

## NONDISCLOSURE AND CONFIDENTIALITY AGREEMENT

This Nondisclosure and Confidentiality Agreement is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2004, between Toyota Motor Sales, USA Inc., a California corporation (“TMS/USA”), with its principal place of business at 19001 South Western Avenue, Torrance, California 90509, and \_\_\_\_\_ (“Recipient”), with its principal place of business at \_\_\_\_\_.

### RECITALS

- A. TMS/USA is in the business of importing, marketing and distributing Toyota brand motor vehicles.
- B. Recipient is one of TMS/USA’s fleet customers, and in order to accommodate the business requirements of Recipient, TMS/USA wishes to furnish Recipient with certain proprietary and confidential information belonging to TMS/USA.
  - 1. Confidential Information. For purposes of this Agreement, the term “Confidential Information” shall be deemed to include all product pricing information furnished by or on behalf of TMS/USA to Recipient, including, without limitation, all information transmitted in writing, orally, visually or on magnetic media. The following shall not be considered “Confidential Information” as defined herein:
    - (a) any information in the public domain at the time of TMS/USA’s communication thereof to Recipient;
    - (b) any information which enters the public domain, through no fault of Recipient, subsequent to the time of TMS/USA’s communication thereof to Recipient;
    - (c) any information which is obtained in good faith by Recipient from a third party, provided such third party is not bound by a confidentiality agreement with TMS/USA.
  - 2. Nondisclosure. Recipient agrees and acknowledges that it shall have no proprietary interest in the Confidential Information and will only use the Confidential Information it may receive, acquire or obtain from TMS/USA in for its internal business purposes, and shall not disclose, communicate nor publish the nature or content of such information to any person or entity (except to those employees or representatives who have a need to know such information), any of such Confidential Information. Recipient shall immediately advise its employees and others to whom the Confidential Information is disclosed of their strict obligations under this Agreement and shall take all necessary steps to insure that the Confidential

Information is securely maintained. Recipient's obligations set forth herein shall continue for three (3) years from the date hereof.

In the event Recipient becomes legally compelled to disclose any of the Confidential Information, Recipient shall provide TMS/USA with prompt notice thereof and shall not divulge any information until TMS/USA has had the opportunity to seek a protective order or other appropriate remedy to curtail such disclosure. If such actions by TMS/USA are unsuccessful, or TMS/USA otherwise waives its right to seek such remedies, Recipient shall disclose only that portion of the Confidential Information which it is legally required to disclose.

3. Remedies. Recipient acknowledges and agrees that TMS/USA's remedy at law for a breach or threatened breach of any of the provisions herein would be inadequate and, in recognition of this fact, in the event of a breach or threatened breach by Recipient of any of the provisions contained herein, Recipient agrees that, in addition to its remedy at law, at TMS/USA's option, all rights of Recipient pursuant to this Agreement may be terminated by TMS/USA and TMS/USA, without posting any bond, shall be entitled to obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction or any other equitable remedy which may then be available. Nothing herein contained shall be construed as prohibiting TMS/USA from pursuing any other remedies available to it from such breach or threatened breach. Pursuit of any remedy at law or in equity shall not be deemed as an election of remedies.
4. Notices. Any notices, requests, demands and other communications to be given hereunder shall be deemed effective upon receipt or first attempted delivery, and shall be, personally delivered or sent by certified or registered U. S. mail, postage prepaid to the address set forth in the first paragraph of this Agreement.
5. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California.
6. Assignment. Neither party shall have the right to assign, sell or otherwise transfer its rights or obligations under this Agreement.
7. Entire Agreement. This contract reflects the entire agreement between the parties with respect to the subject matter contained herein. No oral statements, communication or conversations between the parties hereto or their representatives, whether the same shall have been express or implied, occurring either before or after the execution of this Agreement, shall be construed as having any bearing or effect upon this Agreement or any portion thereof. This Agreement may not be changed, modified or rescinded except in writing, signed by both parties hereto.

IN WITNESS WHEREOF, TMS/USA and Recipient have executed this Nondisclosure and Confidentiality Agreement as of the day and year first written above.

Toyota Motor Sales, USA Inc.,  
A California Corporation

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

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

Recipient

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

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