is strong operationally and consistently performs to its customers' exacting standards. It is actively pursuing options in order to preserve its core business operations and employment for its employees. To move forward in an orderly manner in these uncertain circumstances will require forbearance and measured judgment from key constituencies, including its customers, employees, critical vendors and Comerica. SKD Company is committed to working with these core constituencies on a restructuring strategy.

86. Even if SKD Company's assets were to be liquidated on an orderly basis, it is possible that the resulting proceeds would result in realizations for the unsecured creditors of SKD Company, after payment of any secured indebtedness and priority payables. This underscores the need to implement a process that is sufficiently funded and controlled in order to maximize the opportunity for a successful outcome for the stakeholders of SKD Company. I believe that this CCAA filing is in the best interests of the creditors of SKD Company.

87. I am confident that the Applicants are responsibly and with good faith and due diligence pursuing options for the restructuring of SKD Company and that, given a reasonable opportunity of time, the Applicants and SKD Company will be able to present a plan or compromise or arrangement or a sale scenario that will afford a far better result for all of the stakeholders of the Applicants and SKD Company.

#### **URGENCY OF APPLICATION**

88. In light of imminent liquidity demands, SKD Company does not have money with which to operate unless these proceedings are immediately commenced. It is my belief that this filing, with its attendant stay of proceedings and the availability of the Customer Operations Funding, will provide SKD Company the appropriate time to continue its operations to pursue and complete its restructuring and sales process efforts. As a result of the nature of the business of SKD Company, and its dependence on customer agreements and product supply, a stay of proceedings is essential for its continued operations.

89. The Initial Order being sought will provide the necessary foundation for the Applicants to engage in a dialogue with stakeholders, engage in an expedited marketing and sales process and explore other options, including an orderly wind down of operations to protect the creditors and other stakeholders of the Applicants and SKD Company should a sale or restructuring not materialize within a reasonable period of time.

90. It is essential that there be a period of stability in order to maintain the employee, customer and supplier relationships that are critical to a successful outcome. I believe that the relief sought in the Initial Order will permit SKD Company to continue to operate, preserve the *status quo*, protect the rights of creditors and other stakeholders and preserve employment, pending consideration and approval of the restructuring efforts of the Applicants and SKD Company.

91. This affidavit is sworn in support of the application of the Applicants for an order under the CCAA and for no other or improper purpose.

SWORN BEFORE ME at the  
City of Birmingham  
in the State of Michigan,  
this 21<sup>st</sup> day of January 2009

  
A Notary/Commissioner for taking affidavits, etc.

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\_\_\_\_\_  
John Chen

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF

Court File No: 09-CL-

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**AFFIDAVIT OF JOHN CHEN  
(SWORN JANUARY 21, 2009)**

**LANG MICHENER LLP**

Barristers and Solicitors  
Brookfield Place, P.O. Box 747  
Suite 2500, 181 Bay Street  
Toronto, Ontario  
M5J 2T7

Sheryl E. Seigel (LSUC #21850H)  
Tel: (416) 307-4063  
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Tel : 416-307-4148  
Fax: (416) 365-1719  
E-mail : jcontini@langmichener.ca  
Solicitors for the Applicants

**AMENDED AND RESTATED  
SUBORDINATED PARTICIPATION AGREEMENT**

Subordinated Participation Agreement ("Agreement") dated January 21, 2009, among Comerica Bank ("Lender"), General Motors Corporation ("GM"), Ford Motor Company ("Ford"), Chrysler LLC ("Chrysler"), Honda of America Mfg., Inc., for itself and on behalf of Honda Canada Mfg., a division of Honda Canada, Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC (collectively, "Honda") (Honda, collectively with GM, Ford, and Chrysler, the "Participants," and each individually, a "Participant").

**RECITALS:**

A. Lender has various loans and other financial accommodations outstanding to SKD Automotive Group, Limited Partnership ("Automotive") and SKD Company ("SKD," together with Automotive, "Borrowers"), all or part of which loans are guaranteed by 2515080 Nova Scotia Company; NMC Canada, Inc.; Eassa Mexico, S. De R.L. De C.V.; SKD De Mexico, S. De R.L. De C.V.; SKD, L.P.; and SKD Holdings, L.P. (collectively, "Guarantors"), under various other loan and collateral documents, as amended ("Loan Documents"). References to Borrowers include Borrowers as debtors in any Canadian or U. S. CCAA or bankruptcy proceedings. Capitalized terms not defined in this Agreement are defined in the Loan Documents.

B. Participants have agreed in accordance with the terms and conditions of this Agreement to purchase from Lender for cash, at par, undivided subordinated interests (each a "Participation") in the Loans (defined below). The Participation amount will be included as a component of the borrowing base under and as limited by, the terms of the Loan Documents and this Agreement.

C. This Agreement amends and restates a Subordinated Participation Agreement among the parties dated January 12, 2009.

The parties agree as follows:

Terms and Conditions

1. From time to time, and as and when required under an Accommodation Agreement (or prior interim agreements) among the parties and Borrowers, Lender agrees to sell and each of the Participants absolutely and unconditionally agrees to purchase, by the payment of immediately available funds, a Participation in accordance with the percentages as agreed among the Participants in the prior interim agreements and/or respective accommodation agreements, as applicable ("Respective Percentages") (each such purchase will be a Participation). Lender will update the Schedule of Subordinated Participations attached as Exhibit 1 as new Participations are purchased. The obligations of the Participants shall be several and not joint. Borrowers and Participants are parties to a separate agreement (the "Additional Participations and Allocation Agreement") that requires Participants to purchase additional Participations under certain circumstances. Although Lender is not a party to and is

not bound by the Additional Participations and Allocation Agreement, Lender agrees to sell the additional Participations.

2. Effective as of the date of each payment by a Participant in good funds, Lender sells and grants to such Participant, and each such Participant making a payment accepts from Lender, an undivided, subordinated participation in the Loans equal to the amount of each payment.

3. (a) Without further action by Lender, execution and delivery of this Agreement and receipt by Lender of a payment for a Participation shall constitute a sale and purchase of a Participation and shall confer on the Participants with respect to the Participation, except as provided below, interests in the Loans made by Lender to Borrowers and, through Lender, in all the rights and benefits of Lender under the provisions of the Loan Documents as they relate to the Loans, including any and all support and collateral security for the Loans.

(b) The interest of Participants in the Loans shall in all respects be subject and subordinate to the rights of Lender in the balance of the Loans and shall be subject further to the limitations provided below.

(c) Lender shall have the right to apply payments of any kind from any source, including the proceeds of any collateral security, to Lender's interest in the Loans, or any other present or future obligations of Borrowers to Lender in the Loans, including all fees, costs and expenses due to Lender from Borrowers, whether or not allowable under 11 U.S.C. § 506(b) (or Canadian law), and including any and all indebtedness, obligations or liabilities for which Borrowers would otherwise be liable to Lender under or in connection with the Loan Documents were it not for the invalidity, irregularity or unenforceability of them by reason of any bankruptcy, insolvency or other law or order of any kind, or for any other reason, in any manner in Lender's sole and unfettered discretion, before making any payment(s) to Participants, any other participants or other lender on account of the Loans.

(d) "Loans" means:

- (i) the outstanding principal balance of all Liabilities of Borrowers to Lender including any advances made in the future and all other amounts due or to become due to Lender under the Loan Documents, including without limitation any obligations guaranteed by either of the Borrowers;
- (ii) all reimbursement obligations and fees with respect to any letters of credit;
- (iii) all accrued and unpaid interest and fees due by Borrowers to Lender on account of the above described loans, whether or not allowable under 11 U.S.C. § 506(b) (or Canadian law);
- (iv) all expenses and costs arising from or related to the financing arrangements among Borrowers, Guarantors, and Lender, the Loan Documents, and/or any collateral security, including but not limited to, all charges, attorneys' fees and costs called for by the Loan Documents, whether or not allowable under 11 U.S.C. § 506(b) (or Canadian law); and

- (v) any other amounts due from Borrowers or Guarantors or any of them, including without limitation, overdrafts, protective advances of any nature, interest rate hedges, etc.

4. Lender shall have the right to manage, perform, and enforce the terms of the Loan Documents and to exercise and enforce all of the privileges and rights exercisable by it under the Loan Documents, in its sole discretion, without the concurrence of Participants, including the right to amend the Loan Documents, to amend, modify, waive, terminate, or release any of the obligations of Borrowers or any Guarantor or to release any collateral securing the Loans. Notwithstanding the foregoing, Lender agrees that it shall not, without the prior written consent of the Participants, (a) release the Borrowers from their obligations with respect to the Participants' interests in the Loans or reduce the principal amount of the Borrower's obligations with respect to the Participants' interests in the Loans, or (b) after the Lender's senior portion of the Loans has been irrevocably paid in full, release any collateral securing the Loans or any obligations of the Guarantors. This Agreement shall not be construed to create a fiduciary relationship between Lender and Participants. Participants acknowledge and agree that Lender's actions under this Agreement are strictly administrative and any repayment of principal or interest to any Participant is solely dependent upon Borrowers. Except for willful misconduct or actual fraud, Participants exonerate Lender of and from any obligation or liability, express or implied, for any loss, depreciation of or failure to realize upon the Loans, or any collateral securing the Loans, or for failure to collect or receive payments of any sums owing from Borrowers or any Guarantor, or for any mistake, omission, or error of judgment in passing upon or accepting the Loans, the collateral, if any, the Loan Documents, or in making of any advances of monies or extensions of credit to Borrowers, or in making any examinations, audits or reviews of the affairs of Borrowers, or in granting to Borrowers extensions of time for payment of the Loans or in administering or monitoring the collateral for the Loans. Moreover, Lender does not assume and does not have any obligation or liability and Lender undertakes no guaranties, express or implied, with respect to the existing or future financial worth or responsibility of Borrowers, Guarantors or of any of the account debtors of Borrowers, or of any other guarantors of Borrowers' obligations, with respect to the genuineness or value of the collateral, or with respect to the payment or the collectibility of the Loans.

5. Participants shall not be entitled to any monies received by Lender in accordance with the provisions of the Loan Documents, whether directly or indirectly from the sale or liquidation of any collateral or otherwise in reduction of their Participation unless and until Lender's portion of the Loans have been irrevocably repaid in full and all other costs, expenses, consultant fees, and attorneys' fees of Borrowers to Lender have been irrevocably paid in full and Lender's loan commitments to Borrowers, if any, have been terminated. If at any time prior to written notice by Lender to Participants that Lender's portion of the Loans has been irrevocably paid in full (as described in the previous sentence) Participants shall receive from any source whatsoever (whether by direct remittance, setoff, recoupment, foreclosure of security interest, or otherwise) any payment on the Loans, Participants will hold such payment in trust for Lender and promptly pay over to Lender such payment in the form received with any necessary endorsements. Lender shall have the right, in its sole and absolute discretion, to hold funds collected on account of the Loans and not remit them to Participants, even if Lender's senior portion of the Loans has been paid, in the event Lender believes that the possibility exists that it will be required to defend claims or disgorge for any reason any amounts paid to Lender or that

Lender will incur additional Loans (including attorney fees or other expenses). If any amount is paid to any Participant on the Loans prior to irrevocable payment in full of Lender's senior portion of the Loans, it shall be deemed to be held in trust for the benefit of Lender, and such Participant shall immediately pay such amount over to Lender. If Lender is required to disgorge any amounts it has received on account of the Loans, Participants shall immediately reimburse Lender for the amount that Lender was required to disgorge, limited to the amount of distributions received by Participants on account of the Loans.

6. Interest on the Participation outstanding from time to time shall accrue at the interest rate(s) provided under, and shall otherwise be calculated in accordance with, the Loan Documents but shall not be paid by Borrowers to Lender (or to Participants by either Borrowers or Lender) unless and until the senior obligations of Borrowers to Lender (as described above) have been irrevocably paid in full. Accordingly, until all of Borrowers' senior obligations to Lender with respect to Lender's portion of the Loans (as described above) have been paid, Participants shall receive no payments of interest regarding the Participation.

7. To the extent that the Participants are entitled to receive any payment on account of the Participation under this Agreement after payment in full of the senior obligations of the Borrowers to the Lender (as described above), such payment shall be paid to a disbursing agent for disbursement under a separate agreement entered into among the Participants and the Borrowers. That separate agreement will address, as among the parties to that agreement, the application of U.S. and Canadian proceeds and the provision for payment of the non-intercompany claims. Participants and Borrowers will identify the disbursing agent by joint notice to Lender.

8. Participants represent to Lender that they accept (and are able to bear) the financial risks inherent in the Participation and do not foresee the occurrence of any event that would alter that ability. Further, Participants accept the full risk of nonpayment of the Participation and agree that Lender shall not be responsible for the performance or observance by Borrowers (or any Guarantor) of any of the terms, covenants, or conditions of the Loan Documents.

9. Participants further acknowledge that the Participation is being made at their request and is the purchase of an undivided, subordinated interest in an ordinary debt and related collateral security, if any, and is not and shall not be construed to be a "security" as that term is defined under any applicable state, provincial or federal securities laws.

10. Participants acknowledge that they had an opportunity to make such review and investigation as Participants and their attorneys and advisors believe to be necessary to enable them to make an independent, informed judgment with respect to the creditworthiness of Borrowers, the value and extent of the collateral, if any, Lender's rights against Borrowers and Borrowers' assets and the desirability of purchasing the Participation. Participants also acknowledge that they are experienced and knowledgeable in financial matters, and that they are not purchasing the Participation for purposes of investment gain (other than the possible payment of interest thereon), and that they have all necessary information to make an independent, informed judgment with respect to the financial status and condition of the Borrowers. Lender has no duty or responsibility, either initially or on a continuing basis, to provide any Participant

with any credit or other information. Lender is not responsible to any Participant for any recital, statement, information, representation or warranty whether oral or in any agreement, document, certificate or statement delivered in or in connection with the Loan Documents. Lender is not required to make any inquiry concerning the performance or observance of any terms of the Loan Documents, Borrowers' financial condition or the existence of any default or event of default.

11. Nothing in this Agreement shall be construed to limit or restrict Lender from in any way exercising any rights or remedies arising out of the Loan Documents or any documents or agreements executed by Borrowers or any Guarantor or provided for under applicable law except to the extent otherwise expressly provided in this Agreement. Participant shall have no right to enforce any of the Loan Documents including but not limited to exercising any rights or remedies arising out of the Loan Documents or any documents or agreements executed by Borrowers or provided for under applicable law unless and until (a) the Lender's senior portion of the Loans has been irrevocably paid in full; and (b) the Lender has assigned the Loan Documents to Participants in accordance with Section 15 of this Agreement. Until such time, all rights, remedies, privileges, etc. with respect to the Loans, other loans to Borrowers from Lender and the Loan Documents may be exercised only by Lender and without any requirement of consent or approval of Participants. Participants shall not contest, challenge, or object to any of Lender's claims against Borrowers or any Guarantor (including any claim under 11 U.S.C. § 506(b) in the event of a bankruptcy of one or more of Borrowers or any Guarantor), or the extent, validity, perfection, or priority of Lender's liens that secure the Loans.

12. References to Lender in this Agreement shall be deemed to include its affiliates, successors, assigns, employees, agents, auditors, officers, directors, and attorneys.

13. (a) Participants agree not to sell, assign, or transfer or suffer any sale, assignment or transfer, in whole or in part, of the Participation or its undivided, subordinate interest in the Loans without the prior written consent of Lender.

(b) Notwithstanding anything in this Agreement or the Loan Documents to the contrary, Lender may sell, assign, or transfer, in whole or in part, the Loans to any person or entity without the consent of Participants. Notwithstanding any such sale, assignment or transfer, or any subsequent assignment or transfer, the senior obligations of Borrowers to Lender shall, subject to the terms of this Agreement, be and remain senior for purposes of this Agreement, and every assignee or transferee of any of the senior debt or of any interest in it shall, to the extent of such interest be entitled to rely upon and be the third party beneficiary of the subordination and other terms provided under this Agreement, and shall be entitled to enforce the terms and provisions of this Agreement to the same extent as if such assignee or transferee were initially a party of this Agreement. Any such sale, assignment or transfer shall be subject to each Participant's rights under this Agreement.

14. Unless and until Lender's portion of the Loans shall have been irrevocably repaid in full and all other costs, expenses, consultant fees, attorneys' fees and other obligations of Borrowers to Lender have been irrevocably paid in full and Lender's commitments, if any, have been terminated, Participants shall not set off or recoup any amounts owing to any Participant by



either of Borrowers or any Guarantor on account of the Participation against any amounts owing by any Participant to Borrowers or any Guarantor.

15. In Lender's sole and absolute discretion, Lender may (but is not obligated to) assign the Loan Documents to Participants jointly (or their designated agent) after Lender's senior portion of the Loans has been paid in full. The assignment of the Loan Documents and the endorsement of any notes reflecting the Loans shall be made without recourse to Lender, and without representation or warranty of any nature or kind by Lender.

16. Participants agree (which agreement shall survive any termination of the Participation) to reimburse Lender for all reasonable out-of-pocket expenses (including attorneys' fees) incurred by Lender in connection with the Loans or with an event of default or in enforcing the obligations of Borrowers or any Guarantor under the Loans for which Lender is not reimbursed by Borrowers, pro rata according to Participants' percentage of the Loans. Lender shall not be required to take any action with respect to the Loans or to prosecute or defend any suit in respect of the Loans unless indemnified to its satisfaction by Participants in a separate written document against loss, costs, liability, and expense. If any indemnity furnished to Lender shall become impaired, it may call for additional indemnity and cease to do the acts indemnified against until such additional indemnity is given. Notwithstanding anything to the contrary in this Agreement or otherwise, Participants' obligation under this paragraph shall not exceed each Participant's Respective Percentage in the sum of any amount distributed or to be distributed on account of the Participation, and Lender may apply any distributions to be made to Participants' obligations under this paragraph.

17. This Agreement shall be construed in accordance with the laws of the State of Michigan (without reference to its conflict of laws principles). Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

18. All notices to be given under this Agreement, shall be given to the applicable party at the address indicated below, or such other address as shall be indicated in writing to the other party:

If to Comerica: Comerica Bank  
One Detroit Center  
500 Woodward Avenue, 4th Floor  
Detroit, Michigan 48226  
Attention: James L. Embree  
Facsimile: (313) 222-1244  
E-mail: [jlembree@comerica.com](mailto:jlembree@comerica.com)

With a copy to: Bodman LLP  
6th Floor at Ford Field  
1901 St. Antoine Street  
Detroit, Michigan 48226  
Attention: Ralph E. McDowell  
Facsimile: (313) 393-7579  
E-mail: [rmcdowell@bodmanllp.com](mailto:rmcdowell@bodmanllp.com)

If to Chrysler: Chrysler LLC  
800 Chrysler Drive  
CIMS 485-14-78  
Auburn Hills, Michigan 48326  
Attention: Sigmund Huber  
Director, Supplier Relations  
Facsimile: (248) 512-1771  
Email: [seh43@chrysler.com](mailto:seh43@chrysler.com)

With a copy to: Chrysler LLC  
CIMS 485-14-78  
1000 Chrysler Drive  
Auburn Hills, Michigan 48326-2766  
Attention: Kim R. Kolb  
Senior Staff Counsel  
Facsimile: (248) 512-1771  
Email: [krk4@chrysler.com](mailto:krk4@chrysler.com)

And: Dickinson Wright PLLC  
500 Woodward Avenue, Suite 4000  
Detroit, Michigan 48226  
Attention: James A. Plemmons  
Facsimile: (313) 223-3598  
Email: [jplemmons@dickinsonwright.com](mailto:jplemmons@dickinsonwright.com)

And: Borden Ladner Gervais LLP  
Scotia Plaza  
40 King Street West  
Toronto, Ontario, Canada  
M5H 3Y4  
Attention: Craig J. Hill  
Facsimile: (416) 361-7301  
Email: [chill@blgcanada.com](mailto:chill@blgcanada.com)

If to GM: General Motors Corporation  
30009 Van Dyke Road  
P.O. Box 9025  
Mail Code: 480-206-136  
Warren, Michigan 48090-9025  
Attention: Mark W. Fischer  
Facsimile: (586) 575-3404  
Email: mark.w.fischer@gm.com

With a copy to: Honigman Miller Schwartz and Cohn LLP  
2290 First National Building  
660 Woodward Avenue  
Detroit, Michigan 48226  
Attention: Donald F. Baty, Jr.  
Facsimile: (313) 465-7314  
Email: dbaty@honigman.com

If to Ford: Ford Motor Company  
One America Road  
World Headquarters  
Suite 416  
Dearborn, Michigan 48126  
Attention: Daniella Saltz  
Facsimile: (313) 322-3804  
Email: dsaltz@ford.com

With a copy to: Ford Motor Company  
Building 3  
20100 Rotunda Drive  
Number 3A041  
Dearborn, Michigan 48124  
Attention: Bill Strong  
Facsimile: (313) 206-7044  
Email: wstrong@ford.com

And: Miller Canfield Paddock and Stone, PLC  
150 West Jefferson, Suite 2500  
Detroit, Michigan 48226  
Attention: Stephen S. LaPlante  
Jonathan S. Green  
Facsimile: (313) 496-8478  
Email: laplante@mcps.com

If to Honda: Honda of America Mfg., Inc.  
North American Purchasing Office  
21001-A State Route 739  
Raymond, Ohio 43067  
Attention: Bryan Clay  
Facsimile: (937) 645-7401  
Email: Bryan\_Clay@ham.honda.com

With a copy to: Joseph F. LaFleur, Esq.  
Honda of America Mfg., Inc.  
24000 Honda Parkway  
Marysville, Ohio 43040-9251  
Facsimile: (937) 644-6583  
Email: Joe\_LaFleur@ham.honda.com

And Robert A. Bell, Jr.  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
Columbus, Ohio 43216-1008  
Facsimile: (614) 719-5169  
E-mail: [rabell@vorys.com](mailto:rabell@vorys.com)

19. This Agreement and any other agreements referenced in it constitute the entire understanding of the parties in connection with the matters referenced and shall not be modified or altered except by a writing signed by Participants and Lender. There are no other agreements, oral or written, express or implied, relating to its subject matter other than this Agreement and the other agreements referenced and all prior agreements and understandings have been merged into this Agreement.

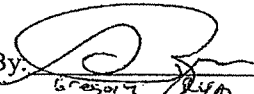
20. Participants acknowledge that they have reviewed (or have had the opportunity to review) this Agreement with counsel of their choice and have executed this Agreement of their own free will and accord and without duress or coercion of any kind by Lender or any other person or entity.

21. This Agreement may be executed in counterparts and facsimile copies of any signatures shall be treated as original signatures.

22. PARTICIPANTS AND LENDER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. LENDER AND PARTICIPANTS EACH HEREBY KNOWINGLY VOLUNTARILY AND WITHOUT COERCION, WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ALL DISPUTES INVOLVING OR RELATING TO THIS AGREEMENT. NEITHER LENDER NOR PARTICIPANTS SHALL BE DEEMED TO HAVE GIVEN UP THIS WAIVER OF JURY TRIAL UNLESS SUCH RELINQUISHMENT IS IN A WRITTEN INSTRUMENT SIGNED BY THE PARTY TO BE CHARGED.

LENDER:

COMERICA BANK

By:   
Its: Vice President

PARTICIPANTS:

GENERAL MOTORS CORPORATION

By: \_\_\_\_\_

Its: \_\_\_\_\_

FORD MOTOR COMPANY

By: \_\_\_\_\_

Its: \_\_\_\_\_

22. PARTICIPANTS AND LENDER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. LENDER AND PARTICIPANTS EACH HEREBY KNOWINGLY VOLUNTARILY AND WITHOUT COERCION, WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ALL DISPUTES INVOLVING OR RELATING TO THIS AGREEMENT. NEITHER LENDER NOR PARTICIPANTS SHALL BE DEEMED TO HAVE GIVEN UP THIS WAIVER OF JURY TRIAL UNLESS SUCH RELINQUISHMENT IS IN A WRITTEN INSTRUMENT SIGNED BY THE PARTY TO BE CHARGED.

LENDER:

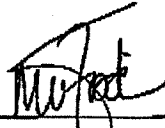
COMERICA BANK

By: \_\_\_\_\_

Its: \_\_\_\_\_

PARTICIPANTS:

GENERAL MOTORS CORPORATION

By: 

Its: Director, Supply Risk Mgr.

FORD MOTOR COMPANY

By: \_\_\_\_\_

Its: \_\_\_\_\_

22. PARTICIPANTS AND LENDER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. LENDER AND PARTICIPANTS EACH HEREBY KNOWINGLY VOLUNTARILY AND WITHOUT COERCION, WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ALL DISPUTES INVOLVING OR RELATING TO THIS AGREEMENT. NEITHER LENDER NOR PARTICIPANTS SHALL BE DEEMED TO HAVE GIVEN UP THIS WAIVER OF JURY TRIAL UNLESS SUCH RELINQUISHMENT IS IN A WRITTEN INSTRUMENT SIGNED BY THE PARTY TO BE CHARGED.

LENDER:

COMERICA BANK

By: \_\_\_\_\_

Its: \_\_\_\_\_

PARTICIPANTS:

GENERAL MOTORS CORPORATION

By: \_\_\_\_\_

Its: \_\_\_\_\_

FORD MOTOR COMPANY

By: Kelly W. Morgan 1/21/02

Its: Purchasing Manager

CHRYSLER LLC

*YAK*

By: *Jan A. Bertel*  
Its: *SVP, Treasurer & CIO*

**HONDA OF AMERICA MFG., INC. for itself  
and on behalf of HONDA CANADA MFG., a  
division of HONDA CANADA, INC., HONDA  
MANUFACTURING OF INDIANA, LLC and  
HONDA MANUFACTURING OF ALABAMA,  
LLC**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Each of undersigned consents and agrees to all terms and conditions of the foregoing Subordinated Participation Agreement. In addition, each of the undersigned Guarantors consents to the foregoing and acknowledges and agrees that: (i) the Loan Documents, this Agreement, and every other document executed or delivered in connection with the transactions contemplated hereby, and all the terms and conditions thereof, shall be and remain in full and force and effect with the changes effected by this Agreement deemed to be incorporated therein; (ii) neither the validity, priority and enforceability of the Loan Documents, nor its guaranty of the Borrowers' obligations thereunder shall be affected or impaired by the consummation of the transactions contemplated hereby; and (iii) as of the date hereof, its guaranty of the Borrowers' obligations under the Loan Documents is its valid obligation, enforceable in accordance with its terms without defense or setoff by or on behalf of such Guarantor.

**"BORROWERS"**

**SKD AUTOMOTIVE GROUP,  
LIMITED PARTNERSHIP**

By: PL International Corporation  
Its: General Partner

By: \_\_\_\_\_  
Vytas Ambutas  
Its: Secretary



**CHRYSLER LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**HONDA OF AMERICA MFG., INC. for itself  
and on behalf of HONDA CANADA MFG., a  
division of HONDA CANADA, INC., HONDA  
MANUFACTURING OF INDIANA, LLC and  
HONDA MANUFACTURING OF ALABAMA,  
LLC**

By: Robert D. Nelson AVP

Its: Robert D. Nelson AVP

Each of undersigned consents and agrees to all terms and conditions of the foregoing Subordinated Participation Agreement. In addition, each of the undersigned Guarantors consents to the foregoing and acknowledges and agrees that: (i) the Loan Documents, this Agreement, and every other document executed or delivered in connection with the transactions contemplated hereby, and all the terms and conditions thereof, shall be and remain in full and force and effect with the changes effected by this Agreement deemed to be incorporated therein; (ii) neither the validity, priority and enforceability of the Loan Documents, nor its guaranty of the Borrowers' obligations thereunder shall be affected or impaired by the consummation of the transactions contemplated hereby; and (iii) as of the date hereof, its guaranty of the Borrowers' obligations under the Loan Documents is its valid obligation, enforceable in accordance with its terms without defense or setoff by or on behalf of such Guarantor.

**"BORROWERS"**

**SKD AUTOMOTIVE GROUP,  
LIMITED PARTNERSHIP**

By: PL International Corporation

Its: General Partner

By: \_\_\_\_\_

Vytas Ambutas

Its: Secretary

CHRYSLER LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

HONDA OF AMERICA MFG., INC. for itself  
and on behalf of HONDA CANADA MFG., a  
division of HONDA CANADA, INC., HONDA  
MANUFACTURING OF INDIANA, LLC and  
HONDA MANUFACTURING OF ALABAMA,  
LLC

By: \_\_\_\_\_

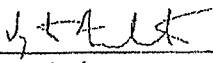
Its: \_\_\_\_\_

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**"BORROWERS"**

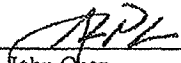
**SKD AUTOMOTIVE GROUP,  
LIMITED PARTNERSHIP**

By: PL International Corporation  
Its: General Partner

By:   
Vytas Ambutas  
Its: Secretary

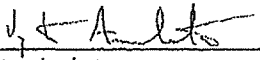
**SKD COMPANY**

By: 2515080 Nova Scotia Company  
Its: General Partner

By:   
John Chen  
Its: Vice President

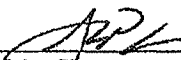
**"GUARANTORS"**

**NMC CANADA INC.**

By:   
Vytas Ambutas  
Its: Secretary

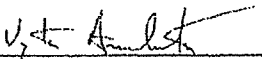
**SKD HOLDING, L.P.**

By: SKD Holding, Inc.  
Its: General Partner


By:   
John Chen  
Its: Vice President/Treasurer

**SKD, L.P.**

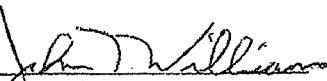
By: Quincy Holdings, Inc.  
Its: General Partner

By:   
Vytas Ambutas  
Its: Secretary

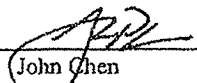
2515080 NOVA SCOTIA COMPANY

By:   
John Chen  
Its: Vice President

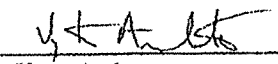
EASSA MEXICO, S. DE R.L. DE C.V.

By:   
John Williams  
Its: Treasurer

SKD DE MEXICO, S. DE R.L. DE C.V.

By:   
John Chen  
Its: Treasurer

NMC CANADA INC.

By:   
Vytas Ambutas  
Its: Secretary

**EXHIBIT 1**

**SCHEDULE OF  
SUBORDINATED PARTICIPATIONS**

Participations under first interim agreement:

Chrysler	\$557,700
Ford	\$306,217
Honda	\$158,286
General Motors	<u>\$50,297</u>
TOTAL:	\$1,072,500

Participations purchased under second interim agreement:

Chrysler	\$535,003
Ford	\$262,811
Honda	\$161,285
General Motors	<u>\$147,401</u>
TOTAL:	\$1,106,500