Execution Copy

CONDITIONAL COMMITMENT LETTER

by and between

UNITED STATES DEPARTMENT OF ENERGY

and

NISSAN NORTH AMERICA, INC.

Dated as of June 23, 2009

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CONDITIONAL COMMITMENT LETTER

June 23, 2009

Nissan North America, Inc.
One Nissan Way
Franklin, TN 37067
United States

Re: Loan Application of Nissan North America, Inc. (the "*Application*")
ATVM Loan Number: A1001

Ladies and Gentlemen:

Nissan North America, Inc. ("*you*" or the "*Applicant*") has submitted an application (as supplemented through the date hereof, the "*Application*") for a term loan authorized and approved by the U.S. Department of Energy ("*DOE*") pursuant to DOE's Advanced Technology Vehicles Manufacturing Incentive Program (the "*ATVM Program*") authorized by section 136 of the Energy Independence and Security Act of 2007, as amended from time to time ("*Section 136*"), and made by and through the Federal Financing Bank, an instrumentality of the United States government created by the Federal Financing Bank Act of 1973 that is under the general supervision of the Secretary of the Treasury ("*FFB*").

This conditional commitment letter (together with all attachments hereto, including without limitation the Terms and Conditions for the Loans under the ATVM Program (the "*Term Sheet*") attached as Appendix A hereto, the "*Conditional Commitment Letter*") will confirm the understanding and agreement between DOE and the Applicant in connection with the proposed financing for the Projects (as defined in the Term Sheet). Capitalized terms used but not defined herein have the meanings given to such terms in (*i*) the Term Sheet or (*ii*) the final regulations located at 10 CFR Part 611 and any other applicable regulations from time to time promulgated by DOE to implement Section 136 (the "*Applicable Regulations*," and together with Section 136, the "*Program Requirements*"). All provisions of this Conditional Commitment Letter are subject to the Program Requirements.

1. *Facilities, etc.*

You have advised us that you wish to obtain the direct loans described in the Term Sheet in an aggregate principal amount of up to $1,636,000,000 (ONE BILLION SIX HUNDRED THIRTY SIX MILLION U.S. DOLLARS) to finance Eligible Project Costs for the Project, as follows

(subject to certain adjustments to the individual amounts of the Loans, as described in the Term Sheet):

(a) a 9.25-year term loan facility in an aggregate principal amount up to $210,000,000 (TWO HUNDRED TEN MILLION U.S. DOLLARS) (the "*Tranche A Loan*");

(b) a 15-year term loan facility in an aggregate principal amount up to $1,135,000,000 (ONE BILLION ONE HUNDRED THIRTY FIVE MILLION U.S. DOLLARS) (the "*Tranche B Loan*"); and

(c) a 25-year term loan facility in an aggregate principal amount up to $291,000,000 (TWO HUNDRED NINETY ONE MILLION U.S. DOLLARS) (the "*Tranche C Loan*" and together with the Tranche A Loan and the Tranche B Loan, the "*Loans*").

2. *Conditional Commitment*

In connection with the foregoing, we are pleased to advise you that, subject to the conditions set forth herein, DOE commits to (*i*) arrange the Loans, (*ii*) designate the Applicant as a borrower under the Program Financing Agreement (as defined in the Term Sheet) and (*iii*) cause FFB to enter into a Note Purchase Agreement with the Applicant and DOE for the purchase of one or more Notes issued by the Applicant evidencing the Loans, as more particularly set out below. DOE's commitment hereunder is subject to (*a*) the preparation, execution and delivery of Definitive Agreements (as defined below) incorporating the terms and conditions set forth in this Conditional Commitment Letter, satisfactory to DOE, in its sole discretion; (*b*) the absence of a material adverse change in or affecting the business, condition (financial or otherwise), operations, performance, properties or prospects of the Project (as defined in the Term Sheet), or of the Applicant and its consolidated subsidiaries, taken as a whole, or of Nissan Motor Co., Ltd. ("*NML*") and NML's consolidated subsidiaries, taken as a whole, that, with respect to the Applicant and NML, has had, or could reasonably be expected to have a material adverse effect on the ability of (x) Applicant to perform its obligations under the documents governing the Loans, including, without limitation, repayment of the Loans and completion of the Project in accordance with such documents or (y) NML to perform its obligations under the Keepwell Agreement (as defined in the Term Sheet), the NML Supplemental Letter (as defined in the Term Sheet) or the NML Side Letter (as defined in the Term Sheet); (*c*) DOE's satisfaction, in its sole discretion, with all legal, tax and accounting matters with respect to the Applicant, NML and their respective material subsidiaries; (*d*) DOE's satisfaction, in its sole discretion, with, and the absence of any material adverse changes in, the capital, corporate and organizational structure of the Applicant, NML and their respective material subsidiaries; (*e*) your receipt to DOE's satisfaction, in its sole discretion, of all governmental, internal corporate, third party and any other consents necessary to permit the Loans and the borrowings thereunder, and (*f*) those conditions precedent specified in the Term Sheet.

As an inducement to DOE to enter into this Conditional Commitment Letter, you represent and warrant to, and agree with, DOE that:

(i) you and NML intend to manufacture and distribute first-generation electric vehicles for the United States market as contemplated by the Application from manufacturing and distribution facilities located in the United States ("*US Facilities*") as contemplated by the Application and constructed and/or re-equipped with proceeds from the Loans;

(ii) you and NML intend to satisfy demand for first-generation electric vehicles in the United States market from such US Facilities, to the extent that the output of such US Facilities is able to satisfy such demand;

(iii) NML and its affiliates are not seeking (and will not seek prior to the earlier of the occurrence of the Financial Closing Date (as defined in the Term Sheet) or the expiration of the conditional commitments of DOE contemplated hereby pursuant to Section 13 of this Conditional Commitment Letter) (x) alternative financing arrangements for the uses contemplated for the Loans, it being understood that you may seek supplemental funding from states or other non-federal governmental entities in the United States in connection with any part of the Project ("*Supplemental Funding*"), provided that such Supplemental Funding is permitted by the Program Requirements, or (y) to construct or re-equip manufacturing and distribution facilities outside of the United States ("*Overseas Facilities*") for the manufacture and distribution of first-generation electric vehicles ("*EVs*") and batteries used therein in lieu of developing the Project as Applicant's primary source of EVs and batteries for the United States market; it being recognized that NML is developing Overseas Facilities to serve markets other than the United States market, and prior to the full-scale production of EVs and batteries at the Smyrna Facility (as defined in the Term Sheet), EVs from those Overseas Facilities will be imported to serve the United States market, and thereafter EVs and/or batteries from those Overseas Facilities may be imported to supplement EV and/or battery production from the Project and the Smyrna Facility to meet United States market demand; and

(iv) you and NML have all corporate power and authority, respectively, to enter into and perform, or to authorize you to enter into and perform, your obligations under this Conditional Commitment Letter, and no action or authorization on behalf of you or NML or by third-parties (including any government or other authority) is required to be obtained to enter into and perform your obligations hereunder except as set forth herein or in the Term Sheet or otherwise expressly disclosed to DOE as such in writing (such representations and warranties in the foregoing clauses (i), (ii), (iii) and (iv), the "*Conditional Commitment Letter Representations*").

3. *True and Complete Disclosure*

The Applicant hereby certifies as follows:

(i) The information, reports, financial statements, exhibits and schedules furnished by or on behalf of the Applicant or any affiliate of the Applicant to DOE, FFB or their respective designees, agents or representatives in connection with the negotiation, preparation or delivery of this Conditional Commitment Letter, including the Term Sheet, or included herein or therein or delivered pursuant hereto or thereto, when taken as a whole, do not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements herein or therein, in light of the circumstances under which they were made, not misleading (it being understood that in the case of projections, such projections are based on estimates which are reasonable as of the date such projections are stated or certified).

(ii) The Application taken together with all other written information furnished to DOE, FFB or their respective designees, agents or representatives by or on behalf of the Applicant or any affiliate of the Applicant for use in connection with the negotiation and execution of the Conditional Commitment Letter, including the Term Sheet, and the closing of the transactions contemplated hereby and thereby, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading (it being understood that in the case of projections, such projections are based on estimates which are reasonable as of the date such projections are stated or certified).

(iii) All information furnished after the date hereof by or on behalf of the Applicant or any affiliate of the Applicant to DOE, FFB or their respective designees, agents or representatives in connection with the Conditional Commitment Letter, including the Term Sheet, or the Transaction Documents and the transactions contemplated hereby and thereby, when taken as a whole and together with all information furnished prior to the date hereof, will not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements herein, in light of the circumstances under which they were made, not misleading (it being understood that in the case of projections, such projections are based on estimates which are reasonable as of the date such projections are stated or certified).

(iv) There is no fact known to the Applicant or NML, other than facts generally known to the public that relate to changes in the automotive industry or to conditions in the U.S. or global economy or capital or financial markets generally or to changes in general legal, tax, regulatory, political or business conditions, that, after due inquiry, could reasonably be expected to have a material adverse effect on the Project or the ability of (x) Applicant to perform its obligations under the documents governing the Loans, including, without limitation, repayment of the Loans and completion of the

Project in accordance with such documents or (y) NML to perform its obligations under the Keepwell Agreement or the NML Supplemental Letter, that has not been disclosed herein or in a report, financial statement, exhibit, schedule, disclosure letter or other writing furnished to DOE or FFB for use in connection with the transactions contemplated hereby.

4. *Indemnity*

The Applicant hereby indemnifies and holds harmless the United States, including DOE and FFB, and each other governmental agency or instrumentality of the United States, and their respective designees, agents, and contractors, and all of their respective directors, officers and employees (each, an "*Indemnified Person*") from and against (and will reimburse each Indemnified Person as the same are incurred for) any and all losses, claims, damages, liabilities or other expenses (including, without limitation, the reasonable fees, disbursements and other charges of counsel, but other than the expenses incurred by DOE in connection with the preparation, negotiation, execution and delivery of this Conditional Commitment Letter, Term Sheet, and any Transaction Document), but excluding in all cases consequential or punitive damages, to which such Indemnified Person may become subject arising out of or relating to (i) the execution or delivery of this Conditional Commitment Letter, Term Sheet, any Transaction Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) the enforcement or preservation of any rights under this Conditional Commitment Letter, Term Sheet, any Transaction Document or any agreement or instrument prepared in connection herewith or therewith, (iii) any Loan or the use or proposed use of the proceeds thereof, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by any third party or by the Applicant or any of its affiliates or otherwise, and regardless of whether any Indemnified Person is a party thereto; *provided, however*, that such indemnity shall not apply to the extent the loss, claim, damage, liability or other expense results from the gross negligence or willful misconduct of the Indemnified Person or a material breach of the Indemnified Person's obligations hereunder, in each case, as determined by a court of competent jurisdiction in a final, non-appealable order. This indemnity obligation shall survive the execution of the Loan Documents and the expiration or other termination of the Loans.

5. *Cooperation*

The Applicant will cooperate fully with DOE and its representatives and advisors with respect to its due diligence investigation of the Project and the Applicant, including without limitation providing prompt and complete access to employees, engineers, accountants, facilities, books and records and contracts of the Applicant, as well as such other information as may be requested by DOE in its reasonable judgment or its representatives or advisors, subject to reasonable measures implemented to ensure confidentiality of the information provided

(consistent with the requirements of the Freedom of Information Act, 5 U.S.C. § 552 ("*FOIA*") and any regulations promulgated thereunder, and other applicable law).

6. *Reporting Requirements*

The Applicant will provide the following documents and information to DOE beginning on the date on which a conditional commitment exists up to and including the Financial Closing Date (at which point Applicant will comply with the various reporting requirements set forth in the Definitive Agreements) or, if this Conditional Commitment Letter is terminated as provided herein, through this Conditional Commitment Letter's termination date:

(a) within ten (10) business days of the Applicant obtaining knowledge of such change, notice of any previously unreported material change to the information contained in the Applicant's Application for the Loans, including without limitation, any material change in (*i*) the description of the Project and related plans and contractors; (*ii*) the conclusions of the Applicant's environmental consultants hired to assist in complying with the requirements of the NEPA (as defined in the Term Sheet); (*iii*) the status of material Project-related applications or approvals for governmental permits and authorizations; and (*iv*) the potential environmental impact of the Project; and

(b) at all times, any other information requested by DOE in its reasonable judgment regarding the Applicant, NML or any of their respective subsidiaries or the Project.

7. *Definitive Agreements*

As soon as practicable following the execution and delivery of this Conditional Commitment Letter, DOE and the Applicant will negotiate in good faith to enter into definitive Transaction Documents (the "*Definitive Agreements*") with respect to the transactions described in the Term Sheet to be on such terms and conditions as DOE and the Applicant mutually agree. The Definitive Agreements will include (*i*) the terms contained herein, including, but not limited to, those terms set forth in the Term Sheet, (*ii*) the applicable portions of 10 CFR Part 611 and (*iii*) such other terms and conditions as DOE and the Applicant mutually agree. Each of DOE and the Applicant agree to use its commercially reasonable best efforts (*x*) to prepare such Definitive Agreements, and (*y*) to take all such actions as may be required to consummate the transactions described in the Term Sheet on the terms and conditions set forth therein. However, the failure of DOE to execute and deliver Definitive Agreements will not affect the binding effect or enforceability of Sections 3, 4, 8, 11 and 12 of this Conditional Commitment Letter.

In furtherance of the foregoing, subject to negotiation of mutually acceptable Definitive Agreements, you agree to use commercially reasonable best efforts and take all actions necessary

or appropriate to ensure that the Financial Closing Date shall occur on or before December 31, 2009, it being understood that if the Financial Closing Date fails to occur as of such date because of the non-completion of the NEPA process, this will not be deemed a failure by you to use commercially reasonable best efforts to ensure the closing of the transactions contemplated herein (provided that you shall have used your commercially reasonable best efforts to provide DOE with the information required).

8. *Assignment; Entire Agreement*

This Conditional Commitment Letter shall not be assignable by you without the prior written consent of DOE (and any such purported assignment shall be void) and may not be amended or waived except by a written instrument signed by DOE and you. By executing this Conditional Commitment Letter, DOE and you acknowledge that this Conditional Commitment Letter, including the Term Sheet, is the only agreement between you and DOE with respect to the Loans and sets forth the entire understanding of the parties with respect thereto (it being understood that NML, pursuant to the NML Side Letter (as defined in the Term Sheet), will be undertaking certain obligations and making certain related representations and warranties in connection herewith). This Conditional Commitment Letter is intended to be solely for the benefit of the parties hereto and is not intended to confer any benefits upon, or create any rights in favor of, any person other than the parties hereto.

9. *Binding Nature; Survival*

The provisions of this Conditional Commitment Letter are binding on the parties hereto, and Sections 3, 4, 8, 11 and 12 of this Conditional Commitment Letter shall survive any termination or expiration of this Conditional Commitment Letter.

10. *Counterparts*

This Conditional Commitment Letter may be executed in separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement. Such executed counterparts may be delivered electronically, with the original to be delivered promptly thereafter.

11. *Public Announcements*

DOE and you shall agree on (i) the initial public announcement by you (other than any public disclosure required by law) of the Project and the financing contemplated to be provided hereby and (ii) any subsequent announcements by you in connection with material developments in respect of the Project (including, without limitation, the groundbreaking ceremony, the Project

going into operation, etc.) and the announcement of satisfaction of any Milestones (as defined in the Term Sheet).

12. *Governing Law*

This Conditional Commitment Letter shall be governed by the federal laws of the United States of America and not the laws of the several states.

13. *Acceptance of Term Sheet; Expiration of Commitment*

If you are in agreement with the foregoing, please indicate your acceptance of the terms and conditions of this Conditional Commitment Letter, including the Term Sheet, by signing in the appropriate space below and returning to DOE (whether by way of manual or electronic delivery) an executed counterpart of this Conditional Commitment Letter not later than 5:00 p.m., Washington D.C. time, on June 23, 2009. DOE's commitment hereunder will expire at such time in the event DOE has not received such executed counterpart in accordance with the preceding sentence. In the event that the Financial Closing Date shall not have occurred on or before March 31, 2010, then this Conditional Commitment Letter and DOE's commitments hereunder shall terminate, unless the Secretary or his appointed designee agrees in writing to an extension. Such extension may be subject, at DOE's sole discretion, to modification of the terms hereof.

[Signatures Appear on Next Page]

Very truly yours,

U.S. DEPARTMENT OF ENERGY

By: _____
Dr. Steven Chu, Secretary of Energy

ACCEPTED AND AGREED TO
as of the date of this Conditional Commitment Letter:
NISSAN NORTH AMERICA, INC.

By: _____
Name:
Title:

ACCEPTED AND AGREED TO
as of the date of this Conditional Commitment Letter:
NISSAN NORTH AMERICA, INC.

By: _____
Name: Carlos Tavares
Title: President

[Signature Page to Conditional Commitment Letter]

. TERMS AND CONDITIONS FOR THE LOANS UNDER THE ATVM PROGRAM

This Term Sheet outlines the material terms and conditions of the transactions contemplated herein, but is not intended to be a comprehensive list of all relevant terms and conditions. The Transaction Documents will contain the terms and conditions set forth in this Term Sheet, in addition to other standard provisions and such other terms and conditions as DOE, in its sole discretion, may require. DOE reserves the right to propose such further terms and conditions as it deems necessary in the course of further due diligence and receipt of related approvals satisfactory to DOE, in its sole discretion, and any other approval procedures customary for a transaction of this nature.

Facility

1. *Facility*

A multi-draw term loan facility in an aggregate amount up to $1,636,000,000 (ONE BILLION SIX HUNDRED THIRTY SIX MILLION U.S. DOLLARS) (the "*Maximum Facility Amount*") that is full recourse to the Borrower, consisting of the "*Tranche A Loan*", in an aggregate principal amount up to $210,000,000 (TWO HUNDRED TEN MILLION U.S. DOLLARS), the "*Tranche B Loan*", in an aggregate principal amount up to $1,135,000,000 (ONE BILLION ONE HUNDRED THIRTY FIVE MILLION U.S. DOLLARS), and the "*Tranche C Loan*", in an aggregate principal amount up to $291,000,000 (TWO HUNDRED NINETY ONE MILLION U.S. DOLLARS); provided that:

(a) upon the Financial Closing Date, subject to DOE's approval, in its sole discretion, not to be unreasonably withheld, the undrawn commitments in respect of each Tranche may be reallocated to other Tranches such that, after giving effect thereto, the maximum aggregate principal amount of each of the Tranche A Loan, Tranche B Loan and Tranche C Loan may be upwardly or downwardly adjusted, so long as the sum of the aggregate principal amount of all of the Tranches does not at any time exceed the Maximum Facility Amount; and

(b) following the Financial Closing Date, subject to (x) providing the DOE with 15 business days prior written notice, and (y) entering into such agreements with the DOE or FFB and issuing such new notes, certificates, legal opinions and other documents as any of the DOE or FFB may each request in accordance with the terms of the Funding Agreements and the other Transaction Documents, the undrawn commitments in respect of each Tranche may from time to time be reallocated to other Tranches such that, after giving effect thereto, the maximum aggregate principal amount of (i) the Tranche A Loan may be upwardly adjusted, provided that a downward adjustment by a corresponding aggregate amount is made to the maximum aggregate principal amount of the Tranche B

Loan and/or the Tranche C Loan, and (ii) the Tranche B Loan may be upwardly adjusted, provided that a downward adjustment by a corresponding amount is made to the maximum aggregate principal amount of the Tranche C Loan, so long as, notwithstanding any upward or downward adjustments described in the foregoing clauses (i) and (ii), the sum of the aggregate principal amount of all of the Tranches does not at any time exceed the Maximum Facility Amount.

The Tranche A Loan, Tranche B Loan and Tranche C Loan shall each, individually, be referred to herein as a "*Tranche*" and, collectively, as the "*Tranches*". The Loans will be secured by a first priority lien or security interest on all of the assets financed or acquired with proceeds of the Loans, and each other asset or item of collateral, agreement, license or other document described in or contemplated by Section 14(e) hereof.

2. *Borrower*

Nissan North America, Inc., a corporation, organized under the laws of California (the "*Borrower*").

3. *Intentionally Omitted*

Project and Eligible Project Costs

4. *Project*

The Project consists of (i) the construction by the Borrower of a new battery manufacturing facility (the "*Battery Manufacturing Plant*") in the United States for the production and manufacture of lithium-ion or other batteries (the "*Battery*" or "*Batteries*") to be used, among other things, to power the Electric Vehicles (defined below) (the "*Battery Project*") and (ii) the Borrower's retooling, upgrading and reequipping of its Smyrna, Tennessee-based automotive and other manufacturing facilities (collectively, the "*Smyrna Facility*") to build electric vehicles (the "*Electric Vehicles*") ("*Plant Project,*" and, together with the Battery Project, the "*Project*"), as described in more detail in the Application.

5. *Project Business Plan*

The Borrower will, no later than 15 business days prior to the Financial Closing Date, provide an updated business plan on which the Project is based, which will contain, in each case, as may be acceptable to DOE in its sole discretion (unless set forth otherwise below), (*i*) an agreed list of construction and other milestones (collectively, the "*Milestones*"), in chronological order, that the Borrower will need to satisfy in order to fully complete the Project, together with the

anticipated completion dates for each of the Milestones and the anticipated costs and expenses that the Borrower expects will be incurred in connection with, and upon the completion of, each of the Milestones, it being understood that while the Project Business Plan may be periodically updated or otherwise amended in accordance with the terms of this Term Sheet, the substance of the Milestones may only be updated or otherwise amended with the consent of the DOE, acting in its sole discretion, (*ii*) a detailed five-year breakdown of the Borrower's expected production volume of Electric Vehicles in the United States, (*iii*) a detailed description of the overall financing plan for the Project, including all sources and uses of funding and the liability of the parties associated with the Project (including specific line items for each material component, phase or element of the Project), proposed Loan disbursements, and equity and debt (including how such equity and debt are allocated to each specific line item referenced above), (*iv*) a detailed estimate of the total (*x*) Tranche A Costs (the "*Total Tranche A Costs*"), (*y*) Tranche B Costs (the "*Total Tranche B Costs*") and (*z*) Tranche C Costs (the "*Total Tranche C Costs*" and, together with the Total Tranche A Costs and the Total Tranche B Costs, the "*Total Project Costs*"), in the case of each of clauses (x), (y) and (z), together with a description of the methodology and assumptions used to produce such estimates for each Tranche and (*v*) such other information as may be required by DOE in its reasonable discretion, (collectively, the "*Project Business Plan*").

Without limiting the above, the Project Business Plan will also include the following project requirements (the "*PBP Project Requirements*"):

(a) that the commencement of the production of Electric Vehicles (at the Smyrna Facility) and Batteries (at the Battery Manufacturing Plant) to be used in Electric Vehicles sold by the Borrower in the United States will occur no later than by the end of the Loan Availability Period;

(b) that the Battery Manufacturing Plant capacity shall be sufficient to meet the Borrower's projected United States market demand for Electric Vehicles at all times following the start of production of the Electric Vehicles and Batteries;

(c) that the Borrower complete construction of the Project, to the extent it is commercially reasonable, by the end of the Loan Availability Period; and

(d) that the Project will be completed and fully built-out to a capacity capable of producing 150,000 Electric Vehicles and 200,000 Batteries per year no later than March 31, 2015 (the "*Project Completion Outside Date*"); provided that if the non-completion of the Project by such date is the result of the occurrence of specified force majeure events, then the Project Completion Outside Date shall be extended by the duration of such force majeure events plus 10 business days, up to a total of an additional 180 days;

it being understood that none of these project requirements may be amended without the consent of DOE, acting in its sole discretion.

6. *Project Costs*

(a) The costs of the Project shall be categorized as follows:

(i) "*Tranche A Costs*" shall be those costs of the Project for all assets acquired with respect to the Project and used *solely* in the manufacture of first-generation Electric Vehicles;

(ii) "*Tranche B Costs*" shall be those costs of the Project for all assets acquired with respect to the Project and used in the manufacture of first- and subsequent generation Electric Vehicles and other vehicles; and

(iii) "*Tranche C Costs*" shall be those costs of the Project for all assets acquired with respect to the Project constituting the building housing the Battery Manufacturing Plant and Project-related improvements to the buildings housing the Smyrna Facility, including, in each case, the related infrastructure.

(b) The Borrower will apply:

(i) Tranche A Loan proceeds solely to pay those portions of Total Tranche A Costs that are eligible for funding as "Eligible Costs" as defined in the Applicable Regulations ("*Eligible Tranche A Costs*"), the Eligible Tranche B Costs (as defined below) or the Eligible Tranche C Costs (as defined below);

(ii) Tranche B Loan proceeds solely to pay those portions of Total Tranche B Costs that are eligible for funding as "Eligible Costs" as defined in the Applicable Regulations ("*Eligible Tranche B Costs*") or the Eligible Tranche C Costs.

(iii) Tranche C Loan proceeds solely to pay those portions of Total Tranche C Costs that are eligible for funding as "Eligible Costs" as defined in the Applicable Regulations ("*Eligible Tranche C Costs*" and, together with Eligible Tranche A Costs and Eligible Tranche B Costs, the "*Eligible Project Costs*").

For the avoidance of doubt, in no event will the proceeds of any Advance (defined below) be applied towards any portion of the Total Project Costs incurred prior to December 31, 2008.

(c) The Borrower estimates as of the date of this Term Sheet that:

(i) Eligible Tranche A Costs will be an aggregate amount of up to $262,500,000 (the "*Total Eligible Tranche A Costs*");

(ii) Eligible Tranche B Costs will be an aggregate amount of up to $1,418,750,000 (the "*Total Eligible Tranche B Costs*"); and

(iii) Eligible Tranche C Costs will be an aggregate amount of up to $363,750,000 (the "*Total Eligible Tranche C Costs*" and, together with the Total Eligible Tranche A Costs and the Total Eligible Tranche B Costs, the "*Total Eligible Costs*").

For the avoidance of doubt, subject to the Program Requirements, Total Eligible Costs may include certain costs incurred before the Financial Closing Date.

(d) The Borrower agrees and acknowledges that no costs or expenses relating to any Project shall constitute "Eligible Costs" as defined in the Applicable Regulations to the extent such costs or expenses were funded with proceeds obtained by the Borrower from the United States or any instrumentality thereof (other than the Loans), including, without limitation, under the Troubled Asset Relief Program or any other grant or loan program.

7. *Applicant Project Commitment*

The Borrower will commit to pay all costs and expenses incurred to complete the construction of, and consummate, the Project (regardless of whether such costs and expenses constitute Eligible Project Costs) in excess of the amounts permitted to be advanced as of any date under the terms of the Loans (such payments and commitment, respectively, the "*Applicant Project Payments*" and "*Applicant Project Commitment*"). For the avoidance of any doubt, and in accordance with Sections 9 and 21(g) hereof, as of any date of determination, the total amount of Advances that shall by then have been disbursed in respect of any Tranche shall not be permitted to exceed 80% of the Eligible Project Costs incurred in respect of such Tranche as of such date.

8. *Applicant Project Commitment Payments and Eligible Cost Overruns.*

(a) Prior to the making of any Advance, the Borrower will make payments and/or provide evidence of payments made in respect of the Applicant Project Commitment required to be paid as of such date pursuant to Sections 7 and 21(g) hereof.

(b) Upon such time as the Borrower incurs aggregate Eligible Project Costs in respect of any Tranche in excess of an amount equal to the product of (i) 80% and (ii) the applicable Total Eligible Costs specified in respect of such Tranche in Section 6 above (such excess, the "*Eligible Cost Overruns*"), the Borrower shall be required to pay such Eligible Cost Overruns out of its own funds (for the avoidance of doubt, the Borrower shall not be permitted to use the proceeds of any Loan to pay for any Eligible Cost Overruns, but may dispute any such costs with the applicable payee). In addition, the Borrower shall be required to pay any portion of the Total Project Costs that are not Eligible Project Costs out of its own funds (but may dispute any such costs with the applicable payee).

Loans

9. *The Loans*

Loans are to be made by and through FFB, and authorized, approved and arranged by DOE pursuant to the terms and conditions of the ATVM Program, Section 136 and the Applicable Regulations, in an aggregate principal amount from time to time outstanding of not more than:

(a) in respect of the Tranche A Loan, the lesser of (*x*) 80% of all Eligible Tranche A Costs incurred as of any date of determination, and (*y*) $210,000,000 (TWO HUNDRED TEN MILLION U.S. DOLLARS) (such lesser amount, the "*Tranche A Maximum Loan Amount*");

(b) in respect of the Tranche B Loan, the lesser of (*x*) 80% of all Eligible Tranche B Costs incurred as of any date of determination, and (*y*) $1,135,000,000 (ONE BILLION ONE HUNDRED THIRTY FIVE MILLION U.S. DOLLARS) (such lesser amount, the "*Tranche B Maximum Loan Amount*"); and

(c) in respect of the Tranche C Loan, the lesser of (*x*) 80% of all Eligible Tranche C Costs incurred as of any date of determination, and (*y*) $291,000,000 (TWO HUNDRED NINETY ONE MILLION U.S. DOLLARS) (such lesser amount, the "*Tranche C Maximum Loan Amount*");

provided, that, the foregoing loan amounts shall be subject to reallocation pursuant to Sections 1(a) and (b) hereof.

10. *Availability*

Subject to the terms of the Funding Agreements (as defined in Section 17 below), disbursements of (*x*) the Tranche A Loans (each a "*Tranche A Advance*"), (*y*) the Tranche B Loans (each a "*Tranche B Advance*") and (*z*) the Tranche C Loans (each a "*Tranche C Advance*," and together with the Tranche A Advances and the Tranche B Advances, the "*Advances*") may be requested from time to time (but no more frequently than once during any calendar month) during the period (the "*Loan Availability Period*") from (*x*) the Financial Closing Date (as hereinafter defined), to (*y*) the date that is 36 months following the Financial Closing Date. The Loan Availability Period may be extended with the consent of DOE, acting in its sole discretion.

Subject to satisfaction of the conditions precedent set forth in the Loan Documents, the proceeds of (*i*) Tranche A Advances will be used to pay Eligible Tranche A Costs (or other Eligible Project Costs authorized hereunder), (*ii*) Tranche B Advances will be used to pay Eligible Tranche B Costs (or other Eligible Project Costs authorized hereunder) and (*iii*) Tranche C Advances will be used to pay Eligible Tranche C Costs, in the case of each of clauses (i), (ii) and (iii) above, in accordance with the then current Project Business Plan. Subject to the terms of the Funding Agreements and the other Transaction Documents, Advances to the Borrower will be made in accordance with the following procedures:

(a) no less than 10 business days (or 15 business days, with respect to an Advance in an amount equal to or greater than $500,000,000 (FIVE HUNDRED MILLION U.S. DOLLARS)) prior to any Advance Date (as defined below), Borrower shall provide the DOE for its review and approval with (*i*) an advance request in sufficient detail and including wire transfer instructions and, if requested by DOE, in its sole discretion, copies of invoices, (*ii*) a certificate executed by an authorized officer of the Borrower certifying that the proceeds of (*x*) the Tranche A Advances will be used to pay Eligible Tranche A Costs then due and payable (or other Eligible Project Costs then due and payable authorized hereunder), (*y*) the Tranche B Advances will be used to pay Eligible Tranche B Costs then due and payable (or other Eligible Project Costs then due and payable authorized hereunder) and (*z*) the Tranche C Advances will be used to pay Eligible Tranche C Costs then due and payable, and (*iii*) such other applicable documentation, certificates and information specified in this Term Sheet (including, without limitation, in Section 21 and, prior to the Financial Closing Date, Section 20);

(b) subject to satisfaction by the Borrower of all necessary conditions precedent specified in this Term Sheet, no less than 3 business days (or 5 business days, with respect to an Advance in an amount equal to or greater than $500,000,000 (FIVE HUNDRED MILLION U.S. DOLLARS)) prior to any Advance Date, DOE shall provide the FFB with (*i*) the applicable advance request from the Borrower described in clause (a) above and (*ii*) an advance approval notice from DOE; and

(c) pursuant to the foregoing, FFB will make Advances to the Borrower (who will then make all such disbursements as is necessary directly to those persons to whom Borrower is obligated to make payment) to pay relevant Eligible Project Costs then due and payable, as soon as commercially practicable, and in any event within three business days, or five business days, as applicable, following receipt from DOE of the applicable advance request and advance approval notice specified above.

The Borrower agrees that DOE shall only be required to use its commercially reasonable best efforts to provide the FFB with the necessary advance requests and advance approval notices within the time-frames specified above, but DOE shall in any event ensure that the FFB receive all such advance requests and advance approval notices as soon as commercially practicable following receipt from the Borrower of the applicable advance requests and necessary certificates specified above (subject to the Borrower satisfying all necessary conditions precedent specified in this Term Sheet, including, without limitation, in Section 21 and, prior to the Financial Closing Date, Section 20).

11. *Interest Rate*

Subject to the terms of the Funding Agreements, each Advance shall have its own interest rate (the "*Interest Rate*"), which rate will be determined by the Secretary of the Treasury as of the date the respective Advance is made. The Interest Rate for each Advance will be a rate per annum equal to the single equivalent rate for the payment stream on the Advance under the terms of the Funding Agreements. The single equivalent rate will be determined first by envisioning the payment stream on the Advance under the Funding Agreements as a payment stream on a series of bonds in which each bond has a principal amount equal to the level principal installment due on each payment date on the Advance, and each bond matures on the same date as a payment date on the Advance, and then by assigning to each serial bond a separate interest rate derived from the daily Treasury Yield Curve corresponding to each bond's maturity date. Then, a single equivalent rate is calculated and given to the Advance that produces the same payment stream that the sum of the payments on the individual serial bonds produces.

All overdue amounts on the Loans will accrue interest at the Late Charge Rate to be determined, and be payable by the Borrower, in accordance with the Funding Agreements.

12. *Interest Payments*

Interest will accrue from the first Advance and thereafter be payable in cash in arrears on each quarterly payment date as specified in the Funding Agreements (each such date, a "*Payment Date*").

13. *Principal Amortization and Maturity*

The outstanding principal amount of the Loans will be payable in equal quarterly installments commencing on:

(a) with respect to the Tranche A Loan, the first Payment Date occurring on the date that is 39 months following the Financial Closing Date (the "*First Tranche A Principal Payment Date*");

(b) with respect to the Tranche B Loan, the first Payment Date occurring on the date that is 39 months following the Financial Closing Date (the "*First Tranche B Principal Payment Date*"); and

(c) with respect to the Tranche C Loan, the first Payment Date occurring on the date that is 27 months following the Financial Closing Date (the "*First Tranche C Principal Payment Date*", and together with the First Tranche A Principal Payment Date and the First Tranche B Principal Payment Date, the "*First Principal Payment Date*").

The final maturity of the (i) Tranche A Loan will be the date that is 9.25 years after the Financial Closing Date, (ii) Tranche B Loan will be the date that is 15 years after the Financial Closing Date, and (iii) Tranche C Loan will be the date that is 25 years after the Financial Closing Date (each such date, the "*Final Maturity Date*" of the respective Tranche).

14. *Prepayments of the Loans*

(a) Voluntary Prepayments. Subject to clause (d) below, Advances may be prepaid (x) in part at any time in an aggregate minimum amount of $100,000 or (y) in whole.

(b) Mandatory Prepayments. Subject to clause (d) below, the Borrower will apply the following proceeds towards the making of mandatory prepayments of borrowings under the Loans:

(i) the net proceeds received from the permitted sale of any Collateral (except to the extent such proceeds are permitted to be reinvested);

(ii) insurance or condemnation proceeds arising from any taking, confiscation or loss of, or damage to, any of the Collateral or the rights and property subject to the EOD License or the Access Agreements, payments in respect of warranty claims with respect to the Collateral, or other extraordinary receipts (e.g., cash received

by or paid to the account of Borrower not in the ordinary course of business from, for example, damage claims under construction contracts) with respect to the Collateral, the EOD License or the Access Agreements (except to the extent such proceeds are permitted to be, and are, used to restore, repair or replace the affected Collateral or rights and property subject to the EOD License or the Access Agreements);

(iii) proceeds of any Advance to the extent a Quarterly Project Certificate provides that the proceeds of any prior Advance (such Advance, an "*Unapplied Advance*") was not applied to pay Eligible Project Costs; and

(iv) proceeds received from the sale of any common equity interests of the Borrower to parties other than NML.

(c) Mandatory Redemptions. Subject to clause (d) below, upon the occurrence of any of the following events (any such event, a "*Mandatory Redemption Event*") (with materiality qualifications and exceptions to be agreed), the Borrower shall be required to prepay the full amount of all borrowings under any of the Loans then outstanding:

(i) upon the occurrence of a change of control of the Borrower (defined to be (i) failure of NML to directly or indirectly own 100% of the common stock of the Borrower or (ii) the entering into any arrangement, or the occurrence of any event, as a result of which NML ceases to control the Borrower);

(ii) upon the failure to satisfy any one of the PBP Project Requirements contained in the Project Business Plan, as described in clauses (a) through (d) of Section 5, including, without limitation, the failure of the Project to be completed and built out to a capacity capable of producing 150,000 Electric Vehicles and 200,000 Batteries per year by the Project Completion Outside Date (i.e., March 31, 2015, unless extended in accordance with clause (d) of Section 5);

(iii) permanent abandonment of production of first-generation Electric Vehicles during their life cycle (anticipated to be approximately seven years) or Batteries for use in automobiles, vans, trucks or other vehicles manufactured by the Borrower or others, or extended cessation of such production, which shall not include temporary shutdowns due to repairs, casualty, excess inventory, labor actions, force majeure, market demand, retooling, refurbishment or other legitimate business purposes as determined by the Borrower;

(iv) physical destruction or condemnation of any of the Project's Eligible Facilities (as defined pursuant to the Applicable Regulations) that could reasonably be expected

to have a material adverse effect on the Project and that has not been repaired with the proceeds of insurance or otherwise by the Borrower within a specified number of days;

(v) breach by the counterparty thereto of any material obligation under a Project Document to the extent such breach could reasonably be expected to have a material adverse effect on the Project; and

(vi) 90 days following the entry by NML into an agreement with any third party preventing NML from performing its obligations under the Keepwell Agreement or NML Supplemental Letter (as defined below), unless such agreement is terminated prior to the end of such 90-day period. For the avoidance of any doubt, the parties agree that this mandatory redemption event includes any agreement by NML pursuant to which, even if upon entry into such agreement, NML is initially not prevented from performing its obligations under the Keepwell Agreement or the NML Supplemental Letter but would be so prevented upon the occurrence of any future event, then this mandatory redemption event shall be deemed to have occurred on the date of NML's initial entry into such agreement (unless cured within 90 days as described in the foregoing sentence);

it being understood that in connection with any of the mandatory redemption events described in any of the foregoing clauses (ii), (iii), (iv), and (v), DOE shall be required to provide the Borrower with at least 30 days' prior written notice of the Borrower's obligation hereunder to prepay the full amount of all borrowings under any of the Loans then outstanding (it being further understood that any failure or delay on DOE's part in sending the Borrower such prior written notice shall not constitute a waiver by DOE of any of the Borrower's obligations or any of DOE's rights hereunder).

To the extent that the occurrence of any event gives rise to a Mandatory Redemption Event, such event shall not also be considered to constitute or give rise to a default or an Event of Default hereunder.

(d) <u>All Prepayments or Redemptions</u>. All prepayments or redemptions of the Loans:

(i) are subject to the terms of the Funding Agreements and the Arrangement Agreement; and

(ii) will be applied:

(w) in each case of prepayments pursuant to clause (a) above, to remaining scheduled amortization payments, in the inverse order of maturity, under any of the outstanding Advances selected by the Borrower, as set forth in the Funding Agreements and the Arrangement Agreement;

(x) in each case of prepayments pursuant to clauses (b)(i) – (iii) above to remaining scheduled amortization payments, in the inverse order of maturity, under any of the Advances selected by DOE in its sole discretion and outstanding in respect of the relevant Tranche of Loans the proceeds of which were used to acquire such Collateral (or, in the case of clause (b)(iii), of the relevant Tranche to which such Unapplied Advance relates), as set forth in the Funding Agreements and the Arrangement Agreement;

(y) in each case of prepayments pursuant to clause (b)(iv) above to remaining scheduled amortization payments, in the inverse order of maturity, under any of the Advances selected by DOE and outstanding in respect of the latest maturing Tranche until such Tranche is repaid in full, then in respect of each next succeeding maturing Tranche until repaid in full, as set forth in the Funding Agreements and the Arrangement Agreement; and

(z) in each case of prepayments pursuant to clause (c) above to remaining scheduled amortization payments under all of the Advances outstanding in respect of all of the Tranches, as set forth in the Funding Agreements and the Arrangement Agreement.

Any outstanding Loan amounts prepaid may not be re-borrowed nor create availability for further borrowings during the drawdown period. After giving effect to any prepayment made pursuant to clause (b)(iv) above during the drawing period, the remaining commitment amount available to be drawn under each Tranche shall be reduced *pro rata* by the amount by which the proceeds of the equity offering exceed the amount of such prepayment. In the event of any redemption under clause (c) above, all remaining commitment amounts in respect of all Tranches shall be automatically terminated. Prepayments shall be made at a price equal to (*i*) in the event of a prepayment in whole of an Advance, the sum of (*x*) the price for such Advance that would, if such Advance (including all unpaid interest accrued thereon through the intended prepayment date) were purchased by a third party and held until maturity, produce a yield to such third party purchaser, for the period between the date of purchase and maturity substantially equal to the interest rate that would be set on a loan from the Secretary of the Treasury to FFB to purchase an obligation having a payment schedule identical to the payment schedule of such Advance for the period from the intended prepayment date to maturity, *plus* (*y*) all unpaid late charges accrued on such Advance through the intended prepayment date (the "*Prepayment Price*"), (*ii*) in the event of a partial prepayment of an Advance, a *pro rata* share of the Prepayment Price that would be required for a prepayment of the entire principal amount of such Advance, and (*iii*) in the event of a repayment in full of all outstanding Advances, the sum of the Prepayment Prices for all such outstanding Advances.

(e) Collateral

The Borrower's obligations under the Loans will be secured by the following (collectively, the "*Collateral*"),with a first-priority perfected security interest being granted in the items described in subsections (i), (ii), (iii) and (iv), and, to the extent applicable, (v) and (vi):

(i) all assets and other real or personal property financed or acquired with the proceeds of the Loans and any Applicant Project Commitments, including, without limitation, the Borrower's leasehold interest from the Industrial Development Board of Rutherford Country, Tennessee (the "*IDB*") in such assets and other property, to the extent such assets or other property are bonded and owned by the IDB;

(ii) (A) all assets, lands, buildings, equipment, fixtures and other real or personal property constituting the Battery Manufacturing Plant (or on which the Battery Manufacturing Plant is located and built), whether currently owned or held, in use or hereafter acquired by the Borrower, and all intellectual property, technical data, software, licenses, general intangibles and goodwill relating to any of the foregoing (the "*BMP Property*"), including, without limitation, the Borrower's leasehold interest from the IDB in such BMP Property (the "*Leased BMP Property*"), to the extent any of such BMP Property is bonded and owned by the IDB (and any reversionary or other rights to acquire the Leased BMP Property), whether currently owned, held or hereafter acquired by the IDB (collectively, the "*BMP Collateral*"), and all books and records relating to the BMP Collateral; and

(B) those improvements made to certain portions of the existing Smyrna Facility and such equipment or other real or personal property acquired or developed, retooled, upgraded, reequipped, owned, held or used in connection with the building and manufacturing of the Electric Vehicles as part of the Plant Project, and all intellectual property, technical data, software, licenses, general intangibles and goodwill relating to any of the foregoing, solely to the extent any such improvements, equipment and other property are financed, acquired, developed, retooled, upgraded, or reequipped with the proceeds of the Loans and the Applicant Project Commitments (the "*EMP Property*"), including, without limitation, the Borrower's leasehold interest from the IDB in such EMP Property (the "*Leased EMP Property*"), to the extent any of such EMP Property is bonded and owned by the IDB (and any reversionary or other rights to acquire the Leased EMP Property), whether currently owned, held or hereafter acquired by the IDB (collectively, the "*EMP Collateral*"), and all books and records relating to the EMP Collateral; provided that any equipment or other property not acquired with the proceeds of the Loans and the Applicant Project Commitments but which is retooled, upgraded and reequipped with any portion of such proceeds shall

constitute EMP Property solely to the extent that the improvements to such equipment or other property are inseparable from the underlying asset;

(iii) all industrial development bonds of the IDB held by the Borrower or its affiliates relating to any of the assets, rights, entitlements and other real or personal property described in subsections (i) and (ii) above;

(iv) one or more deposit and/or securities accounts (collectively, the "*Cash Collateral Account*") as may be established in the name of the Borrower with one or more financial institutions acceptable to DOE covering the Cash and Cash Equivalents posted to provide the Minimum Liquidity and related account control agreements;

(v) any Nissan Motor Acceptance Corporation ("*NMAC*") obligations payable to the Borrower and furnished to satisfy the Minimum Liquidity;

(vi) any Eligible Letters of Credit provided by the Borrower and furnished to satisfy the Minimum Liquidity; and

(vii) all proceeds of those items of Collateral described in subsections (i), (ii), (iii) and (iv), and to the extent applicable, (v) and (vi).

The security interests granted in such Collateral will be made in favor of the United States of America, acting by and through DOE (and including, without limitation, FFB) or agents designated by them to act.

The parties acknowledge that the Leased BMP Property and the Leased EMP Property will consist of the Borrower's leasehold interests therein created (i) pursuant to the Borrower's participation in its current "PILOT" program with the IDB and Rutherford County, Tennessee or (ii) pursuant to a new "PILOT" program with the IDB and Rutherford County, Tennessee that the Borrower may enter into in connection with the Project.

For the avoidance of doubt, it is understood that (x) all of the assets described in clauses (ii) through (vii) of this Section 14(e) shall be included in the defined term "Collateral" whether or not financed or acquired with the proceeds of the Loans and the Applicant Project Commitments and (y) clause (ii)(B) shall not include any assets currently owned as of the date hereof by the Borrower, except to the extent set forth in the proviso at the end of clause (ii)(B). The Borrower hereby represents and warrants to DOE that, as of the date hereof, it does not own any of the assets or other property described in clause (ii)(A) of this Section 14(e), other than the Borrower's leasehold interest in the real property on which the Battery Manufacturing Plant is to be located and built.

15. *Facility Fee*

On the Financial Closing Date, the Borrower will pay to DOE a facility fee (the "*Facility Fee*") equal to the sum of one tenth of one percent (0.10%) of $1,636,000,000 (ONE BILLION SIX HUNDRED THIRTY SIX MILLION U.S. DOLLARS).

16. *Loan Administration*

Servicing and monitoring duties with respect to the Loans will be performed by DOE in accordance with the Arrangement Agreement.

Transaction Documents

17. *Loan Documents*

The agreements to be entered into with DOE and FFB in connection with the Loans are expected to include the following, each of which must be satisfactory in form and substance to DOE, in its sole discretion (collectively, the "*Loan Documents*"):

(a) a Loan Arrangement and Reimbursement Agreement (the "*Arrangement Agreement*") among the Borrower and DOE, setting forth, *inter alia*, (*i*) an undertaking by DOE to arrange for Loans to be made by and through FFB, (*ii*) conditions to funding of the Loans, (*iii*) representations, warranties and covenants to be made by the Borrower in favor of DOE, (*iv*) events of default that will trigger a right to exercise remedies under the Loan Documents and (*v*) reimbursement obligations;

(b) all documents and agreements necessary or desirable in connection with the making by FFB of the Loans (the "*Funding Agreements*"), including without limitation:

(i) the Program Financing Agreement between DOE and FFB (the "*Program Financing Agreement*") , in substantially the form attached as Exhibit A hereto;

(ii) the Note Purchase Agreement among the Borrower, DOE and FFB, in substantially the form attached as Exhibit B hereto;

(iii) the future advance promissory note evidencing the Tranche A Loan issued by the Borrower and payable to FFB (the "*Tranche A Promissory Note*"), in substantially the form attached as Exhibit C hereto;

(iv) the future advance promissory note evidencing the Tranche B Loan issued by the Borrower and payable to FFB (the "*Tranche B Promissory Note*"), in substantially the form attached as Exhibit D hereto;

(v) the future advance promissory note evidencing the Tranche C Loan issued by the Borrower and payable to FFB (the "*Tranche C Promissory Note*"), in substantially the form attached as Exhibit E hereto; and

(vi) any other agreements required in connection with the funding of the Loans by FFB;

(c) Security Documents (as defined below);

(d) a Keepwell Agreement (the "*Keepwell Agreement*") provided by NML to and in favor of the Borrower, in substantially the form attached as Exhibit F hereto, providing for, among other things:

(i) the maintenance by NML of 100% direct and indirect ownership of all voting stock of the Borrower ("*Borrower Stock*");

(ii) an undertaking by NML not to permit the imposition of any encumbrances on any portion of the Borrower Stock;

(iii) the maintenance by NML of a tangible net worth of the Borrower of at least $1;

(iv) the maintenance of sufficient liquidity of the Borrower to punctually meet all payment obligations under any of the Loans; and

(v) DOE's rights to enforce the terms of the Keepwell Agreement as a third-party beneficiary.

(e) a letter agreement (the "*NML Supplemental Letter*") provided by NML to and in favor of the Borrower substantially in the form attached as Exhibit G hereto, providing for, among other things:

(i) the maintenance of sufficient liquidity of the Borrower to punctually satisfy the Applicant Project Commitment;

(ii) an undertaking by NML not to permit the imposition of any restrictions on the exercise of voting rights on any portion of the Borrower Stock

(iii) an undertaking by NML to continue licensing to Borrower the right to use intellectual property that is subsequently acquired by NML and that may be necessary for the construction, operation or use of the Project, whether by way of amendment to the NML License (defined below) or otherwise; and

(iv) DOE's rights to enforce the terms of the NML Supplemental Letter as a third-party beneficiary; and

(f) such other documents and agreements as may be required under the Program Requirements.

18. *Security Documents*

The security documents to be entered into in connection with the Loans are expected to include the following, each of which must be satisfactory to DOE, in its sole discretion, in form and substance and include detailed terms and conditions necessary and appropriate to protect the interests of the United States, including without limitation, DOE and FFB, in the Collateral and the rights and property subject to the EOD License and the Access Agreements in the case of any default or event of default, including ensuring availability (and delivery, in the case of technical data including software and any other applicable assets) of all such property and Collateral, including, without limitation, the intellectual property rights, technical data including software, other books and records, real property, physical assets and all other rights constituting such property or Collateral and necessary for any person or entity, including DOE, to complete, operate, convey, and dispose of any part of such property or Collateral (collectively, the "*Security Documents*"):

(a) agreements pledging all property acquired with proceeds of the Loans;

(b) agreements regarding all intellectual property, technical data including software, licenses, general intangibles and goodwill constituting Collateral, if any;

(c) agreements mortgaging all real property interests of the Borrower (including leasehold interests) constituting Collateral;

(d) all easements necessary to allow DOE (or any assignee or transferee thereof) access to the BMP Collateral and all utilities (including, without limitation, electricity, natural gas, potable water and wastewater) servicing the BMP Collateral, and joint use

agreements for any other shared facilities relating to the use or operation of the BMP Collateral such that, in connection with the exercise of remedies following an Event of Default, the Batteries could be manufactured at and distributed from the Battery Manufacturing Plant on a stand-alone basis (such easements and joint use agreements, collectively, the "*Access Agreements*");

(e) an appropriate license from NML to DOE to ensure, upon an Event of Default, the use and availability of the intellectual property necessary for the Battery Project, along the following general terms: a fully-paid up, royalty-free (subject to the last sentence of this clause (iv) below), fully transferable, perpetual (or such shorter term as may be applicable under law or pursuant to the rights granted to NML) non-exclusive license from NML to the DOE to use any and all intellectual property owned or licensed by NML that is necessary for the construction, operation or use of the Battery Project, solely in connection with the construction, operation and use of the Battery Project in the United States (the "*EOD License*"). The EOD License will come into effect upon an Event of Default (in connection with the exercise of remedies) and will permit the DOE to use the intellectual property in connection with the Battery Project or to transfer the EOD License to any subsequent purchaser of the Battery Project. The intellectual property licensed pursuant to the EOD License will include a sublicense from NML to the DOE of any intellectual property that NML licenses from the Automotive Energy Supply Corporation that is necessary for the construction, operation or use of the Battery Project. To the extent that any of the intellectual property licensed pursuant to the EOD License is not solely owned or controlled by NML and royalties are owed by NML to third parties for the use of such intellectual property, the EOD License will provide for assumption by DOE of the obligation to pay royalties associated with the use of such third-party intellectual property and other appropriate economic (and other, if applicable) terms for the use of such third party intellectual property (provided that such royalties and terms will not be more costly or burdensome on DOE, or any assignee or transferee thereof, as would be applicable to NML);

(f) deposit and securities account control agreements, custodial arrangements and any other security documents related to the Cash Collateral Account, if applicable;

(g) all other agreements and instruments necessary to create a first-priority perfected security interest under applicable law in Collateral described in Section 14(e)(i), (ii), (iii) and (iv) and, to the extent applicable, (v) and (vi).

The Borrower will pay all costs in connection with the pledge, perfection and maintenance of the Collateral and the Security Documents, including without limitation, registration, recording taxes, notarization, and filing fees and charges. In its sole discretion, DOE can require the use of a Collateral Trustee, the cost of which shall be paid by the Borrower. In such event, the Loan Documents will be modified to reflect such a Collateral Trustee.

19. *Project Documents*

The Borrower and NML will enter into all agreements necessary for the consummation of the Project. Certain of such agreements that are material (the "*Project Documents*") must be in form and substance satisfactory to DOE, in its sole discretion, including without limitation the following:

(a) the NML License (as defined below);

(b) the "License Agreement" described in and entered into pursuant to the Shareholders Agreement of Automotive Energy Supply Corporation (the "*AESC License*");

(c) the documents relating to the IDB's acquisition of Project property, the Borrower's leases thereof and related bond financing; and

(d) other agreements as may be identified by DOE's further due diligence.

It is the expectation of the parties that the Project Documents will be limited to a few agreements that are unique to the Project. The parties do not contemplate that Project Documents will include the construction contracts, contracts for the operation of the Project or the Smyrna Facility, contracts for the supply of materials or for the sale of Electric Vehicles or Batteries.

The Loan Documents and the Project Documents are collectively referred to as the "*Transaction Documents*".

Financial Closing, Loan Advances and Conditions Precedent

20. *Conditions Precedent to the Financial Closing Date*

The financial closing of the Loans is subject to closing conditions as are usual and customary for financings of this type, as are required under the Program Requirements or as are otherwise deemed appropriate by DOE in its sole discretion for this transaction in particular, including without limitation satisfaction as of the date of such financial closing (the "*Financial Closing Date*") of the following conditions precedent, each of which must be to the satisfaction of DOE in its sole discretion:

(a) Due Diligence Review. DOE shall have completed its due diligence review of the Project and all other matters related thereto and the Applicant, and the results thereof shall be satisfactory to DOE in its sole discretion, including that no material issues exist with respect to the Project under the laws of the State of Tennessee or any subdivision or local jurisdiction thereof;

(b) Organization of Borrower, etc. and NML. Delivery of organizational documents of the Borrower, NMAC, the Borrower's other material subsidiaries and NML;

(c) Receipt of Corporate Approvals. Delivery, in form and substance satisfactory to DOE, in its sole discretion, of certificates and documents evidencing the Borrower's receipt of all internal corporate approvals to enter into any Transaction Document and fully implement and perform the terms thereof;

(d) Company Certificates. Delivery of secretary's certificates, resolutions and good standing certificates in form and substance satisfactory to DOE, in its sole discretion, of the Borrower and NML (as pertaining to the Keepwell Agreement, the NML Supplemental Letter and that certain letter from NML to DOE, dated as of June 23, 2009 regarding the Borrower's Application (the "*NML Side Letter*"));

(e) Information. Delivery of certificates of the Borrower and of NML certifying that, as of the Financial Closing Date, the information contained in the Application, together will all other information delivered by or on behalf of the Borrower, NML and their affiliates in connection with such Application and the negotiation of the Transaction Documents, is true and complete in all material respects and does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not misleading in light of the circumstances under which such statements were made (it being understood that in the case of projections, such projections are based on estimates which are reasonable as of the date such projections are stated or certified);

(f) Transaction Documents. Execution and delivery of all Transaction Documents, in form and substance satisfactory to DOE, in its sole discretion, together with evidence that such Transaction Documents (*i*) contain all terms and conditions DOE, in its sole discretion, deems necessary or desirable to protect the interests of the United States, including without limitation DOE and FFB and (*ii*) are in full force and effect;

(g) Security Interests. Evidence of perfection of all requisite security interests in the Collateral and all necessary waivers, amendments, approvals and consents authorizing the pledge of such Collateral;

(h) Lien Searches. Receipt of lien searches, satisfactory to DOE, in its sole discretion, in each of the jurisdictions in which the Uniform Commercial Code financial statements or other filings should be made, revealing no liens on the Collateral, aside from permitted liens;

(i) Existing Collateral. With respect to any Collateral subject to a senior lien in favor of any other person, appropriate waivers, consents or amendments to the pledge;

(j) Legal Opinions and Similar Documents. Delivery of such legal opinions that are usual and customary in secured financings, rendered by counsel to the Borrower, NML and certain other parties to the Transaction Documents, as well as any additional legal opinions, bring-down certificates, reliance letters, and similar documents as DOE may request;

(k) Environmental Review. Delivery of environmental site assessments and associated reliance letters and satisfaction of any additional environmental requirements with respect to or related to the Project (including required mitigations and all submissions necessary to comply with the requirements of the NEPA) in accordance with DOE policy from time to time;

(l) Permits. Certain material environmental, regulatory, construction and other permits and approvals reasonably expected to be in place on or before the Financial Closing Date (consistent with the Milestones set forth in the Project Business Plan) shall be in place and not be subject to waiting periods or appeal;

(m) Real Estate. Acquisition of all real estate rights (including easements) then required for the Project and delivery of (i) related ALTA surveys, (ii) title insurance policies with all endorsements required by DOE, with a policy limit equal to the sum of the fair market value of any portion of the land on which the Battery Manufacturing Plant is, or is anticipated to be, located and in respect of which the Borrower or any of its affiliates possess any leasehold or other real estate interests and the estimated Total Eligible Tranche C Costs, (iii) evidence satisfactory to the DOE, in its sole discretion, of title to any other real estate property or interests (i.e., all real estate property or interests other than the real estate property or interests relating to the Battery Manufacturing Plant) constituting part of the Collateral or subject to the Access Agreements, (iv) evidence of zoning compliance, (v) purchase agreements and (vi) related documents;

(n) Financial Statements and Financial Covenants. Delivery of (A) (i) any financial statements and compliance certificates then required to be delivered by the Borrower and NMAC and (ii) the most recent publicly-filed financial statements for NML, in each case not later than fifteen (15) business days prior to the Financial Closing

Date, and (B) a schedule demonstrating satisfaction of the Financial Covenants as of the most recent applicable date of determination;

(o) Project Business Plan. Delivery of the Project Business Plan, including, but not limited to, (*i*) an agreed milestone schedule for the Project, (*ii*) a schedule outlining the Borrower's anticipated advance requests with respect to the Loans, and (*iii*) all major assumptions used therein, approved by DOE, in its sole discretion;

(p) Eligible Project Costs. Receipt of all information with respect to Eligible Project Costs incurred by the Borrower as of the Financial Closing Date, including such breakdowns of such information as DOE may request, all certified by an authorized officer of the Borrower;

(q) Consents. Receipt of all consents and waivers required pursuant to any contractual provision or foreign government rule or regulation that would prohibit or prevent the Borrower and NML from executing and performing their obligations under the Transaction Documents;

(r) Insurance. Receipt of satisfactory evidence, including without limitation a report and associated closing certificate from the Borrower's insurance advisor, that the Borrower has obtained (and/or maintained) the Required Insurance (as defined below);

(s) Intellectual Property. Evidence that the Borrower has all material intellectual property rights to be obtained on or before the Financial Closing Date necessary for the Project, including, without limitation, the Battery Project;

(t) Availability of Funds. Evidence that the proceeds of the Loans, when combined with other funds committed to the Projects, including any contingency funds and funds available under the Keepwell Agreement and the NML Supplemental Letter, will be available and sufficient to carry out the Projects, and that such other committed funds (excluding proceeds of the Loans) will be available and sufficient to fund all Applicant Project Payments and pay the Facility Fee;

(u) Collateral Value. Confirmation by the Borrower of the value of the Collateral (taking into account that the construction of certain portions of the Project shall, as of then, have not yet begun), as set forth in the Collateral Value Certificate, substantially in the form attached hereto as Exhibit H;

(v) Payment of the Facility Fee. Payment of the Facility Fee due and payable on the Financial Closing Date;

(w) Status as Eligible Applicant; Eligible Project. Certification of the Borrower that since execution of the Conditional Commitment Letter no event has occurred that affects or alters (*i*) Borrower's status as an Eligible Applicant, as described in the Applicable Regulations and (*ii*) the Project's designation as an Eligible Project, as defined in the Applicable Regulations;

(x) Evidence of no Judgment Liens. Evidence satisfactory to DOE that neither the Borrower nor any of its subsidiaries has a judgment lien against any of their respective properties for a debt owed to the United State of America;

(y) Lobbying Certification. Certification of the Borrower that is required to be filed by recipients of federal loans regarding lobbying, in the form set forth in Appendix A to 31 CFR Part 21 and, if required under 31 CFR Part 21, disclosure forms to report lobbying, in the form set forth in Appendix B to 31 CFR Part 21; and

(z) Other Documents and Information. Receipt by DOE and FFB of any other certificates, documents, agreements and information respecting the Project, the Borrower and its material subsidiaries, NML and the Collateral as may have been requested.

21. Conditions Precedent to Each Advance Date

Each Advance of a Loan, including the initial Advance, is subject to the satisfaction as of the date of such Advance (the "*Advance Date*") of the following conditions precedent, which must be to the satisfaction of DOE in its sole discretion:

(a) Advance Request and Invoices. Receipt by DOE, no later than 10 business days (or 15 business days, with respect to an Advance in an amount equal to or greater than $500,000,000 (FIVE HUNDRED MILLION U.S. DOLLARS)) prior to such Advance Date, of an advance request, substantially in the form attached as Exhibit I, from the Borrower, in sufficient detail and including wire transfer instructions and copies of invoices (if requested by DOE, in its sole discretion), together with Borrower certification as to the satisfaction of all conditions precedent to such Advance;

(b) Representations and Warranties. All representations and warranties shall be true and correct in all material respects; provided that any representation and warranty relating solely to an earlier date shall be true and correct in all material respects as of such date;

(c) No Event of Default. No default or Event of Default shall have occurred and be continuing, before and after giving effect to the subject Advance;

(d) No Material Adverse Effect. No event shall have occurred or could reasonably be expected to occur that could reasonably be expected to have a material adverse effect with respect to the Project or on the ability of (x) the Borrower to perform its obligations under the documents governing the Loans, including, without limitation, repayment of the Loans and completion of the Project in accordance with such documents or (y) NML to perform its obligations under the Keepwell Agreement or the NML Supplemental Letter (a "*Material Adverse Effect*");

(e) Milestones. Satisfactory evidence that the Borrower has achieved and maintained the applicable Milestones that shall have been determined to be conditions precedent to such Advance (pursuant to the Transaction Documents, which will reference the Milestones set forth in the Project Business Plan), and that the proceeds of the subject Advance are being applied towards the payment of the related Eligible Project Costs;

(f) Aggregate Advances. Evidence that the aggregate principal amount of all outstanding Advances, after giving effect to such Advance, does not exceed (*x*) in the case of the Tranche A Loan, the Tranche A Maximum Loan Amount, (*y*) in the case of the Tranche B Loan, the Tranche B Maximum Loan Amount and (*z*) in the case of the Tranche C Loan, the Tranche C Maximum Loan Amount.

(g) Applicant Project Payments and Eligible Cost Overruns. Satisfactory evidence that (*i*) the Borrower has paid the Applicant Project Payments required to have been paid as of such Advance Date; (*ii*) that the amounts corresponding to the Applicant Project Payments were, or will be, applied towards Eligible Project Costs; (*iii*) immediately following such Advance Date, the aggregate amount of Applicant Project Payments made by the Borrower shall equal or exceed 20% of the sum of: (*x*) in the case of the Tranche A Loan, all Eligible Tranche A Costs incurred as of such Advance Date, *plus* (*y*) in the case of the Tranche B Loan, all Eligible Tranche B Costs incurred as of such Advance Date, *plus* (*z*) in the case of the Tranche C Loan, all Eligible Tranche C Costs incurred as of such Advance Date; (*iv*) the Borrower has paid any undisputed Eligible Cost Overruns required to have been paid as of such Advance Date and (*v*) the Borrower has paid any other applicable and undisputed Project costs required to have been paid as of such Advance Date;

(h) Advance Proceeds. Evidence that the proceeds of all Advances to be made will be needed for Eligible Project Costs that have been incurred, together with a description in sufficient detail of such Eligible Project Costs, as certified by the Borrower;

(i) No Litigation. No material legal or arbitral proceedings are pending or threatened against any of Borrower, NML or Automotive Energy Supply Corporation ("*AESC*") that could reasonably be expected to have a Material Adverse Effect that has not otherwise been disclosed to and waived by DOE;

(j) No Illegality. No applicable law or regulation, in the judgment of DOE, is in effect that restrains, prevents or imposes materially adverse conditions upon the transactions contemplated hereby;

(k) Lien Waivers. With respect to the Collateral, certification by the Borrower, that (*i*) any unpaid balances or unsettled claims, if any, with contractors or suppliers have been adequately paid and that those being contested or negotiated in good faith are bonded or otherwise provisioned to the satisfaction of DOE, in its sole discretion, and (*ii*) all mechanics liens or other liens of such contractors or suppliers (including with respect to any payments made out of the subject Advance) have been released to the satisfaction of DOE, in its sole discretion;

(l) Certificates. Receipt of all necessary certifications and delivery of officer's certificates and other customary certificates;

(m) Legal Opinions. Delivery of such legal opinions, bring-down certificates, reliance letters, and similar documents as DOE may request;

(n) Governmental Requirements. Satisfaction of (*i*) all requirements and approvals pursuant to the Program Requirements, and (*ii*) all other statutory, regulatory, or other governmental requirements of general applicability to Section 136 applicants;

(o) Governmental Approvals. Certification by the Borrower that all material governmental approvals, permits (including, without limitation, building permits or notices of commencement) or consents not previously delivered and required for construction or operation or achievement of the applicable Milestones, as required by the Transaction Documents to be in place prior to such Advance Date, have been obtained and are in full force and effect, and, to the extent requested by DOE, delivery to DOE of copies of such approvals, permits or consents;

(p) Prior Advances. Evidence that the proceeds of all Advances made with respect to the immediately preceding calendar quarter (or, if no Advances were made with respect to the immediately preceding calendar quarter, with respect to the most recently preceding calendar quarter in respect of which Advances were made) have been applied as set forth in the most recent Quarterly Project Certificate (as defined below) relating to such Advances or as otherwise approved by DOE in its sole discretion;

(q) Perfection of Security Interests. If requested by DOE, evidence that all actions necessary or, in the opinion of DOE, desirable to create and maintain the United States', including, without limitation, DOE's and FFB's, perfected interests in the Collateral (including after-acquired Collateral) have been taken;

(r) Davis-Bacon Act. Certification by the Borrower of compliance with the obligation to pay prevailing wages to all laborers and mechanics employed by contractors or subcontractors during construction, alteration or repair that is financed through the ATVM Program; and

(s) No Change to Project Completion Outside Date. Certification by the Borrower certifying that the completion of the Project is expected to occur by the Project Completion Outside Date.

(t) Additional Documents. Such other documents, certifications or consents relating to the Projects or the matters contemplated by the Transaction Documents as DOE may request.

Representations, Covenants and Defaults

22. Representations and Warranties

The Loan Documents will contain such customary and appropriate representations and warranties regarding the Borrower and NML as are usual and customary for financings of this kind or are otherwise deemed appropriate by DOE in its sole discretion for this transaction in particular (with qualifications, exceptions and schedules to be agreed), including without limitation:

(a) due organization and valid existence;

(b) good standing and qualification to do business;

(c) power and authority (including all authority necessary for completion of the construction and operation of each Project);

(d) capitalization, ownership and organization;

(e) material subsidiaries of the Borrower and NML;

(f) solvency;

(g) status of Borrower as an Eligible Applicant, as described in the Applicable Regulations;

(h) status of Project-related manufacturing facilities as Eligible Facilities (as defined in the Applicable Regulations);

(i) enforceability of the Transaction Documents;

(j) no conflicts;

(k) entering into and performing obligations in respect of the Loan does not breach any agreement relating to Borrower's other indebtedness;

(l) no consents or approvals required to consummate transactions (except as have been obtained and are in full force and effect);

(m) material agreements;

(n) no litigation (except as scheduled);

(o) debt;

(p) no judgments or orders (except as scheduled);

(q) no force majeure affecting the Project;

(r) no defaults relating to the Project or actual or incipient Events of Defaults;

(s) compliance with law and Program Requirements;

(t) Investment Company Act and other regulatory matters;

(u) no margin stock; proceeds of Loans shall not be used to purchase margin stock in violation of applicable law;

(v) no corrupt or prohibited practices;

(w) financial statements, disclosure and projections, Project Business Plan;

(x) title to properties relating to the Smyrna Facility and the Project;

(y) no liens related to the Project or in respect of the Collateral, except as scheduled or permitted;

(z) operation of business;

(aa) Borrower ownership and sufficiency of assets and necessary rights with respect to the Project;

(bb) availability and adequacy of utility and technology rights and other services relating to the Project;

(cc) the Borrower owns or otherwise has the right to use or will acquire any and all intellectual property necessary for the construction, operation and use of the Project, and has entered into the Fifth Amended and Restated Manufacturing and Licensing Agreement between NML and the Borrower, dated August 31, 2007 or any amendments thereto (the "NML License"), which, together with the AESC License, provides Borrower with sufficient rights to all of the intellectual property owned or licensed by NML that is necessary for the construction, operation and use of the Project;

(dd) perfection and priority of security interests relating to the Collateral;

(ee) location of books and records;

(ff) taxes;

(gg) necessary creditor and other third party consents and government permits and approvals relating to the borrowing of the Loans, the construction of the Project, the granting of any Collateral and the transfer of any portion thereof to the DOE or any other third party, the execution and delivery of the Transaction Documents and any other transactions contemplated thereby;

(hh) environmental and safety matters relating to the Project and the Smyrna Facility;

(ii) labor matters and employment agreements, including, without limitation, collective bargaining agreements and activities and a certification with respect to payment of prevailing wages with respect to the Project;

(jj) ERISA matters and employee benefit plan liabilities, including, without limitation, representations as to funded status, withdrawal liability, ERISA controlled group liabilities and reportable events;

(kk) accuracy of representations and warranties in other Project Documents;

(ll) location of chief executive office and chief operating office;

(mm) USA Patriot Act;

(nn) no embargoed person;

(oo) no fraudulent conveyance;

(pp) insurance;

(qq) coordination of public statements by Borrower with DOE/FFB;

(rr) no event having a Material Adverse Effect since the date of the Conditional Commitment Letter; and

(ss) representation and warranties reflecting clauses (i), (ii), and (iii)(y) of the Conditional Commitment Letter Representations.

23. *Financial Covenants*

The Loan Documents will contain provisions regarding compliance with the financial tests set forth in Schedule I attached hereto.

24. *Affirmative Covenants*

In addition to the other covenants described herein, the Loan Documents will contain such affirmative covenants as are usual and customary for financings of this kind or as are otherwise deemed appropriate by DOE in its sole discretion for this transaction in particular (with qualifications, exceptions and schedules to be agreed) from the Borrower, including without limitation regarding:

(a) use of proceeds of the Loans;

(b) maintenance of existence;

(c) conduct and construction of the Project substantially in accordance with the Project Business Plan, except for changes that would not reasonably be expected to cause the completion of the Project to occur after the Project Completion Outside Date;

(d) construction and completion of the Project, to the extent it is commercially reasonable and substantially in accordance with the Project Business Plan, by the end of the Loan Availability Period;

(e) operation and maintenance of the Project and all constituent Collateral;

(f) maintenance of security interests relating to the Collateral;

(g) to the extent necessary, granting of additional collateral and inclusion of additional obligors having an interest in the property acquired with proceeds of the Loans;

(h) performance of the Transaction Documents and material agreements by the Borrower and of the Keepwell Agreement and NML Supplemental Letter by NML;

(i) provision by Borrower of (1) financial statements and financial reporting and customary compliance certificates on a semi-annual basis within (i) 180 days following March 31 of each year and (ii) 90 days following September 30 of each year, including a statement of changes, if any, in the Designated Standard or in the application thereof since the date of the Borrower's previous certification and specifying the effect of any such changes on the financial statements accompanying such certificate (it being understood that "*Designated Standard*" shall mean any one of the following: Generally Accepted Accounting Principles, International Financial Reporting Standards or other

applicable and appropriate generally accepted accounting principles to which the Borrower is subject and that may be applicable from time to time), and (2) annual financial statements of NML that NML sends to any of its shareholders, investors and/or creditors in their capacity as such promptly after the sending or filing thereof and in any event within 180 days following the end of NML's fiscal year;

(j) provision of a description of any material changes to any existing, and copies of any new, Project Documents;

(k) provision of all Securities and Exchange Commission filings by NML and press releases related to the Project;

(l) provision of a description of any claims brought against the Borrower or NML or any labor disputes, in each case that could reasonably be expected to have a Material Adverse Effect;

(m) provision of Project construction budgets and construction progress reports;

(n) provision of periodic Project reports;

(o) provision of default notices, mandatory prepayment event notices, mandatory redemption event notices, and notices of other material events and information, including, without limitation, (*i*) material transactions of the Borrower or its consolidated Subsidiaries (taken as a whole) related to the Project, (*ii*) ratings changes of NMAC or the obtaining of ratings by Borrower and thereafter changes of such ratings, (*iii*) material casualty and similar events with respect to Collateral or rights and property subject to the EOD License or the Access Agreements, and receipt of material insurance or similar proceeds with respect to Collateral or rights and property subject to the EOD License or the Access Agreements, (*iv*) events having a Material Adverse Effect, (*v*) change of control, and (*vi*) events or breaches that could permit the acceleration of amounts due and payable under any indebtedness of NML or the Borrower that, in each case, has an aggregate principal amount of at least $100 million outstanding, together with a statement from either Borrower or NML, as applicable, detailing how it plans to address such event or remedy such breach;

(p) until the completion of the Project, provision of monthly updates of the Project Business Plan and a report discussing the status of the Project construction, including any material deviations between actual and projected Milestones and actual and projected budget items (provided that any change to the substance of any Milestones in the Project Business Plan resulting from any such deviations receive the consent of the DOE, acting in its sole discretion);

(q) provision of a quarterly certificate (the "*Quarterly Project Certificate*") by an authorized financial officer of the Borrower certifying that (*x*) the proceeds of the Tranche A Advances for such calendar quarter were used to pay incurred Eligible Tranche A Costs (or other Eligible Project Costs authorized hereunder), (*y*) the proceeds of the Tranche B Advances for such calendar quarter were used to pay incurred Eligible Tranche B Costs (or other Eligible Project Costs authorized hereunder), and (*z*) the proceeds of the Tranche C Advances for such calendar quarter were used to pay incurred Eligible Tranche C Costs; *provided, that*, upon the request of DOE, no more frequently than once in any year, Borrower will obtain the review by an independent accounting or other similar firm, reasonably satisfactory to the DOE, to confirm whether the proceeds of the various Advances disbursed to the Borrower during the relevant review period were in each case used by the Borrower to pay for such Eligible Project Costs incurred as of the relevant Advance Date in accordance with the terms of the Loan Documents;

(r) maintenance of and compliance with permits, licenses, approvals and consents in connection with the Project;

(s) compliance with laws and Program Requirements in connection with the Project;

(t) compliance with Office of Foreign Assets Control rules and regulations;

(u) subject to reasonable measures implemented to ensure confidentiality of information provided, consistent with FOIA, the Program Requirements and other applicable law, cooperation with DOE requests for continuing due diligence reviews with respect to the Borrower and its affiliates, the Collateral and any aspect relating to the Project, including, without limitation, DOE requests for reports on the technical and financial performance of the Project-related manufacturing facilities, the Electric Vehicles and the Batteries;

(v) compliance with environmental and safety laws, and other environmental and safety matters, including without limitation with respect to compliance with the National Environmental Policy Act of 1969 ("*NEPA*") and delivery of any environmental audits and assessments with respect to the Smyrna Facility and the Project;

(w) maintenance of operations in a manner which will not require registration under the Investment Company Act;

(x) maintenance of self– or third-party insurance as usual and customary or as may be otherwise required by the terms of any leases of Collateral or otherwise with respect to the Smyrna Facility, and application of proceeds thereof;

(y) payment of taxes, etc.;

(z) maintenance of adequate accounting, management information and cost control systems;

(aa) maintenance of internationally recognized independent auditors;

(bb) maintenance of books and records and allowing inspection thereof, including (*i*) such records as are necessary to facilitate an effective and accurate audit and performance evaluation of the Project as required by the Program Requirements and (*ii*) provision to FFB, DOE and U.S. Government Accountability Office and its representatives and advisors with such access rights as required by the Program Requirements, including, without limitation, access to each Project site and ancillary facilities (and allowing DOE and its representatives to discuss the Borrower's and its subsidiaries' affairs, finances and accounts with the Borrower's officers and auditors) at all reasonable times in order to monitor the performance of the Project;

(cc) maintenance of properties and title thereto with respect to the Collateral and the rights and property subject to the EOD License or the Access Agreements;

(dd) maintenance of intellectual property, including compliance with all terms and conditions of all material license agreements relating to the Project, including the NML License and the AESC License;

(ee) assurance that the Borrower will obtain the right to use intellectual property that is later acquired by NML that is necessary for the construction, operation or use of the Project, whether by way of amendment to the NML License or otherwise;

(ff) compliance with contractual obligations relating to the Project;

(gg) compliance with debarment regulations;

(hh) disclosure and management of construction cost overruns relating to the Project;

(ii) provision of updated Collateral Value Certificates, as requested by DOE from time to time;

(jj) return to FFB any investment earnings realized by the Borrower in connection with Loan proceeds in excess of the accrued interest expense due and payable by the Borrower pursuant to the Loan Documents;

(kk) ongoing obligation to pay prevailing wages to all laborers and mechanics employed by contractors or subcontractors during construction, alteration or repair that is financed through the ATVM Program;

(ll) provision of additional information at the request of DOE or FFB;

(mm) remediation of environmental contamination at the Smyrna Facility that affects, relates or is attributed to the Project;

(nn) customary further assurances;

(oo) the Borrower will on a semi-annual basis within (i) 180 days following March 31 of each year and (ii) 90 days following September 30 of each year identify all Intercompany Debt (as defined below) outstanding at such time.

25. *Negative Covenants*

In addition to the other covenants described herein, the Loan Documents will contain such negative covenants as are usual and customary for financings of this kind or as are otherwise deemed appropriate by DOE in its sole discretion for this transaction in particular (with qualifications, exceptions and schedules to be agreed), from the Borrower, including without limitation regarding:

(a) no material change to the Project, except with the consent of the DOE, acting in its sole discretion;

(b) prohibition on granting any additional lien on any of the Collateral (except (1) to the extent consistent with the applicable law and regulations governing the Loans, (2) for limited permitted liens associated with the industrial revenue bonds related to the Smyrna Facility, (3) for customary permitted mechanics, workers compensation and similar liens, (4) equipment leases and (5) other exceptions to be determined);

(c) limitation on dividends, distributions, stock redemptions, payments on debt to affiliates (other than direct and indirect subsidiaries of the Borrower) and all other payments on account of the ownership, purchase, acquisition, redemption, retirement,

termination or cancellation of any equity interests in Borrower or repayment of any debt owed to or for the benefit of affiliates (other than direct and indirect subsidiaries of the Borrower) upon the occurrence and during the continuation of a default or Event of Default with respect to the Loans;

(d) no merger, consolidation, or similar action unless the successor entity assumes all obligations under the Transaction Documents and such successor otherwise would be eligible under the Program Requirements;

(e) no changes to charter or organization documents, subject to certain exceptions to be determined;

(f) limitation on issuance of voting equity or options, warrants or other rights with respect thereto to parties other than NML and its direct or indirect wholly-owned subsidiaries;

(g) limitation on termination, amendment or waiver of any provision of the Keepwell Agreement, the NML Supplemental Letter, the NML License, any other Project Document to which it is party, other than certain changes (to be determined) to the Borrower's agreements with the IDB (with respect to the Keepwell Agreement and the NML Supplemental Letter, Borrower may not amend or modify such agreements in any manner adverse to the interests of DOE, or terminate such agreements, without the prior written consent of the DOE);

(h) limitation on entering into transactions with affiliates with respect to the Project other than pursuant to documents or agreements on an arm's length basis (subject to certain exceptions to be agreed);

(i) no speculative hedging transactions;

(j) no material modifications of the substance of any Milestones without the prior written consent of DOE;

(k) no occurrence of ERISA events, including, without limitation, reportable events, liens, multiemployer or multiple employer plan with withdrawal liabilities, plan termination liabilities, failure to make required contributions, "prohibited transactions;"

(l) no use of proceeds of the Loans to pay interest payments on the Loans, administrative or other fees relating to the Loans or any other amounts under the Loan Documents;

(m) no abandonment of any intellectual property necessary for the construction, operation and use of the Project; and

(n) prohibition on the Borrower incurring or suffering to exist any Indebtedness (as defined in Schedule I) owing to NML or any subsidiary of NML (other than direct or indirect subsidiaries of Borrower) (such Indebtedness, "*Intercompany Debt*"), unless the promissory note or other instrument evidencing such Intercompany Debt includes the following provisions, in a form to be included in the Definitive Agreements, pursuant to which the lender agrees, by acceptance of the note, (x) to acknowledge the prohibition on Borrower, upon and during the continuation of any default or Event of Default, to make any payments on such Intercompany Debt (whether by the terms of the Intercompany Debt, demand, enforcement or other proceeding) prior to making all payments on the Loans, (y) that the lender's claim against Borrower in a bankruptcy or similar proceeding relating to Borrower based on such Intercompany Debt shall be subordinated to the payment in full of the Loans (including post-petition interest), and (z) that in a bankruptcy or similar proceeding relating to Borrower, or upon and during the continuation of any default or Event of Default, while any of the Loans are outstanding, all holders of the Intercompany Debt obligations shall forbear from exercising remedies against the Borrower or its assets, and/or such holders of the subordinated obligations shall cede control of such obligations and collateral rights to the holders of the Loans.

26. *Events of Default*

The Loan Documents will include such events of default (the "*Events of Default*") as are usual and customary for financings of this kind or as are otherwise deemed appropriate by DOE in its sole discretion for this transaction in particular (with materiality qualifications, exceptions, grace and cure periods to be agreed), including without limitation:

(a) failure to make payments when due (including, without limitation, failure to make any periodic scheduled payments of principal or interest, any mandatory prepayments or redemptions, etc.);

(b) any payment default in respect of, or any acceleration of amounts due and payable under, any indebtedness of NML or the Borrower that, in each case, has an aggregate principal amount of at least $100 million outstanding;

(c) outstanding principal amount of any Loan exceeds the maximum loan amount with respect to such Loan as set forth in Section 9 hereof;

(d) breach of representations and warranties under any Loan Documents;

(e) breach of covenants under any Loan Documents;

(f) admission by the Borrower or NML of the inability to, or intention not to, perform material obligations under the Loan Documents;

(g) material default by the Borrower or NML in the performance of any Project Document;

(h) failure to fund when required with respect to the Applicant Project Commitment;

(i) loss or impairment of government permits or approvals by the Borrower that could reasonably be expected to have a Material Adverse Effect;

(j) bankruptcy, insolvency or dissolution or other similar events of the Borrower or NML;

(k) unsatisfied judgments against the Borrower or NML in excess of an agreed threshold or non-monetary judgments that could reasonably be expected to have a Material Adverse Effect;

(l) any ERISA event that could reasonably be expected to have a Material Adverse Effect;

(m) condemnation or assumption of custody of all or any substantial part of the property of the Borrower by any governmental authority or any governmental authority taking action to displace the management of the Borrower or NML;

(n) failure generally, or admission in writing, of inability to pay debts when such debts become due;

(o) impairment of security interests in Collateral;

(p) any breach by NML of any of the terms of the Keepwell Agreement or NML Supplemental Letter, or any termination of the Keepwell Agreement or NML Supplemental Letter without the prior written consent of DOE;

(q) invalidity or unenforceability of any Loan Documents or any Project Documents (other than immaterial documents not referred to herein and to be agreed);

(r) any of the Loan Documents or Project Documents shall cease to be in full force and effect or the Borrower, NML or relevant counterparty so asserts; and

(s) failure to comply with applicable laws when such failure could reasonably be expected to have a Material Adverse Effect.

27. *Remedies*

Upon the occurrence of an event of default, the Loan Documents will include usual and customary remedies as well as such other rights as may be required under the Program Requirements to allow DOE to dispose of the Collateral or otherwise protect the interests of the United States or the public interest, including without limitation the DOE's ability to lock out the Battery Manufacturing Plant and prevent access to or prevent the operation by the Borrower of any of the Collateral. As a condition precedent to the financial closing of the Loans, the Borrower shall provide (and cause any relevant third parties to provide) access rights to effectuate such remedies.

Additional Provisions of Loan Documents

28. *Required Insurance*

The Borrower will maintain or cause to be maintained in full force and effect at all times insurance with financially sound insurers and reinsurers (including appropriate self insurance and insurance provided by any of NML's captive insurance companies) (the "*Required Insurance*") against loss or damage of the kinds and in the amounts and with such risk retentions that in the reasonable, good faith opinion of the Borrower are adequate, appropriate and customary for the conduct of its, and in its line of, business.

Each such policy provided by third-parties (other than liability policies) will name the United States of America, including, without limitation, DOE and FFB, as loss payee and additional insured to the extent of the aggregate amounts outstanding of the Loans. Each insurance policy will provide for 30 days' written notice to DOE prior to termination or expiration of any coverage and such other endorsements as DOE may require. The Definitive Agreements will specify a list of insurance policies to which the United States of America, including, without limitation, DOE and FFB, shall be so named as loss payee and additional insured.

29. *Amendments.*

No amendment, modification or waiver of any provision of any Loan Document nor consent to any departure by Borrower or NML therefrom shall in any event be effective unless:

(a) Amendments and Waivers. The amendment, modification or waiver shall be in writing and signed by the Borrower or NML, as applicable, and by DOE and/or FFB, as applicable, and then any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; and

(b) Federal Credit Reform Act Compliance. DOE performs all accounting and other requirements related to such amendment, modification or waiver arising out of the Federal Credit Reform Act of 1990, as amended (codified at 2 U.S.C. § 661 et seq.), including but not limited to:

(i) analysis of the amendment, modification or waiver to determine whether it increases the costs of the Loan;

(ii) making a determination whether budget authority for the additional cost has been provided in advance in an appropriations Act; and

(iii) paying any such increased costs from the credit program account into the financing account and recording such increased costs in the fiscal year in which the Loan is disbursed or the costs altered.

30. *Indemnification*

The Borrower shall indemnify and hold harmless the United States, including DOE and FFB, and each other governmental agency or instrumentality of the United States, and their respective designees, agents, and contractors, and all of their respective directors, officers and employees (each, an "*Indemnified Person*") from and against (and will reimburse each Indemnified Person as the same are incurred for) any and all losses, claims, damages, liabilities or other expenses (including, without limitation, the reasonable fees, disbursements and other charges of counsel, but other than the expenses incurred by DOE in connection with the preparation, negotiation, execution and delivery of the Conditional Commitment Letter, Term Sheet and the Transaction Documents), but excluding in all cases consequential or punitive damages, to which such Indemnified Person may become subject arising out of or relating to (i) the execution or delivery of the Transaction Documents or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) the enforcement or preservation of any rights under the Transaction Documents or any agreement or

instrument prepared in connection herewith or therewith, (iii) any Loan or the use or proposed use of the proceeds thereof, (iv) any part of the Project or certain environmental matters relating to or affecting the Project to be determined, or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by any third party or by the Borrower or any of its affiliates or otherwise, and regardless of whether any Indemnified Person is a party thereto; *provided, however*, that such indemnity shall not apply to the extent the loss, claim, damage, liability or other expense results from the gross negligence or willful misconduct of the Indemnified Person or a material breach of the Indemnified Person's obligations hereunder, in each case, as determined by a court of competent jurisdiction in a final, non-appealable order.

31. *Governing Law*

All Loan Documents and Security Documents will be governed by the federal laws of the United States of America and not the law of the several states.

Financial Covenants and Related Definitions

The Loan Documents will contain provisions regarding compliance at all times with the following financial tests (the "*Financial Covenants*"):

(i) the ratio of Net Debt to Stockholder's Equity (each determined on an unconsolidated basis) with respect to the Borrower shall not at any time be greater than 2.0 to 1.0. The terms Net Debt and Stockholder's Equity shall have meanings given to them in Schedule I attached hereto;

(ii) the Borrower (on a stand-alone basis and excluding NML and any of its other direct or indirect subsidiaries) shall at all times maintain a minimum liquidity (the "*Minimum Liquidity*") of $200,000,000 (TWO HUNDRED MILLION U.S. DOLLARS) consisting of all or a combination of (i) Cash and Cash Equivalents (to be defined), (ii) letters of credit in form and substance, and having drawing conditions, satisfactory to DOE from an Acceptable Bank ("*Eligible Letters of Credit*") and (iii) up to $100,000,000 (ONE HUNDRED MILLION U.S. DOLLARS) in total Agreed Value (as defined below) of demand loans, payable no later than within 45 days of demand, or other loans maturing no later than 45 days after issuance, in each case made to, and with full recourse to, NMAC (any such loans, "*NMAC Loans*"), in form and substance satisfactory to DOE, it being understood that only a specified percentage of the stated principal balance of any NMAC Loan (such percentage of the stated principal balance to be referred to herein as the "*Agreed Value*" of the applicable loan) will be credited towards Minimum Liquidity, and that such Agreed Value will be determined as follows: (x) at 100% of the stated principal balance, if and for so long as the long-term unsecured debt of NMAC is rated as investment grade by reputable ratings agencies as follows: BBB- or higher by Standard & Poor's ("*S&P*") or Baa3 or higher by Moody's Investors Service, Inc. ("*Moody's*"), (y) at two-thirds of the stated principal balance if and for so long as the long-term unsecured debt of NMAC is rated BB+, BB or BB- by S& P or Ba1, Ba2 or Ba3 by Moody's (solely by way of demonstration: if NMAC's long-term unsecured debt is rated as set forth in this clause (y), then NMAC Loans with an aggregate principal balance of $150,000,000 would have a total Agreed Value of $100,000,000, which total Agreed Value could then be applied and credited towards Minimum Liquidity), and (z) at 0% of the stated principal balance in all other circumstances, including bankruptcy or insolvency of NMAC; provided, that, on the date that is 12 (TWELVE) months after the completion of the Project ("*Minimum Liquidity Reduction Date*") the amount of Minimum Liquidity that the Borrower shall be required at all times to maintain shall be reduced to $190,000,000 (ONE HUNDRED NINETY MILLION U.S. DOLLARS), and such amount shall thereafter continue to be reduced on each successive anniversary of the Minimum

Liquidity Reduction Date by an amount of $10,000,000 (TEN MILLION U.S. DOLLARS), until the amount of the Minimum Liquidity required to be maintained is reduced to zero; and

(iii) the Borrower shall maintain at all times a minimum tangible net worth (the "*Minimum Net Worth*") of $1.

Definitions:

Acceptable Bank means a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of A or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or A2 or higher by Moody's Investor Services Limited or a comparable rating from an internationally recognized credit rating agency.

Capital Lease Obligations of any person means the obligations of such person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such person under the Designated Standard, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with the Designated Standard.

Cash means, at any time, cash denominated in U.S. dollars or Euros in hand or at bank and (in the latter case) credited to an account in the name of the Borrower with an Acceptable Bank and to which the Borrower is beneficially entitled and for so long as:

(a) that cash is repayable on demand;

(b) repayment of that cash is not contingent on the prior discharge of any other Indebtedness of the Borrower or of any other person whatsoever or on the satisfaction of any other condition;

(c) there is no Lien over that cash except for any Lien constituted by a netting or set-off arrangement entered into by the Borrower in the ordinary course of its banking arrangements; and

(d) the cash is freely and immediately available to be applied in payment of amounts under the Transaction Documents.

Cash Equivalents means at any time:

(a) certificate of deposit maturing within three months after the relevant date of calculation and issued by an Acceptable Bank;

(b) commercial paper (rated at least A-1 by S&P or at least P-1 by Moody's) maturing within three months;

(c) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom or any member state of the European Economic Area or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within three months after the relevant date of calculation and not convertible or exchangeable to any other security;

(d) any investment in money market funds which (i) have a credit rating of either AAA/A-1 or higher by Standard & Poor's Rating Services or Aaa/P-1 or higher by Moody's Investor Services Limited, and (ii) can be turned into cash on not more than four business days' notice; or

(e) any other debt security approved by DOE,

in each case, denominated in US dollars or Euros and to which the Borrower is beneficially entitled at that time and which is not issued or guaranteed by NML, the Borrower or NMAC or subject to any Lien.

Cash Reserves means the aggregate of (i) Cash and Cash Equivalents, and (ii) the outstanding principal amount of any intercompany loans from the Borrower to NML or any of NML's direct or indirect wholly-owned subsidiaries which are repayable on demand or within 45 days thereof, or which have a maturity of 45 days or less in each case, which are not subject to any subordination or similar restriction on payment when due, except in connection with any bankruptcy, insolvency or dissolution event relating to the borrower under such intercompany loans.

ERISA means the United States Employee Retirement Income Security Act of 1974, as amended.

ERISA Affiliate means any trade or business (whether or not incorporated) that, together with any member of the Issuer, is treated as a single employer under Section 414(b) or (c) of the United States Internal Revenue Code of 1986, as amended and in effect from time to time (the "*Code*"), or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414(m) or (o) of the Code.

Guarantee means any obligations, contingent or otherwise, guaranteeing or having the economic effect of guaranteeing any Indebtedness of another person in any manner, whether directly or indirectly, and including any obligation:

(a) to purchase or pay any Indebtedness or to purchase or provide security for the payment of any Indebtedness;

(b) to purchase or lease property, securities or services for the purpose of assuring the payment of any Indebtedness;

(c) to maintain working capital, equity capital or any other financial statement condition or liquidity of any other person; or

(d) in respect of any letter of credit, letter of guaranty or bond issued to support any obligation or Indebtedness,

except that the term **Guarantee** shall not include endorsements for collection or deposit in the ordinary course of business.

Indebtedness of any person means, without duplication, (a) all obligations of such person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such person under conditional sale or other title retention agreements relating to property acquired by such person, (d) all obligations of such person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business and obligations in respect of the funding of Plans under ERISA), (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such person, whether or not the Indebtedness secured thereby has been assumed, (f) all Guarantees by such person of Indebtedness of others, (g) all Capital Lease obligations of such person, (h) all obligations, contingent or otherwise, of such person as an account party in respect of letters of credit and letters of guaranty or as a purchaser counterparty to a put agreement or such other similar agreement relating to the purchase of preferred stock of any of its subsidiaries (excluding, in respect of Nissan North America, Inc., its put option agreement dated September 17, 2008 with Natixis Luxembourg S.A.), (i) all obligations, contingent or otherwise, of such person in respect of bankers' acceptances and (j) all obligations of such person to redeem or purchase its preferred stock (provided such obligations are classified as indebtedness under GAAP). The Indebtedness of any person shall include the Indebtedness of any other entity (including any partnership in which such person is a general partner) to the extent such person is liable therefore as a result of such person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such person is not liable therefor.

Lien means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

Net Debt means Indebtedness (excluding Intercompany Debt that is subordinated in the manner described in Section 25(n) of the Term Sheet) less Cash Reserves.

Plan means any employee pension benefit plan (other than a multiemployer plan as defined in Section 4001(a)(3) of ERISA) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower, NMAC or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) and "employer" as defined in Section 3(5) of ERISA.

Stockholder's Equity means at any time, all amounts that would, in conformity with the Designated Standard on an unconsolidated basis, be included on a balance sheet of the Borrower under stockholders' equity at such time, including additional paid-in capital plus retained earnings (or minus accumulated deficits), calculated without giving effect to any unrealized foreign currency translation gains or losses and any unrealized gains or losses in respect of Swap Agreements, in each case determined in accordance with the Designated Standard on an unconsolidated basis.

Swap Agreements means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measurements of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions: provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower shall be a Swap Agreement.

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July 6, 2009

Matt N. Thomson
202-637-6947
MNThomson@hhlaw.com

BY HAND DELIVERY

United States Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Attention: Brent Peterson

Re: Original Nissan Signature Pages

Dear Brent:

Enclosed please find one original signature page to the Conditional Commitment Letter, signed on behalf of Nissan North America, Inc., and one original signature page to the NML Side Letter, signed on behalf of Nissan Motor Co., Ltd. Please let me know if you have any questions.

Best regards,

Matt Thomson

Enclosures