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NISSAN NORTH AMERICA, INC.

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD

In The Matter Of The Protest Of:

SANTA CRUZ NISSAN, INC., dba SANTA
CRUZ NISSAN,

Protestant,

v.

NISSAN NORTH AMERICA, INC.,

Respondent.

Protest No. PR-2358-13

**PROPOSED CONDITIONS FOR
MANDATORY SETTLEMENT
CONFERENCE**

Date: August 19, 2014

Time: 10:00 a.m.

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Respondent, Nissan North America, Inc., (“Nissan”) files these Proposed Conditions for the Mandatory Settlement Conference in the matter of Santa Cruz Nissan, Inc., dba Santa Cruz Nissan’s (“Protestant”) protest seeking to prevent the termination of its Nissan Dealer Sales and Service Agreement (“Dealer Agreement”).

I. BOARD’S REMAND ORDER AND SCHEDULE

The parties have agreed to participate in a Mandatory Settlement Conference (“MSC”) before Judge Marilyn Wong for the purposes of trying to mutually determine conditions that would assure Protestant’s performance of binding obligations under the Dealer Agreement. The following is a brief recap of events leading to this MSC:

1. By letter dated January 14, 2013, Nissan gave notice to Protestant pursuant to California Vehicle Code section 3060 of its intention to terminate the dealership’s Nissan franchise. (attached hereto as Exhibit B).
2. A hearing on the merits of Protest No. PR-2358-13 was held January 27 through January 31, 2014; February 3 through February 7, 2014; and, March 6 and March 7 2014.
3. On July 3, 2014, ALJ Diana Woodward Hagle issued her Proposed Decision (“Proposed Decision”) in the matter of Santa Cruz Nissan, Inc., dba Santa Cruz Nissan v. Nissan North America, Inc., Protest No. PR-2358-13 (“Protest”). The Proposed Decision was to sustain the protest unconditionally.
4. At its meeting on July 15, 2014 the Board conditionally sustained the Protest and remanded the matter to ALJ Hagle with the following instructions in its order dated July 17, 2014 (“Order”):

The ALJ shall recommend conditions for the Board to impose consistent with Section 3067¹ and establish a time frame for Protestant to comply with those conditions. The ALJ shall have discretion, if deemed necessary, to order additional evidence, briefing, and/or arguments.

5. During its meeting on July 15, 2014, Ms. Robin Parker announced the Board’s decision as being carried by three votes to remand and impose conditions on the dealer; one

¹ Vehicle Code section 3067 permits the Board to impose conditions upon its decisions so long as the conditions are such as they meet the following language:

...Conditions imposed by the board shall be for the purposes of assuring performance of binding contractual agreements between the franchisees and franchisors or otherwise serving the purposes of this article...

member Ms. Doi concurred with the majority, but wanted further clarification; and the fifth board member, Mr. Lizarraga, opposed the proposed decision. Notably, not a single board member voted to either (i) unconditionally sustain the Protest, or (ii) adopt the Proposed Decision. (RT Board Hearing 45:3-16).

6. Also during the July 15, 2014 board meeting, in response to Protestant's counsel's request for more detail on the conditions and time frame to be imposed on Protestant, board member Mr. Glenn Stevens replied: "You're going to have to hit certain condition marks that the ALJ is going to set". (RT Board Hearing 46: 23-24).
7. During the meeting, board member Mr. Brooks stated that Protestant's Nissan sales were not growing commensurate with the market and although they had implemented some marketing strategies, it sounded like they were implemented "under a gun" of a termination. (RT Board Hearing 29:2-7). Mr. Brooks also disclosed to Protestant that he "...felt, personally [it] almost malpractice in how [Protestant] run[s] [its] business in terms of Nissan." (RT Board Hearing 45:21-23).
8. The Order also stated that the parties were strongly encouraged to engage in settlement discussions and to appear at a MSC with a Board appointed ALJ.
9. Accordingly, the parties have scheduled this MSC before ALJ Marilyn Wong for August 19, 2014.
10. Should the parties not reach a settlement during the MSC, the parties have scheduled a telephonic hearing before ALJ Hagle on August 26, 2014.
11. Briefing for this telephonic hearing will be due on August 25, 2014.
12. The Board will meet on September 17, 2014 to consider ALJ Hagle's recommended conditions.

II. PRIOR TERMINATION PROTESTS THAT WERE CONDITIONALLY SUSTAINED BY THE CALIFORNIA NEW MOTOR VEHICLE BOARD ("BOARD")

There are seven final decisions from past termination protests that may provide helpful guidance on how the Board set conditions for Protestant but sustained the protest and/or termination. In every instance, the conditions were directly related to remedying the gravamen of Respondent's contentions:

13. University Ford Chrysler Plymouth v. Chrysler (PR-448-83) conditionally sustained the protest provided that Protestant (i) relocated to a suitable existing or new facilities within 2 years and (ii) in the interim modified the existing facility. Respondent contended that Protestant relocated and "dualled" franchise without its prior authorization.

14. Brian Chuchusa's Jeep, dba Brian Chuchusa's Four Wheel Drive Center v. American Motor Sales Corporation (PR-871-87, P-146-87) conditionally sustained the protest provided that Protestant performed its contractual warranty obligations to all customers, including customers that did not purchase their vehicle from Protestant. Respondent contended that Protestant repeatedly refused to provide warranty repair service to owners of AMC vehicles because the owners did not purchase their AMC vehicle from Protestant.
15. Tara Motors dba Toyota of El Cajon v. Toyota Motors Distributors, Inc.; Lorelei M. Trenfel (PR-976-88) overruled the protest but conditionally sustained the termination provided that Protestant (i) within 90 days appointed a new General Manager approved by Toyota, (ii) within 1 year, sold a 10% interest to a buyer approved by Toyota, and (iii) within 3 years, the buyer owned at least 51% of dealership. Respondent contended that Protestant had unilaterally changed General Managers without the prior approval of Toyota resulting in a management dispute adversely affecting dealership operations.
16. West Covina Motors dba Clippinger Chevrolet v. General Motors (PR-2213-10) conditionally sustained the protest provided that Protestant (i) within 80 days establish flooring or submit a buy/sell, or (ii) on the 81st day Protestant terminated. Respondent contended that Protestant failed to comply with a stipulated settlement agreement to obtain flooring in 90 days or submit a buy/sell.
17. Laidlow's Harley Davidson Sales, Inc. dba Laidlow's Harley Davidson v. Harley Davidson Motor Company (PR-2299-11) conditionally sustained the protest provided that Protestant's comply with Harley Davidson's Non-Retail Sales Policy for 3 years. Respondent contended that Protestant failed to comply with its Non-Retail Sales Policy.
18. Riverside Motorcycle, Inc. dba Skip Fordyce Harley Davidson v. Harley Davidson Motor Company (PR-2310-11) conditionally sustained the protest provided that Protestant reimburse Harley Davidson for audit and legal expenses resulting from audit finding Protestant violated the Non-Retail Sales Policy. Respondent contended that Protestant per its audit failed to comply with its Non-Retail Sales Policy.
19. Burbank Kawasaki, Inc. v. Kawasaki Motors Corp., USA (PR-2328-12, PR-2333-12) conditionally sustained the protest provided that Protestant (i) within 45 days establish flooring in the amount of \$885,219 (failure to do so resulted in termination); (ii) stock an inventory of 75 motorcycles during peak times (Board reserved the right to determine if a failure would result in termination); and, (iii) use its best efforts to sell 150 motorcycles annually (Board reserved the right to determine if a failure would result in termination). Respondent contended that Protestant failed to maintain adequate flooring to run its business, and failed to stock or sell adequate amounts of Kawasaki products.

III. FINDINGS OF FACT IN PROPOSED DECISIONS RELATING TO THE REMAND ORDER TO SET CONDITIONS.

The Proposed Decision included findings that relate to Protestant’s failure to meet its sales performance obligations under the Dealer Agreement. These findings were not, contrary to Protestant’s argument, a wholesale rejection of Nissan’s right to use sales effectiveness measurements. For example, the Proposed Decision contains the following numbered paragraphs:

- 20. Respondent contends that “Santa Cruz Nissan has breached the parties’ Dealer Agreement by its “unsatisfactory sales penetration performance”. Since 2006, Santa Cruz Nissan has failed to meet “...100% regional sales effectiveness [i.e., “100% RSE”].” which is “...the minimum compliance level per Dealer’s Sales and Service Agreement”. (Paragraph 39 of Proposed Decision) (Emphasis added.).
- 21. The Proposed Decision attached certain pertinent provisions of the Dealer Agreement as Exhibit A.²
- 22. Section 3.B. of the Dealer Agreement describes the calculations Nissan will take to evaluate dealers’ sales performance...Nissan current use of “performance metrics” for evaluations is a reasonably foreseeable extension of the calculations described in the [dealer] agreement. (Paragraph 111 of Proposed Decision).
- 23. RSE may be used as a standard, even in termination cases, as long as its limitations are recognized and “rigid performance metrics” are tempered with the kinds of inquiries required by Section 3.D. of the Dealer Agreement. (Paragraph 126 of Proposed Decision).
- 24. Santa Cruz Nissan’s sales figures and RSE scores are the following:

Year	Number of Sales	RSE Score
2005	366	113.70%
2006	237	68.30%
2007	304	84.40%
2008	202	81.80%
2009	152	56.30%
2010	150	45.90%

² Exhibit A of the Proposed Decision is also attached hereto as Exhibit A.

2011	204	51.60%
2012	173	32.00%
2013	246	No data ³

(Paragraph 128 of Proposed Decision)

25. Nissan's RSE calculations from 2009 through 2011, even though based on the overlarge "West Region", provide information that may be considered in regard to protestant's sales performance in its PMA during those years. It appears that there were sales opportunities in the Santa Cruz market which protestant failed to capture: it fell significantly below the average opportunity sales figures: 56.3% in 2009, 45.9% in 2010 and 51.6% in 2011. (Paragraph 130 of Proposed Decision).
26. In sales effectiveness rankings of all Nissan dealers in the "West Region" in 2009, Santa Cruz Nissan ranked 178/194; in 2010 it ranked 188/197; and in 2011 it ranked 188/195. The bar graphs⁴ reflect Santa Cruz Nissan's performance in context and, for the years 2009 to 2011, show Santa Cruz Nissan to be a poor sales performer. (Paragraph 136 of the Proposed Decision).
27. As of August 2013, Nissan "abandoned" RSE in favor of the California Region (SSER) standard. (Paragraph 116 of Proposed Decision)
28. Neither Lee Courtright nor James Courtright challenged Nissan's observations over the years that Santa Cruz's sales performance was deficient, in fact, agreed with the assessment. (Paragraph 145 of the Proposed Decision).
29. It is true that Santa Cruz Nissan is a below-average performer and that the deficiencies are due to an insufficient level of resources to accomplish the task, no sense of urgency to change the situation, and no one in charge capable of executing plans for improvement. (Paragraph 189 of the Proposed Decision).
30. The failure to be open for service on Saturdays does not comply with one of the provisions of the Dealer Agreement; however, this is not [to] a great "extent". (Paragraph 200 of the Proposed Decision).

IV. EVIDENCE RELEVANT FOR CONDITIONS BUT NOT INCLUDED IN PROPOSED DECISION

The Proposed Decision failed to include an uncontradicted and overwhelming amount of evidence in the record regarding: (i) Protestant's deficient sales performance in comparison to

³ Data currently exists but did not at the time the Notice of Termination was issued (dated January 14, 2013, Joint Exhibit 4) which is attached hereto as Exhibit B.

⁴ Bar charts (Exh. 200.C NNA04721-4723) referenced in Proposed Decision are attached hereto as Exhibit C.

the District, California, or Nation; (ii) Nissan's notice of and uniform methodology for assigning primary market areas were due to a comprehensive national PMA Audit following the 2010 US census; (iii) Protestant's proximity to Watsonville, which, as of the last census, is a city in Protestant's Primary Market Area, which has an 81% Hispanic population, in which 74% speak a language other than English at home, according to U.S. Census Bureau figures of which administrative notice was taken; (iv) Watsonville is closer to Protestant than to any other Nissan dealer by drive time and drive distance and as close using air distance; (v) the 2012 change in primary market area made no material change in Protestant's sales effectiveness scores; (vi) Protestant's admitted reasons for wishing to exclude Watsonville from its primary market area, based on the educational, economical, ethnic and geographic "differences" in the southern part of Santa Cruz County (where Watsonville is located) versus the northern part (where Protestant is located); (vii) Protestant's refusal to set or focus on Nissan sales performance objectives; (viii) Protestant's failure to provide a sufficient number of qualified sales staff; (ix) Protestant's failure to set separate sales objectives for its Nissan business; (x) Nissan's consideration of all the additional factors listed in Section 3.D of the Dealer Agreement, and (xi) Protestant's failure to employ any Hispanic or Spanish speaking sales persons for at least a period of six years, as demonstrated by the citations to the record below:

31. Santa Cruz Nissan was not even close to sales effective under any applicable standard: District, California, West Region, or US.⁵ (Exh. 200.B NNA04700 - 4701)
32. In sales effectiveness rankings of all Nissan dealers in California, Santa Cruz Nissan ranked 95/99 in 2009; 97/99 in 2010; 96/98 in 2011; and, 98/99 in 2012. (Exh. 200.C NNA04725, NNA04727-4729).⁶
33. The 2012 changes in Santa Cruz's Primary Market Area ("PMA") resulted from Nissan conducting a comprehensive review of all Nissan Dealer PMAs on a national basis. The national PMA audit was conducted after the 2010 US census, and assignment of census tracts were based on criteria such as: air distance, drive distance, natural

⁵ Chart (Exh. 200.B NNA04700 - 4701) showing Santa Cruz retail sales penetration compared to District, California, West Region and US is attached hereto as Exhibit D.

⁶ Bar charts (Exh. 200.C NNA04725, NNA04727-4729) are attached hereto as Exhibit E.

boundaries, buyer shopping patterns, and other objective factors. Detailed maps and census tract data were provided to Protestant.⁷ (Joint Exh. 1 NNA00082)

34. The 2012 PMA change made only a slight difference in Protestant's RSE. In 2012, the RSE score of 32.0% would have been 40.1%, or only approximately 8 basis points higher, but still significantly below the average of 100%.⁸ (Exh. 200.E NNA04743)
35. Santa Cruz Nissan is the closest and most convenient dealer to the census tracts representing Watsonville based on drive distance and time.⁹ (Exh. 200.E. NNA04738 – 4739)
36. The census tracts representing Watsonville are almost evenly split between Santa Cruz Nissan and Gilroy Nissan in Gilroy, CA (and not My Nissan in Salinas, CA) if assigned to the nearest dealer based on air distance.¹⁰ (Exh. 200.E. NNA04737)
37. The reason that Jim Courtright believed that the PMA was incorrectly drawn is because the census tracts in Watsonville were in the southern part of Santa Cruz County, which, according to Mr. Courtright, have a population which is "educationally, economically, ethnically and geographically different" from the northern part of the County. (RT VII, 27:21 - 28:2).
38. Santa Cruz Nissan failed to amend the dealership's annual sales objective which had been written on a white board just two months before. (RT XII, 111:21 – 112:2)
39. Santa Cruz Nissan failed to set a written sales objective for the dealership. (RT XII, 24:25 – 25:6).
40. Santa Cruz Nissan failed to set a separate sales objective set for Nissan, despite the gravity of the situation. (RT XI, 116:4 – 117:14)
41. Santa Cruz Nissan failed to set a separate sales goal set for any individual salesperson to sell Nissan vehicles, such that a salesperson could theoretically meet their sales goals by selling any of the other 3 line-makes at the dealership, and not sell a single Nissan vehicle. (RT XI, 116:4 – 117:14)
42. Santa Cruz Nissan failed to have a method of tracking the "ups" for Nissan (or for any other brand) at the dealership, in order to determine whether the increased advertising expenditure was effective in generating customer traffic at the dealership. (RT XII, 126:23 – 129:2).
43. In 2005 when Protestant achieved above 100% RSE it was from the current location of the dealership with the current owners and managers. (RT II, 157: 20-27 – 158: 1-4).

⁷ Documents (Joint Exh. 1 NNA00082-86) are attached hereto as Exhibit F.

⁸ Bar chart (Exh. 200.E NNA04743) showing Santa Cruz RSE using prior PMA definition is attached hereto as Exhibit G.

⁹ Charts (Exh. 200.E. NNA04738 – 4739) are attached hereto as Exhibit H.

¹⁰ Chart (Exh. 200.E NNA04737) is attached hereto as Exhibit I.

44. Starting with the April 27, 2007 letter and through June, 5 2012, Nissan sent Protestant 8 poor sales performance letters that identified that Dealer's sales performance was less than average as compared to all other Nissan dealers in Protestant's Sales Region. (Resp Exh. 206).
45. Based on the years of continued monitoring Protestant's sales performance as compared with all other Nissan dealers in Protestant's Sales Region, using a standard of Regional Sales Effectiveness, Nissan determined that Protestant's sales performance deficiencies were prolonged, severe and chronic. (RT I, 110: 2-7; 113: 5-12; 119: 7-13).
46. Ms. Novoa (Nissan's Dealer Operations Manager) backed out the Prius numbers out of the RSE calculations to show Jim Courtright that Protestant was still deficient and Prius was not skewing the numbers. (Resp. Exh. 209 at bates stamp NNA01015.)
47. Many markets have an out-commute pattern: Selma, San Rafael, Dublin, Redwood City, Petaluma. A heavy out-commute pattern is not a reason for poor service retention. (RTVIII, 122:13 - 123:25).
48. The Honda and Toyota dealers in the Santa Cruz market have the same out-commute problem that Protestant faces. Those dealers would have the same issues as Protestant in selling vehicles to customers that work in the San Jose area. (RT XI, 86:3 – 87:10).
49. During her tenure as Nissan's Dealer Operations Manager, Ms. Novoa knew that the Nissan dealers in Salinas, San Jose, West San Jose, Dublin and Fremont all had Spanish speaking sales staff. (RT II, 305: 15-25 – 306:1)
50. Ms. Novoa remembers recommending that Protestant should have at least one fluent speaking Hispanic bilingual sales consultant on the floor and/or in internet to accommodate those customers that did not speak English. During conversations with Protestant, she recalls that the Courtright's mentioned they did not have any Spanish speaking staff members. (RT II, 304: 22-25 – 305: 1-4, 317: 12-25 – 318: 1-11).
51. Jim Courtright refused to accept additional allocations of vehicles because of color or trim level despite having a deficiency of the model in inventory. (RT II, 277:11 – 278:13)
52. Santa Cruz Nissan failed to hire any Hispanic salespersons until shortly before the merits hearing (and failed to employ any salesperson who speaks Spanish for at least 6 years). (RT XI, 72:5 – 23).
53. Section 3.F of the Dealer Agreement requires Protestant to maintain a sales organization that includes a sufficient number of qualified and trained sales managers and sales people to enable Dealer to effectively fulfill its sales performance responsibilities. (Joint Exh 1.NNA05626).¹¹

¹¹ Section 3.F of the Dealer Agreement is attached hereto as Exhibit J.

54. In the year 2012, including sales people and one sales manager, Protestant had a total of 7 people who could sell vehicles, fewer than it had in 2008. (RT XI, 68:23 – 69:14).
55. Santa Cruz Nissan failed to change the dynamic (either by changing the advertising or the salespeople) when the dealership was not getting sufficient customer traffic at the sales closing ratio being achieved in order to meet the sales objectives *set by Protestant* for the dealership. (RT XI, 116:4 – 117:14).

V. **RESPONDENT'S PROPOSED CONDITIONS**

Allowing Protestant to set its own conditions which do not hold Protestant accountable for tangible sales improvement will result in business as usual and a continued failure to serve the public. The Board remanded the protest precisely for the reason that Protestant needs to abide by its contractual responsibilities to promote and sell Nissan vehicles, in addition to serving the public interest. Protestant's 2012 sales performance was the worst in the state of California (except for a recently appointed dealer) and this fact remains unchanged to this date.¹² Protestant must not only fundamentally change its poor business practices, but also must improve Nissan sales to at least average performance. Based on the gravamen of Respondent's contentions (Protestant has breached its sales performance obligations under the Dealer Agreement), Respondent seeks conditions that will result in Protestant achieving sales performance objectives on the basis of such reasonable criteria as Nissan develops from time to time, as required by the Dealer Agreement. At this time, the sales criteria for all Nissan dealers are State Sales Effectiveness in Represented Markets ("SSER"). (See Section 3.B of Exhibit A):

56. State Sales Effectiveness in Represented Markets (SSER) is the analysis provided by Nissan to each dealer, showing its sales performance as compared to expected sales, based on a state average, for various periods of time. All of a dealer's sales are counted, no matter where in the U.S. they are made, compared to the Competitive Registrations in the dealer's PMA. If a dealer is at state average for such comparison, it is shown as being at 100% of SSER. (Joint Stipulated Glossary, Joint Exhibit 14, Definition of SSER).
57. Respondent proposes the condition that Protestant meet average performance of Nissan dealers in the represented markets of California or 100% segment-adjusted SSER within one year. It is a uniformly applied standard and one that takes into consideration the product popularity preferences, shopping habits, geographic and demographic conditions in the State of California.

¹² May 2014 SSER attached as Exhibit K.

58. Respondent proposes this condition to be attained in “stair steps” of 3 months at a time. Protestant should, therefore, be required to meet or exceed the following SSER scores within the following time-frames:

Month/Year	SSER Score
12/2014	50%
03/2015	65%
06/2015	85%
09/2015	100%

59. If the 100% of SSER objective is met, it must be maintained by Protestant annually for a period of two consecutive calendar years.
60. Nissan proposes the condition that Protestant undertakes the necessary sales and marketing promotion activities to achieve these objectives. (See Section 3.A. of Exhibit A). If the 100% of SSER objective is met, it must be maintained by Protestant annually for a period of two consecutive calendar years. Nissan further proposes that Protestant must spend at least (on a per unit sold basis) for advertising (dedicated to only the Nissan brand vehicles) an amount equal to the 2013 NADA average¹³ per unit advertising expense for all dealerships (or \$616 per unit sold). Protestant must achieve this spending level each month for the period of time starting now through September, 2015. Nissan will require that it be able to verify this advertising amount, using the appropriate advertising line that appears on the monthly financial statements submitted to Nissan. Protestant must also provide the supporting invoices, tear sheets or any other reasonable documentation necessary and required by Nissan to prove that the subject advertising was dedicated to promoting only Nissan brand vehicles.
61. Nissan proposes the condition that Protestant at all times employ a sufficient number of qualified sales persons to achieve this objective. (See Exhibit G).
62. Nissan proposes the condition that Protestant recognize and serve all Nissan customers in its PMA as being part of its assigned territory regardless of their educational, economic, ethnic or geographic status, and take all necessary steps to serve those customers, including employing adequate numbers of sales staff that speak the predominant languages spoken by the public in its PMA, and adequately advertising and marketing in the predominant languages spoken in all parts of its PMA. (See Section 3.A of Exhibit A).
63. Nissan proposes the condition that Protestant conducts its dealership operations during hours which are reasonable and convenient for customers during such days and hours as

¹³ NADADData, page 18 attached hereto as Exhibit L.

are customarily and lawfully open in Protestant's primary market area, including Saturday service. (See Section 6 of Exhibit A).

64. The failure of any one of above conditions, including the failure to meet any 3-month "stair step" sales objective provided above, will result in the immediate termination of Protestant's Nissan franchise.

These conditions will ensure that Protestant meets its obligations to promote and sell Nissan products, and to serve the public in its Primary Market Area.

Dated: August 13, 2014

BAKER & HOSTETLER LLP

By: 

Matrice Sanchez
Lisa M. Gibson

Attorneys for Respondent
NISSAN NORTH AMERICA, INC.

Exhibit A

THE DEALER AGREEMENT

The "Standard Provisions" of the "Nissan Dealer Sales and Service Agreement" provide, in pertinent part, the following:

Section 1. Definitions

....

G. "Competitive Vehicles" shall mean those new vehicles which are considered by Seller [Nissan] to be directly competitive with Nissan Vehicles.

....

N. "Primary Market Area" shall mean the geographic area which is designated from time to time as the area of Dealer's sales and service responsibility for Nissan Products... Seller reserves the right, in its reasonable discretion, to issue new, superseding "Notices of Primary Market Area" to Dealer from time to time.

....

Q. "Executive Manager" shall mean the person named as Executive Manager in ... this Agreement upon whose personal qualifications, expertise, reputation, integrity, experience, ability and representations that he or she shall devote his or her primary efforts to and have full managerial authority and responsibility for the day-to-day management and performance of Dealer, Seller has relied in entering into this Agreement.

....

Section 3. Vehicle Sales Responsibilities of Dealer

A. General Obligations of Dealer.

Dealer shall actively and effectively promote through its own advertising and sales promotion activities the sale at retail ... of Nissan Vehicles to customers located within Dealer's Primary Market Area. Dealer's Primary Market Area is a geographic area which Seller uses as a tool to evaluate Dealer's performance of its sales obligations... Seller may, in its reasonable discretion, change Dealer's Primary Market Area from time to time.

B. Sales of Nissan Cars and Nissan Trucks.

Dealer's performance of its sales responsibility for Nissan Cars and Nissan Trucks will be evaluated by Seller on the basis of such reasonable criteria as Seller may develop from time to time, including for example:

1. Achievement of reasonable sales objectives which may be established from time to time by Seller for Dealer as standards of performance;

Exhibit A

2. Dealer's sales of Nissan Cars and Nissan Trucks in Dealer's Primary Market Area and/or metropolitan area in which Dealer is located, as applicable, or Dealer's sales as a percentage of:

(i) registrations of Nissan Cars and Nissan Trucks;

(ii) registrations of Competitive Vehicles;

....

3. A comparison of Dealer's sales and/or registrations to sales and/or registrations of all other Authorized Nissan Dealers combined in Seller's Sales Region and District in which Dealer is located. . . ; and

4. A comparison of sales and/or registrations achieved by Dealer to the sales or registrations of Dealer's competitors.

....

D. Additional Factors for Consideration

Where appropriate in evaluating Dealer's sales performance, Seller will take into account such reasonable criteria as Seller may determine from time to time, including, for example, the following: the Dealership Location; the general shopping habits of the public in such market area; the availability of Nissan vehicles to Dealer . . . ; any special local marketing conditions that would affect Dealer's sales performance differently from the sales performance of other Authorized Nissan Dealers; the recent and long term trends in Dealer's sales performance; the manner in which Dealer has conducted its sales operations (including advertising, sales promotion, and treatment of customers); and the other factors, if any, directly affecting Dealer's sales opportunities and performance.

....

H. Evaluation of Dealer's Sales Performance

Seller will periodically evaluate Dealer's performance of its [sales] responsibilities...Dealer shall have the opportunity to comment, in writing, on such evaluations. Dealer shall promptly take such action as may be required to correct any deficiencies in Dealer's performance of its [sales] responsibilities...".

Section 6. Other Seller and Dealer Responsibilities

....

D. Hours of Operations.

Dealer recognizes that the service and maintenance needs of the owners of Nissan Products and Dealer's own responsibilities to actively and effectively promote the sale of Nissan Products can be met only if Dealer keeps its Dealership Facilities open and conducts all of its Dealership Operations . . . during hours which are reasonable and convenient for Dealer's

Exhibit A

customers. Accordingly, Dealer shall maintain its Dealership Facilities open for business and shall conduct all Dealership Operations required under this Agreement during such days and hours as automobile dealers' sales and service facilities are customarily and lawfully open in Dealer's Primary Market Area...

Section 12. Termination

....

B. Termination by Seller for Non-Performance by Dealer.

1. If, based upon the evaluations thereof made by Seller, Dealer shall fail to substantially fulfill its responsibilities with respect to:

a. Sales of new Nissan Vehicles and the other responsibilities of Dealer set forth in Section 3 of this Agreement;

....

Seller shall notify Dealer of such failure and will review with Dealer the nature and extent of such failure and the reasons which, in Seller's or Dealer's opinion, account for such failure.

Thereafter, Seller will provide Dealer with a reasonable opportunity to correct the failure. If Dealer fails to make substantial progress towards remedying such failure before the expiration of such period, Seller may terminate this Agreement by giving Dealer notice of termination...

Exhibit A

Exhibit B



NISSAN NORTH AMERICA, INC.

West Region
20 Pacifica
Suite 1200
Irvine, CA 92618

Via Certified Mail --Return Receipt Requested

Personal and Confidential

January 14, 2013

Mr. Ernest L. Courtright
Principal Owner
Santa Cruz Nissan
1616 Soquel Avenue
Santa Cruz, CA 95062

Re: **Notice of Termination Pursuant to the Nissan Dealer Sales and Service Agreement and Pursuant to Section 3060(a)(1)(A) of the California Vehicle Code**

Dear Mr. Courtright:

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days after receiving this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.

Effective February 2, 1989, the Nissan Motor Corporation in U.S.A., now known as Nissan North America, Inc. ("Nissan" or "Seller") and Santa Cruz Nissan ("Dealer"), entered into a Nissan Dealer Sales and Service Agreement (the "Agreement") establishing Dealer as an authorized dealer of Nissan Products. Dealer agreed under the terms and conditions of the Agreement, to assume certain obligations and responsibilities as a Nissan Dealer, in exchange for the rights granted to it under the Agreement. Nissan has determined that Dealer has failed to comply with its obligations under the Agreement.

On March 19, 2012, Nissan sent a letter to provide Dealer with formal written Notice of Default pursuant to section 12.B of the Agreement. The Notice of Default outlined the severity of Dealer's substantial and material breaches of the Agreement and gave the Dealer an opportunity to improve and cure these breaches of the Agreement. To allow Dealer additional time to meet its contractual obligations and cure the material breaches of the Agreement, Nissan extended the time frame to cure the outlined defaults by letter dated October 5, 2012 (this extension and the Notice of Default will be collectively referred to as the "NOD"). Since the issuance of the NOD, Dealer has not taken necessary action to cure the substantial and material breaches that led to the NOD, no substantial and sustained

Mr. Ernest L. Courtright, Principal Owner
Santa Cruz Nissan
January 14, 2013

progress towards improvement or compliance with Dealer's obligations under the Agreement has been made, and the severity of these defaults continues.

Notwithstanding the additional time provided, as of the date of this letter; Dealer has failed to cure the defaults outlined in the NOD as extended. Accordingly, Nissan hereby gives notice of its intent to terminate Dealer's Agreement pursuant to Section 12.8 of the Standard Provisions of the Agreement and Section 3060(a)(1)(A) of the California Vehicle Code, effective sixty (60) days from receipt of this notice.

As outlined in the NOD, the factors listed below, separately or jointly, constitute good cause for this Notice of Termination.

Unsatisfactory Sales Penetration Performance

Section 3 of the Standard Provisions of the Agreement provides the sales responsibilities of the Dealer, as follows:

"Section 3. Vehicle Sales Responsibilities of Dealer

A. General Obligations of Dealer.

Dealer shall actively and effectively promote through its own advertising and sales promotion activities the sale at retail (and if Dealer elects, the leasing and rental) of Nissan Vehicles to customers located within Dealer's Primary Market Area. Dealer's Primary Market Area is a geographic area which Seller uses as a tool to evaluate Dealer's performance of its sales obligations hereunder. . . .

B. Sales of Nissan Cars and Nissan Trucks.

Dealer's performance of its sales responsibility for Nissan Cars and Nissan Trucks will be evaluated by Seller on the basis of such reasonable criteria as Seller may develop from time to time, including for example:

- 1. Achievement of reasonable sales objectives which may be established from time to time by Seller for Dealer as standards for performance;*
- 2. Dealer's sales of Nissan Cars and Nissan Trucks in Dealer's Primary Market Area and/or the metropolitan area in which Dealer is located, as applicable, or Dealer's sales as a percentage of:
 - (i) registration of Nissan Cars and Nissan Trucks;*
 - (ii) registration of Competitive vehicles;*
 - (iii) registration of Industry Cars;*
 - (iv) registration of vehicles in the Competitive Truck Segment;**
- 3. A comparison of Dealer's sales and/or registrations to sales and/or registrations of all other Authorized Nissan Dealers combined in Seller's Sales Region and District in which Dealer is located. . ."*

Mr. Ernest L. Courtright, Principal Owner
Santa Cruz Nissan
January 14, 2013

The NOD summarized Dealer's sales penetration performance in both the competitive car and competitive truck segments with a comparison of the average regional sales penetration in the total competitive vehicle segments and demonstrated Dealer's failure to comply with these performance obligations. The following provides an update of Dealer's sales penetration performance since the issuance of the NOD.

Retail Sales Penetration: Santa Cruz Nissan
Competitive Sales Penetration as a Percentage

Santa Cruz Nissan - Santa Cruz, CA	Oct-12 R-12	CY 2011	CY 2010	CY 2009	CY 2008
Dealer Sales Penetration	3.40%	5.41%	4.75%	5.30%	6.28%
Regional Sales Penetration	8.87%	10.02%	9.38%	8.86%	7.45%
Segment Adjusted RSE	37.3%	51.6%	45.9%	56.3%	81.8%
Dealer Vehicle Sales	194	204	150	152	202
Projected Sales at 100% RSE	520	396	327	270	247
Net Unit Gain/(Loss)	(326)	(192)	(177)	(118)	(45)
Regional Ranking	191/196	187/194	181/196	175/194	106/138
State Ranking	98/99	95/97	95/98	93/98	90/102

The above data demonstrates Dealer's prolonged failure to adequately represent Nissan in the Santa Cruz market or to fulfill its responsibilities regarding sales of Nissan vehicles under Section 3 of the Agreement. As described in more detail in the NOD, Nissan has been counseling Dealer regarding declining sales penetration performance for many years. Dealer's sales penetration for at least the past six (6) full calendar years, has not met 100% regional sales effectiveness. Dealer now ranks 191 of 196 in the West Region and 98 of 99 dealers in the State of California. Dealer's sales penetration performance has continued to decline since the issuance of the NOD.

Since the issuance of the NOD, Nissan continued to meet with Dealer to discuss the deficient sales penetration performance. During many of these contacts, the Dealer Operations Manager ("DOM"), Area General Manager ("AGM"), and/or Regional Vice President ("RVP") discussed with Dealer the inadequate sales penetration performance. Additionally, Nissan has also communicated in writing with Dealer regarding Nissan's serious concerns with Dealer's poor sales penetration and operational deficiencies. Notwithstanding the communications regarding the need for improved performance, Dealer's performance has not improved, and as of the date of this notice remains alarmingly below regional average. As an alternative response to the NOD deficiencies, Dealer submitted a Buyer Assist Letter dated September 18, 2012, indicating Dealer's willingness to divest of the Nissan dealership assets. However, to date, Nissan has yet to receive any proposed asset purchase agreement.

For the reasons stated in the NOD, and without waiving any additional breaches of the Agreement which may exist or occur, Nissan asserts that Dealer has breached the Agreement in a manner that warrants termination of your Agreement in accordance with the terms thereof. Accordingly, Nissan hereby gives notice of its intent to terminate Dealer's Agreement pursuant to Section 12.B of the Standard Provisions of the Agreement and Section 3060(a)(1)(A) of the California Vehicle Code, effective sixty (60) days from receipt of this notice.

Mr. Ernest L. Courtright, Principal Owner
Santa Cruz Nissan
January 14, 2013

Termination Requirements:

As of the effective date of termination, you must refrain from the further distribution and sale of new Nissan Products, remove from your place of business and discontinue use of all signs, trademarks or trade names of Nissan used by you in connection with the sale and distribution of Nissan Products, refrain from any further advertising or publicity referring to Nissan Products, Nissan Motor Co., Ltd., or Nissan North America, Inc., return to Nissan all advertising materials provided by Nissan to you free of charge and otherwise comply fully with all of the provisions of the Nissan Dealer Sales and Service Agreement regarding a dealer's duties upon termination.

Termination of the Nissan Dealer Sales and Service Agreement terminates any rights provided to Dealer under the Agreement to use Nissan trademarks and/or trade dress, including, without limitation, Dealer's Nissan signage. Pursuant to Section 15.1 of Dealer's NREDI Sign Program - Lease and Maintenance Agreement ("Sign Lease"), termination of Nissan's Sales and Service Agreement shall constitute a default under the Sign Lease. As such, Nissan Motor Acceptance Corporation ("NMAC") shall be entitled to pursue its rights set forth within Section 15.2 of the Sign Lease, including, without limitation, the right to terminate the Sign Lease (on behalf of NMAC, this document constitutes written notice of termination of the Sign Lease), the right to recover past and future Rents owed by Dealer under the Sign Lease, and the right to recover Rents and other amounts owed directly from Dealer's NNA Non-Vehicle Account. Further, pursuant to Sections 6.1, 15.2 and 15.5 of the Sign Lease, Nissan, NMAC and/or their designated Supplier shall have the right (with or without notice to Dealer) to enter Dealer's premises and disassemble, pack and crate (at Dealer's cost and expense) all signs subject to the Sign Lease and remove said signs from Dealer's possession and/or premises. The Sign Lease shall govern the terms and conditions under which Dealer's Nissan signage shall be removed from Dealer's Dealership Facilities.

Termination of the Nissan Dealer Sales and Service Agreement also terminates any Dealer Equipment Lease and/or Software License between Dealer and Nissan. You will be advised in writing of your obligations under that license and the procedures for returning the software and/or equipment to Nissan.

Within thirty (30) days from the effective date of termination, you should deliver to Nissan's West regional office a detailed inventory listing any items referred to in Sections 12.B.2 and 12.B.3 of the Standard Provisions, and requesting that Nissan fulfill any repurchase obligations that it may have thereunder or under any applicable state law and of which you wish to take advantage.

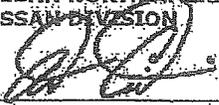
Nissan does not waive any additional breaches of the Agreement that may exist now or in the future, or to its right to issue a Notice of Termination or Notice of Default as to such breach or breaches at a later time.

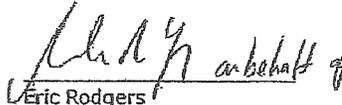
If any clarification or assistance is required regarding the foregoing, please contact the West Region - North Regional Vice President, Eric Rodgers.

Mr. Ernest L. Courtright, Principal Owner
Sarıta Cruz Nissan
January 14, 2013

Sincerely,

NISSAN NORTH AMERICA, INC.
NISSAN DIVISION


Albert Castignetti
Vice President
General Manager, Nissan Division

 on behalf of Eric Rodgers
Eric Rodgers
Regional Vice-President
West Region - North

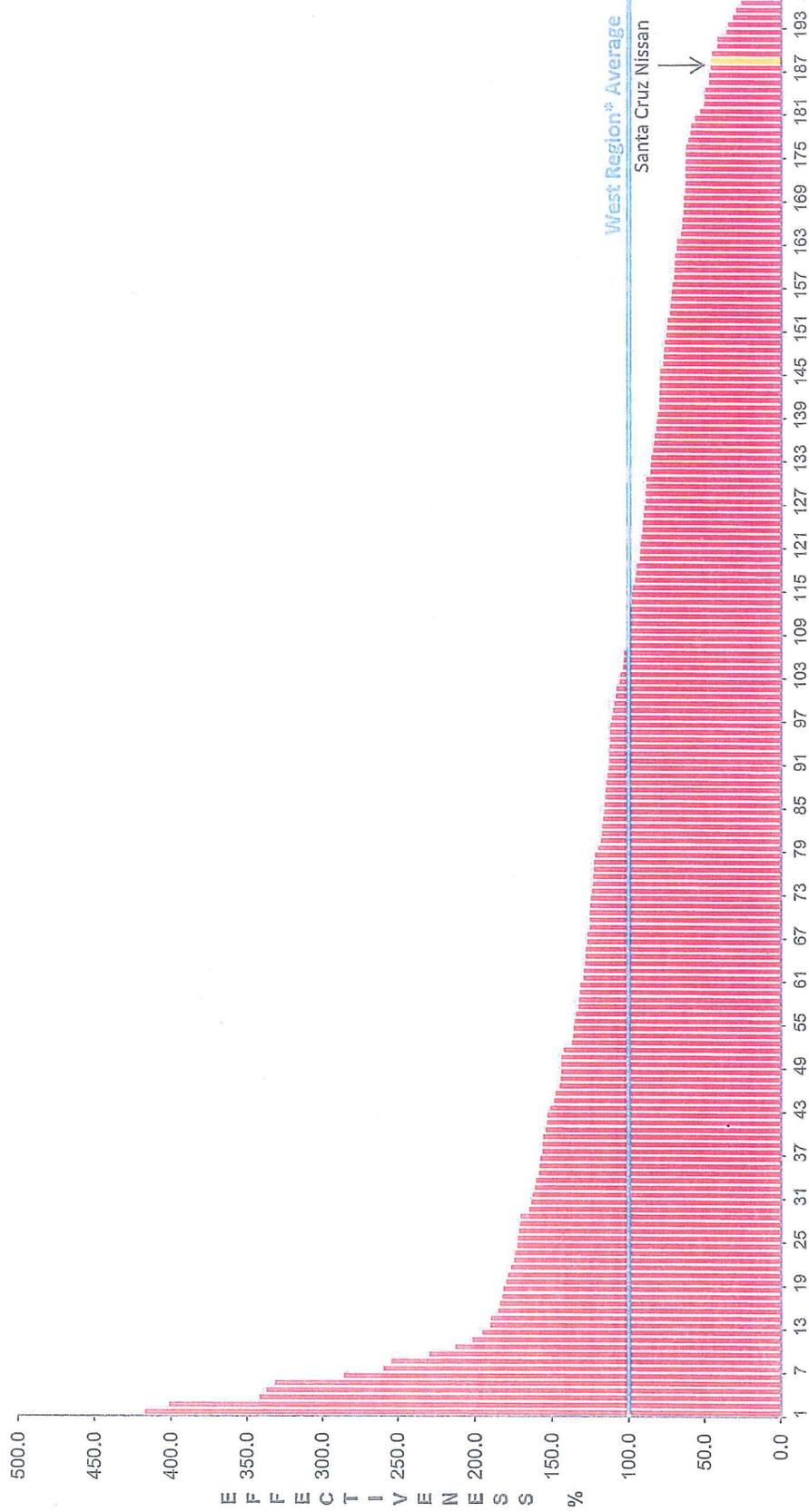
cc: California New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95814

Exhibit C

Nissan North America



West Region Nissan Dealers' Retail Sales Effectiveness to West Region* Average December 2010 CYTD

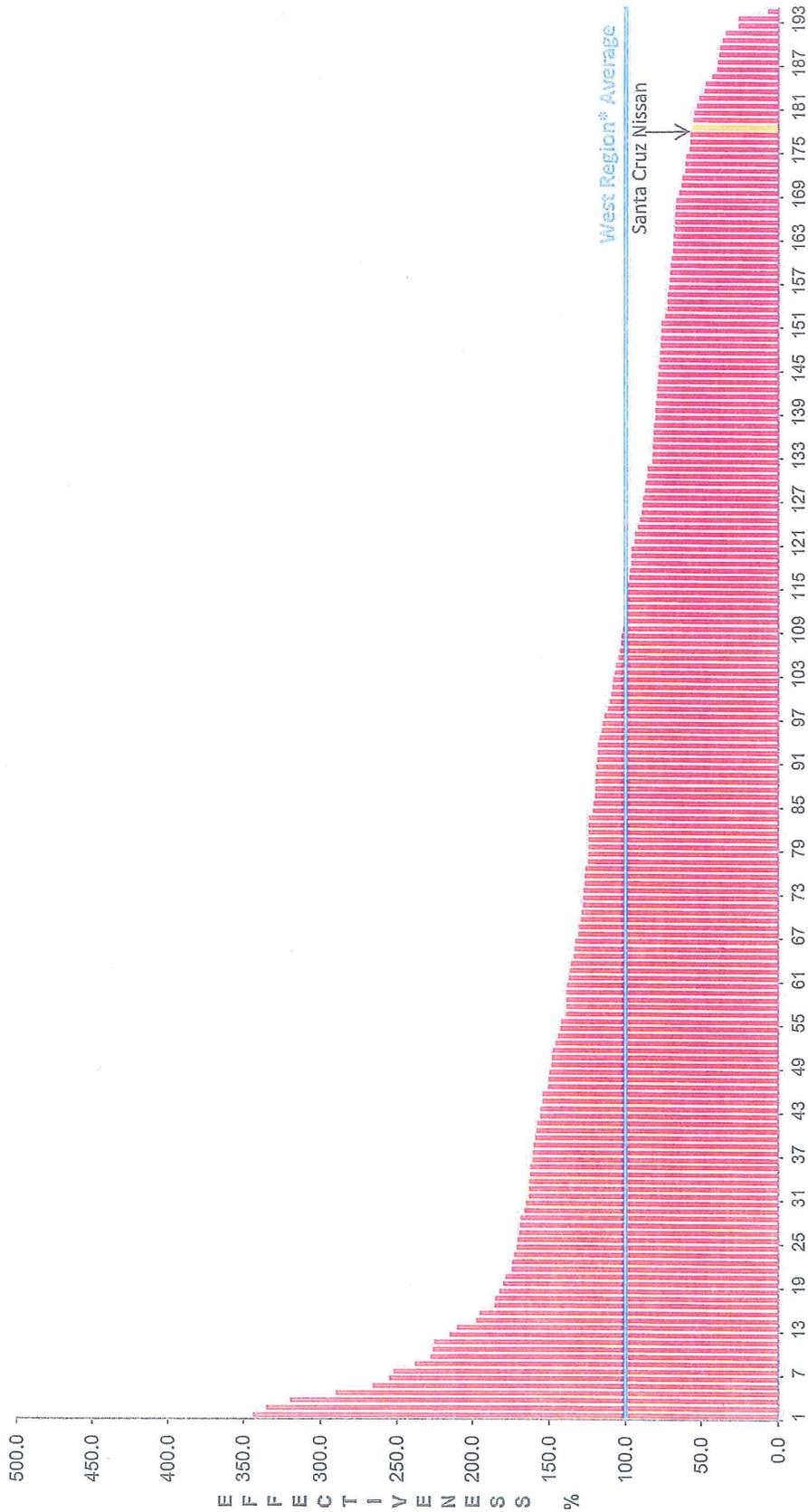


Data By: Nissan Dealer Performance Measurement (DPM)
 Data Ref: Dec 2010 CYTD
 * Average Sales Penetration of Nissan Dealers in the West Region Adjusted for Local Segment Popularity
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 Urban Science Applications (Inc. Detroit, MI)
 Serial Number: 7424711



Nissan North America

West Region Nissan Dealers' Retail Sales Effectiveness to West Region* Average December 2009 CYTD



Data By: Nissan Dealer Performance Measurement (DPM)
 Data Ref: Dec 2009 CYTD

Urban Science/Applications, Inc., Deerfield, WI
 Urban Science

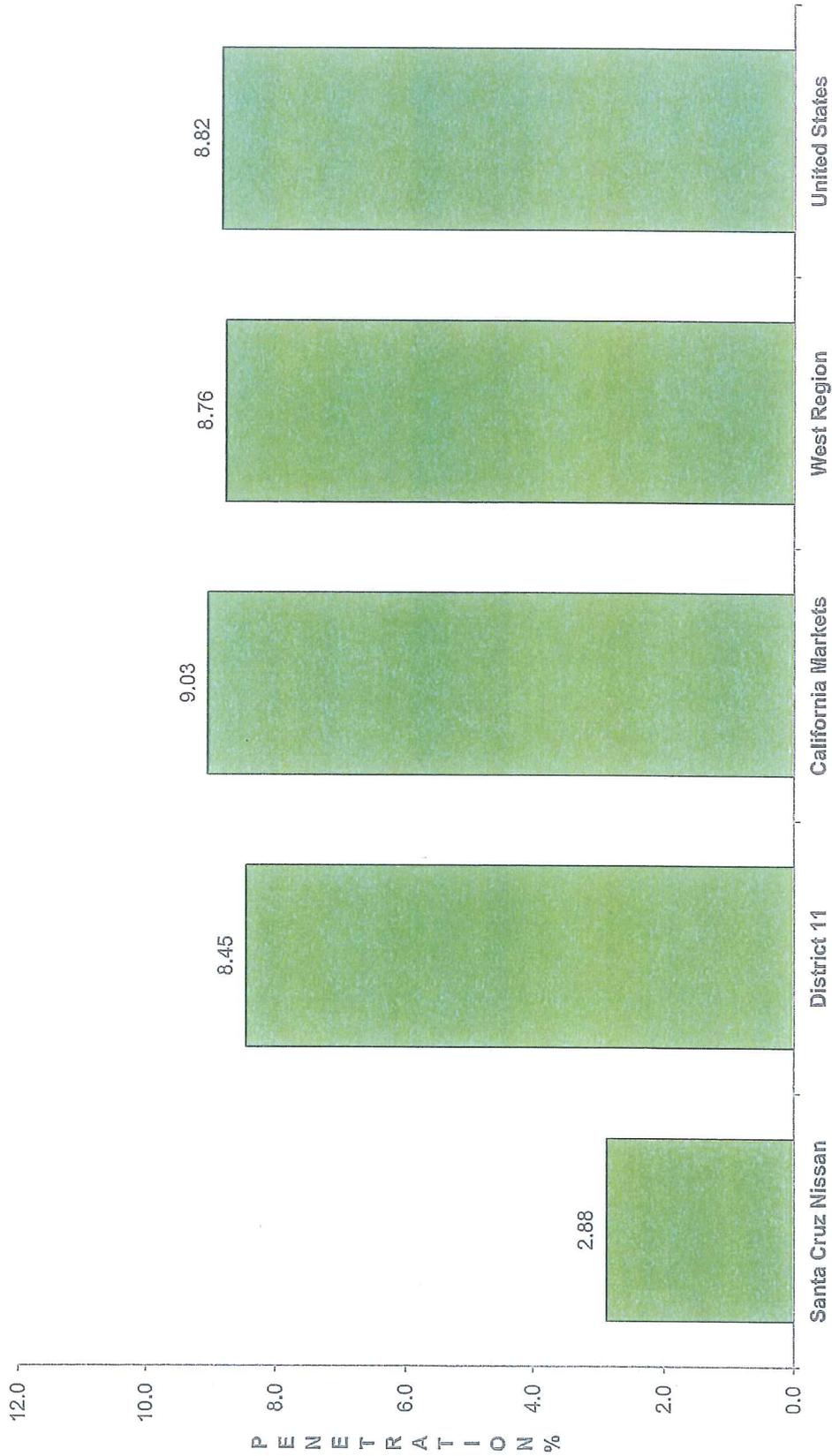
* Average Sales Penetration of Nissan Dealers in the West Region Adjusted for Local Segment Popularity
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Exhibit D

Confidential



Retail Sales Penetration Comparison of Competitive Industry December 2012 CYTD



Confidential

NNA04701

Nissan Car and Truck
Retail Sales Penetration Comparison of Competitive Industry

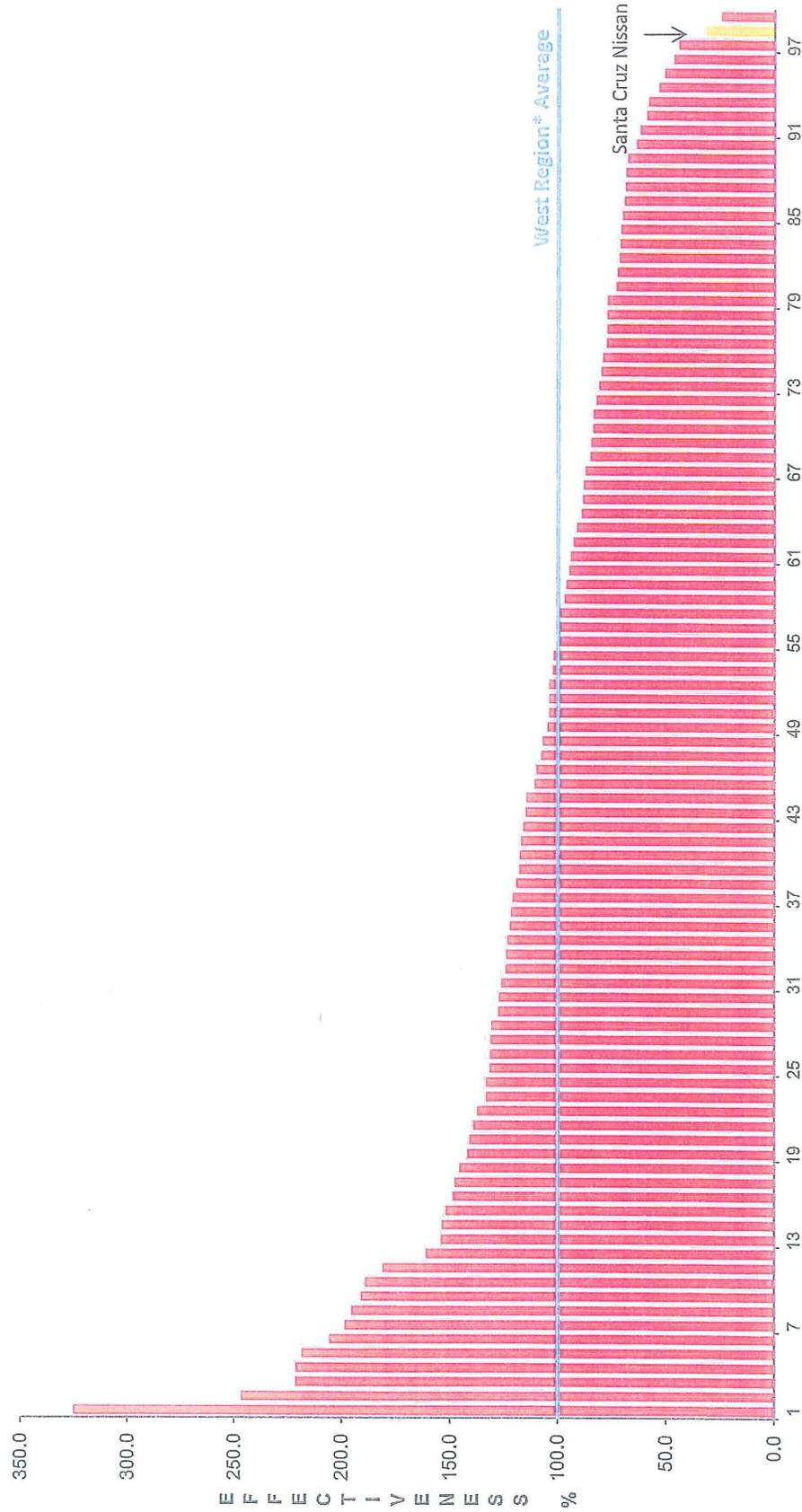
Year	Santa Cruz Nissan	District 09	District 11	California Markets	Northwest Region	West Region	United States
2008	6.28	7.98	-	9.74	7.45	-	8.95
2009	5.30	-	7.76	9.26	-	8.86	8.96
2010	4.75	-	8.73	9.62	-	9.39	9.52
2011	5.41	-	10.32	10.39	-	10.02	9.48
Oct 2012 R'12	3.40	-	8.57	9.16	-	8.87	8.85
2012	2.88	-	8.45	9.03	-	8.76	8.82

Note: Nissan regions realigned in 2009
Source: USAI using Nissan Sales Penetration Reports, Dealer Performance Measurement (DPM) Reports, and Nissan Sales Performance Reports (SPR)
Geog Ref: Month End Basefiles
712911

Exhibit E



California Nissan Dealers' Retail Sales Effectiveness to West Region* Average December 2012 CYTD



Data By: Nissan Sales Effectiveness Report (SER)
Data Ref: Dec 2012 CYTD



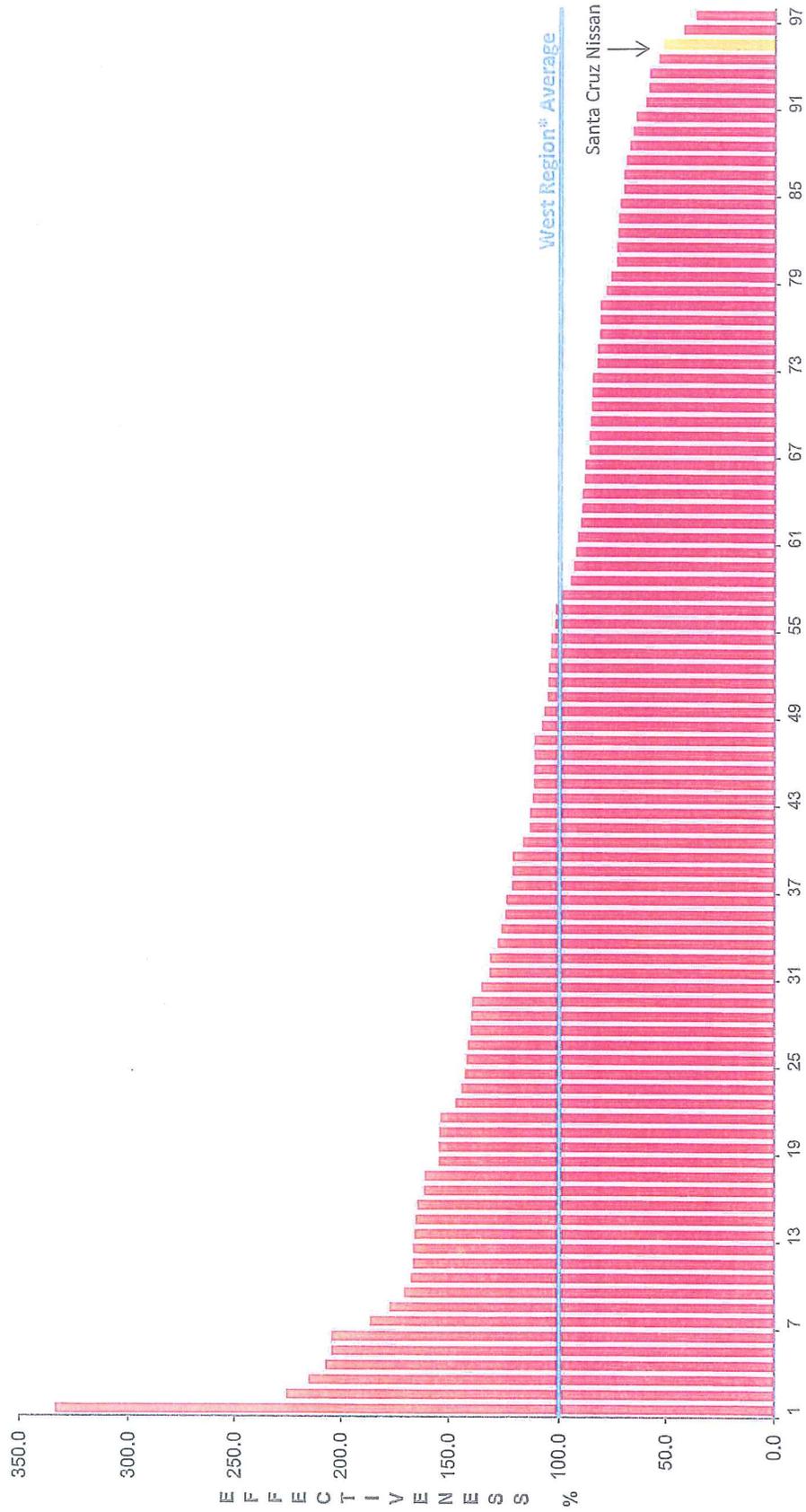
* Average Sales Penetration of Nissan Dealers in the West Region Adjusted for Local Segment Popularity
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Confidential

Nissan North America



California Nissan Dealers' Retail Sales Effectiveness to West Region* Average December 2011 CYTD



Data By: Nissan Sales Effectiveness Report (SEER)
Data Ref: Dec 2011 CYTD

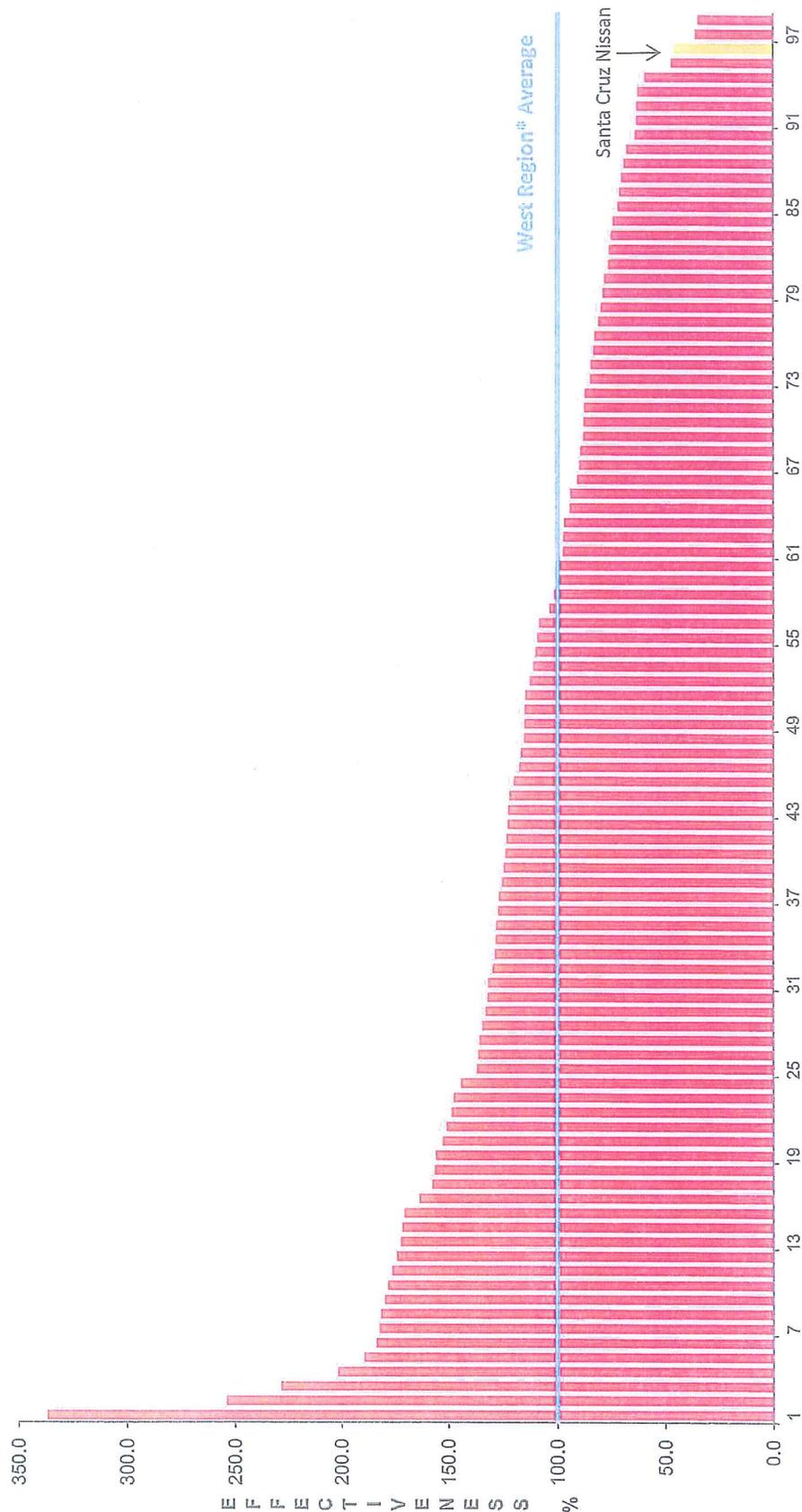
* Average Sales Penetration of Nissan Dealers in the West Region Adjusted for Local Segment Popularity
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Nissan North America

California Nissan Dealers' Retail Sales Effectiveness to West Region* Average December 2010 CYTD





Nissan North America

California Nissan Dealers' Retail Sales Effectiveness to West Region* Average December 2009 CYTD

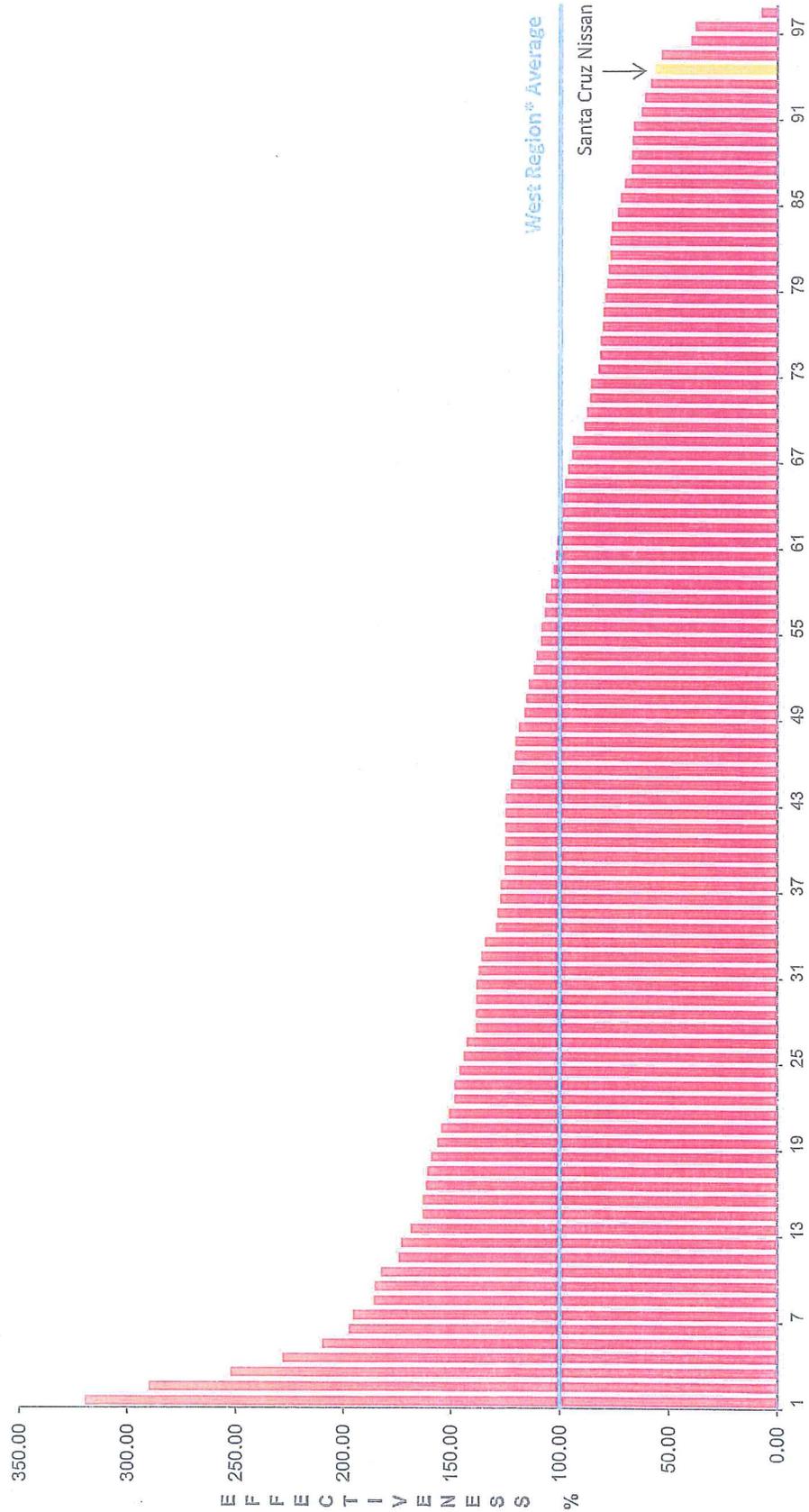


Exhibit F

NISSAN

NISSAN NORTH AMERICA, INC.
Corporate Office
P.O. Box 685001
Franklin, TN 37068-5001
Telephone: 615-725-1000

May 3, 2012

VIA FEDEX

Mr. Ernest L. Courtright
Santa Cruz Nissan 063B
1616 Soquel Ave
Santa Cruz, CA 95062

Re: Changes to Primary Market Area

Dear Mr. Courtright,

This letter is to inform you that Nissan North America, Inc. (Nissan) has revised your Primary Market Area (PMA) as provided in section 1.N of the standard provisions of your Dealer Sales and Service Agreement.

Every 10 years the US government releases new Census figures as called for by the constitution. The recently released 2010 census data reflect population shifts and other demographic trends that have occurred throughout the nation over the previous 10 years of time.

As a result, Nissan has completed a comprehensive review of all Nissan Dealer PMAs on a national basis. In addition to incorporating the revised census data, Nissan also reviewed your PMA based on additional criteria such as: air distance, drive distance, natural boundaries, buyer shopping patterns, and other objective factors. As a result of this review, the attached documents provide information detailing the PMA revisions and your new PMA geography. As you know, your PMA is an evaluation tool and does not affect where you sell vehicles.

Attached you will find the following;

- 1.) Notice of PMA that includes all census tract detail in your new PMA geography
- 2.) PMA Map outlining your new PMA, the census tracts and related geography with major road systems

If you have any questions, please contact your Dealer Operations Manager.

Regards,



Patrick W. Doody
Director, Market Representation
Nissan North America, Inc.

44_0631B

NNA00082



NOTICE OF PRIMARY MARKET AREA

Pursuant to Section 1.N of the Standard Provisions of the Nissan Dealer Sales & Service Agreement (the "Agreement"), the area described by 2010 census tracts in Exhibit A to this Notice, shall be deemed to be the Primary Market Area of the Dealer identified below. Exhibit A is incorporated by reference into this Notice.

This Primary Market Area will be used by Nissan North America, Inc. ("Seller"), to the extent applicable, in the establishment and evaluation of vehicle sales responsibilities of Dealer under Section 3 of the Agreement.

To the extent deemed relevant thereto, such Primary Market Area may also be employed in the establishment or amendment of Guides for the Dealership Facilities and other matters relating to Dealer's dealership operations.

The Primary Market Area described in Exhibit A hereto will be employed by Seller for the foregoing purposes until superseded by a new Notice of Primary Market Area issued to Dealer by Seller. This Notice of Primary Market Area cancels and supersedes any previous Notice of Primary Market Area furnished to Dealer by Seller.

This Notice of Primary Market Area is effective as of May 16, 2012, or such later date, as may be required by any applicable statute.

DEALER:
Santa Cruz Nissan

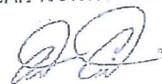
Doing Business As:

City:
Santa Cruz

State:
CA

Dealer Code:
063B

SELLER:
NISSAN DIVISION
NISSAN NORTH AMERICA, INC.


By: Albert Castignetti
Vice President
General Manager, Nissan Division


By: Eric Rodgers
Regional Vice President
West Region North

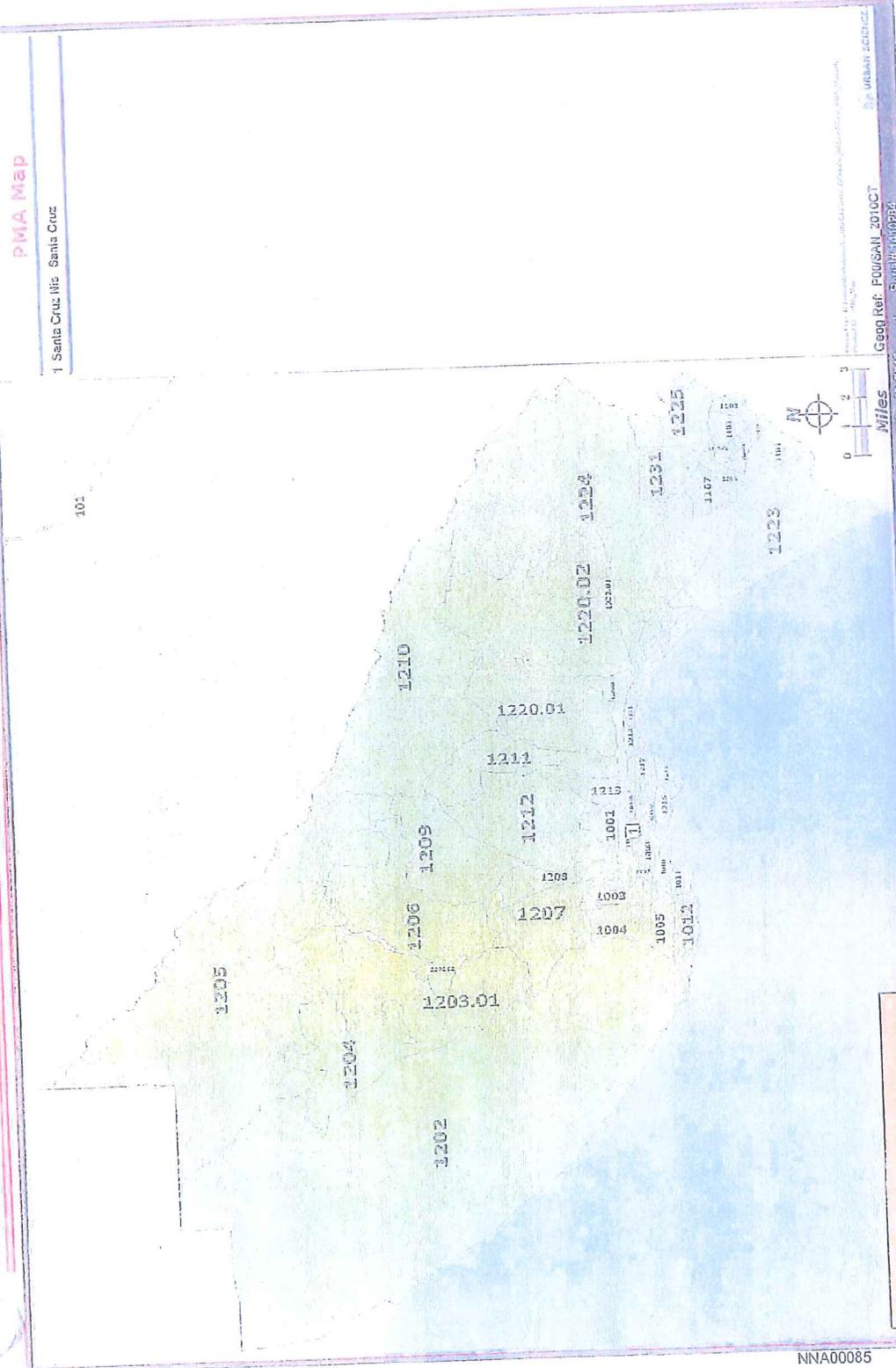
(File this Addendum with Current Sales & Service Agreement)

Santa Cruz CA

NISSAN Nissan North America

PIMA Map

1 Santa Cruz, Ill. Santa Cruz



Map data © 2005-2011 TomTom, All rights reserved. | Data from Mapbox (2012)

Geop Ref: POUGAN 2010CT

Scale: 1:100000

Dealer Code: 033B

NISSAN NORTH AMERICA, INC. 10000 N. CENTRAL EXPRESSWAY, DENVER, CO 80231

NNA00085

**Exhibit A
To
Notice of Primary Market Area**

Dealer Name and Code: Santa Cruz Nissan
Geog. Ref.: SAN_2010CT

063B

This Exhibit A is incorporated by reference in and is a part of the Notice of Primary Market Area issued to the above named Dealer effective 5/16/2012

County: 06087 - SANTA CRUZ						CALIFORNIA
1001.00	1002.00	1003.00	1004.00	1005.00	1006.00	1007.00
1008.00	1009.00	1010.00	1011.00	1012.00	1101.00	1102.00
1103.00	1104.00	1105.01	1105.02	1106.00	1107.00	1202.00
1203.01	1203.02	1204.00	1205.00	1206.00	1207.00	1208.00
1209.00	1210.00	1211.00	1212.00	1213.00	1214.01	1214.02
1214.03	1215.00	1216.00	1217.00	1218.00	1220.01	1220.02
1220.03	1221.00	1222.01	1222.02	1222.03	1223.00	1224.00
1225.00	1231.00					

Total Tracts for this PMA: 51

This Exhibit shows the 2010 Census Tracts that compose the Dealer's Primary Market Area. Each full or partial County and the individual 2010 Census Tracts within those full or partial Counties that are included in the Dealer's assigned market are included for reference. Data on the Dealer's market is collected by Nissan based on this geography including the related levels of geography as required for full data collection.

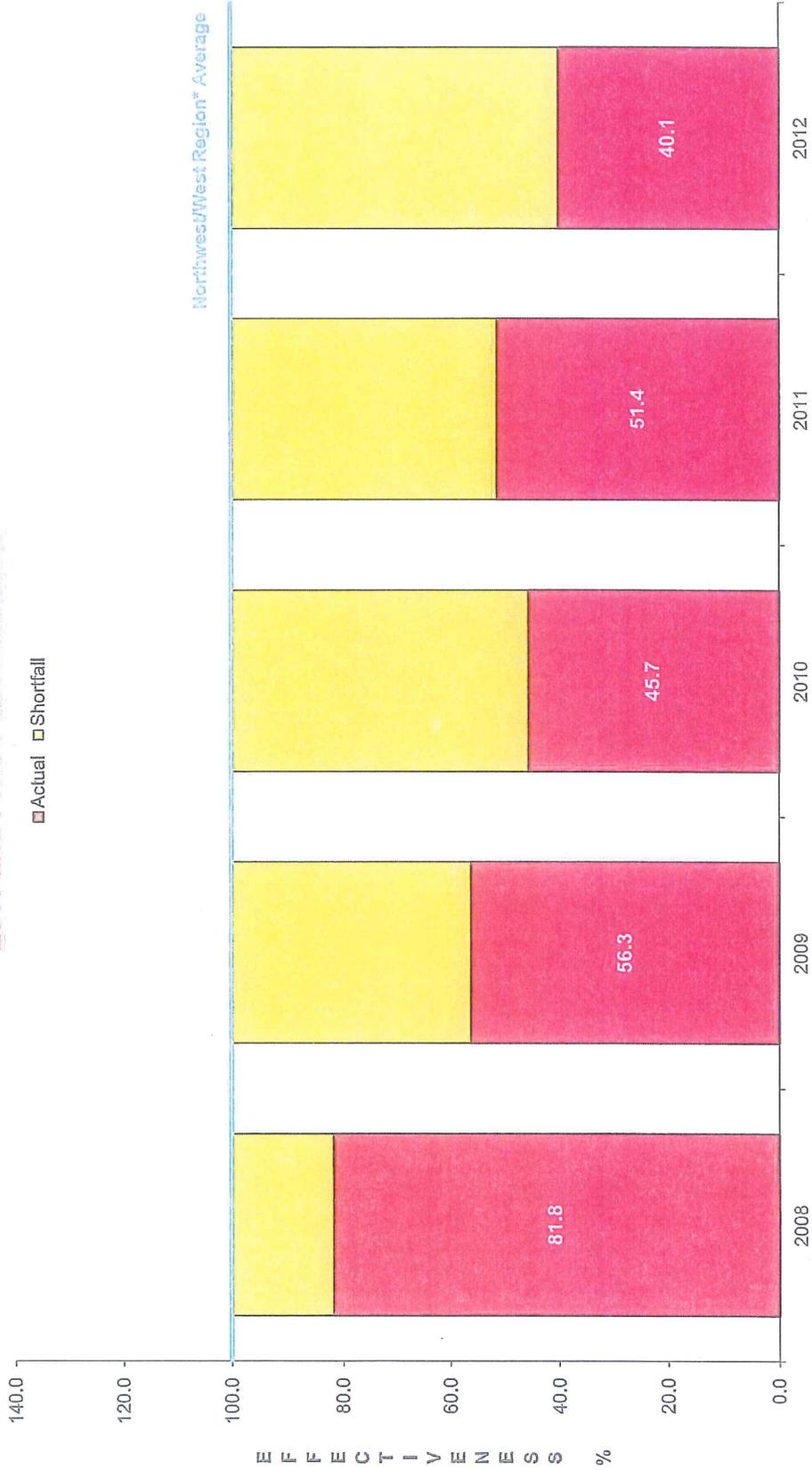
The PMA (Primary Market Area) Map is attached for reference and shows by the area in the yellow tone the Dealer's assigned market as described by 2010 Census Tracts.

Exhibit G

Nissan North America



Santa Cruz Nissan Retail Sales Effectiveness to Northwest/West Region* Average 2011 and Prior PMA Definition



2000 Census Tracts for 2008 - 2011; 2010 Census Tracts for 2012

* Average Annual Sales Penetration of Nissan Dealers in the Northwest/West Region

Adjusted for Local Segment Popularity

Data By: R.L. Polk & Co., Nissan Sales Penetration Report, and
Nissan Sales Performance Report (SPR)

Geog Ref: H00-NISS_SCRUZ_FRG_2011, H10-NISS_SCRUZ_FRG_2011



Slide Number: 7/14/09

Urban Science Applications, Inc., Detroit, MI

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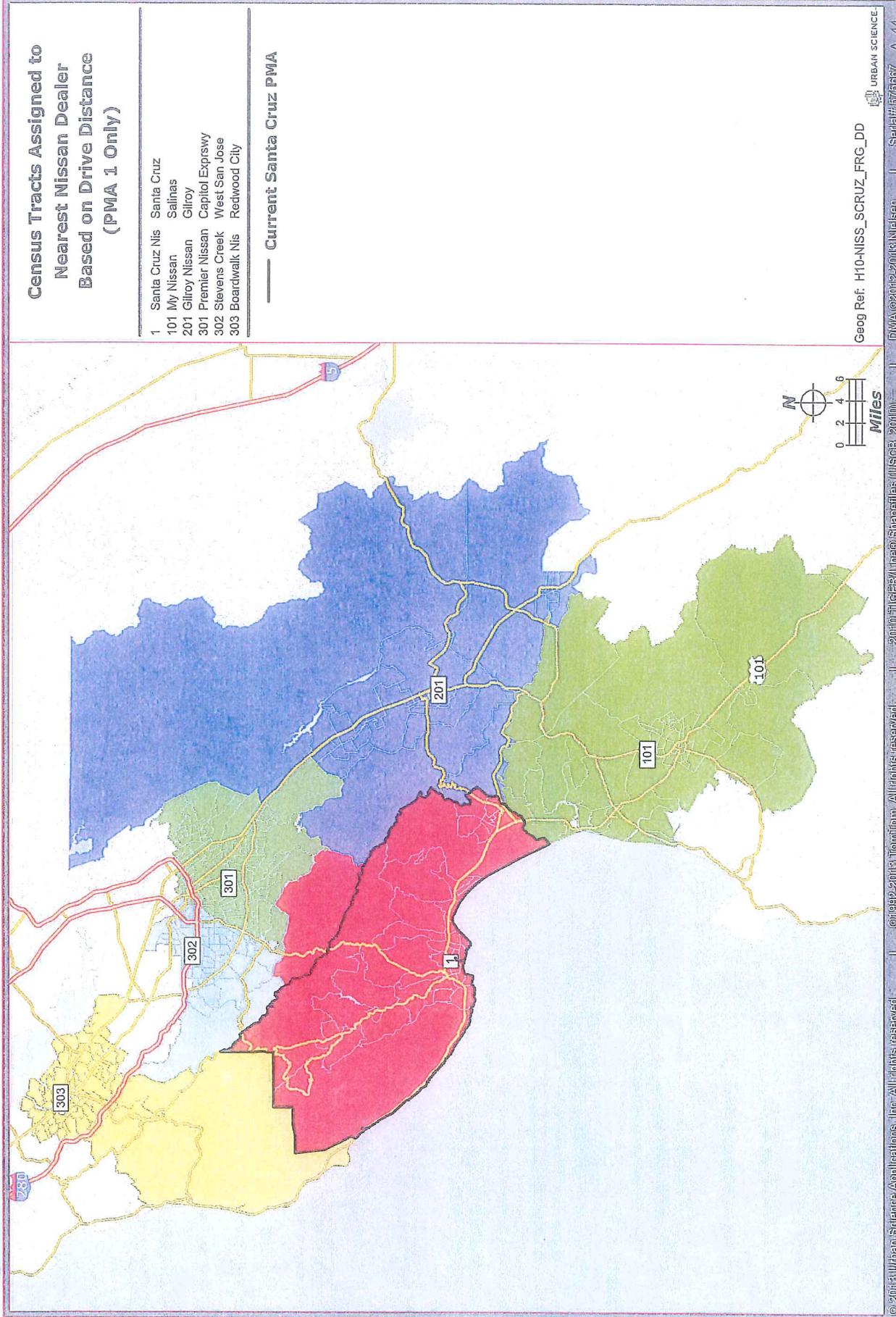
Exhibit H

Confidential

NNA04738

Nissan North America

Santa Cruz Market + Fringe



Confidential

NNA04739

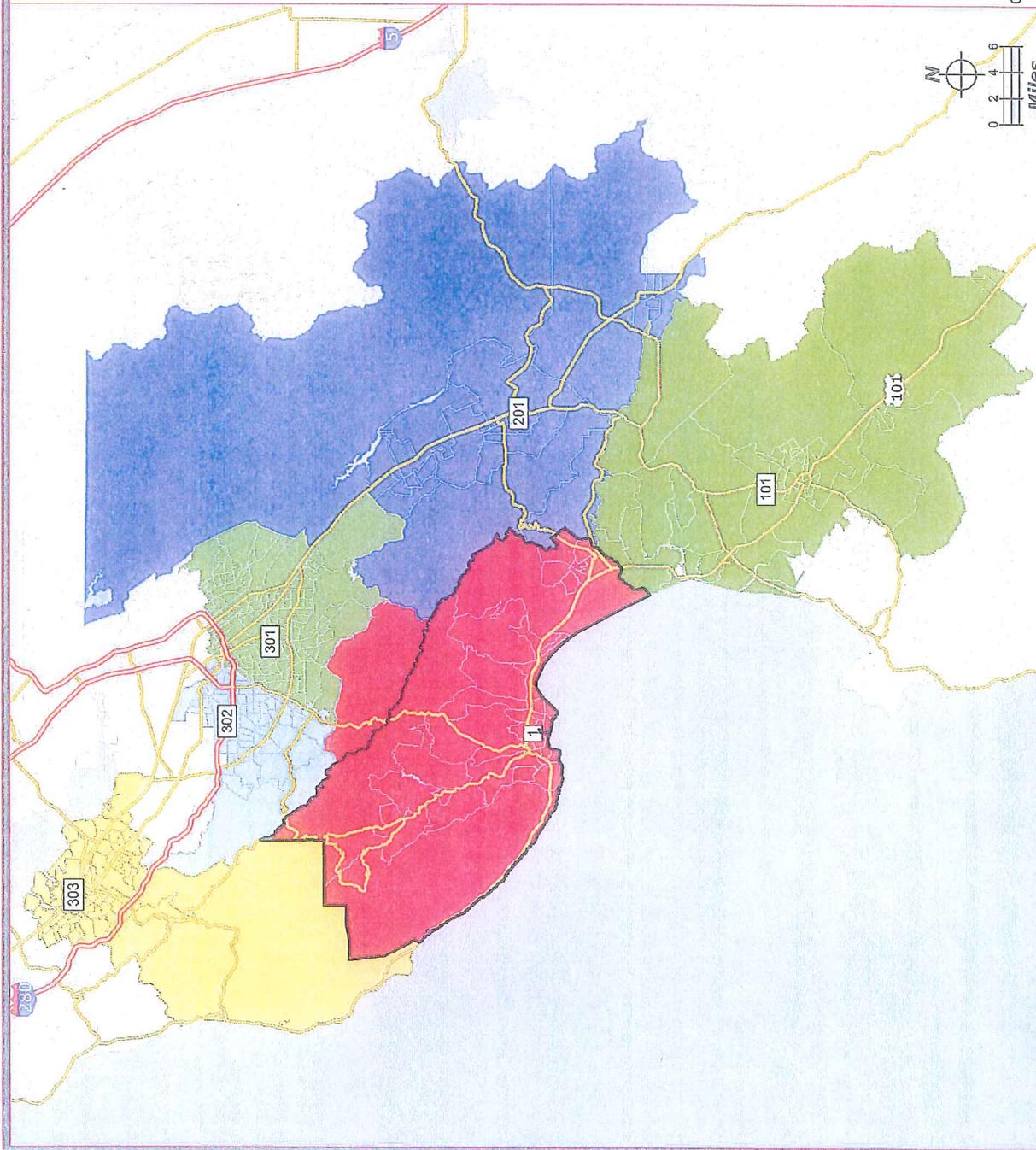
Nissan North America

Santa Cruz Market

**Census Tracts Assigned to
Nearest Nissan Dealer
Based on Drive Time
(PMA 1 Only)**

- | | | |
|-----|----------------|-----------------|
| 1 | Santa Cruz Nls | Santa Cruz |
| 101 | My Nissan | Salinas |
| 201 | Gilroy Nissan | Gilroy |
| 301 | Premier Nissan | Capitol Exprswy |
| 302 | Stevens Creek | West San Jose |
| 303 | Boardwalk Nls | Redwood City |

— Current Santa Cruz PMA



Geog Ref: H10-NISS_SCRUZ_FRG_DT

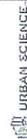


Exhibit I

Confidential

NNA04737

Nissan North America

Santa Cruz Market + Fringe

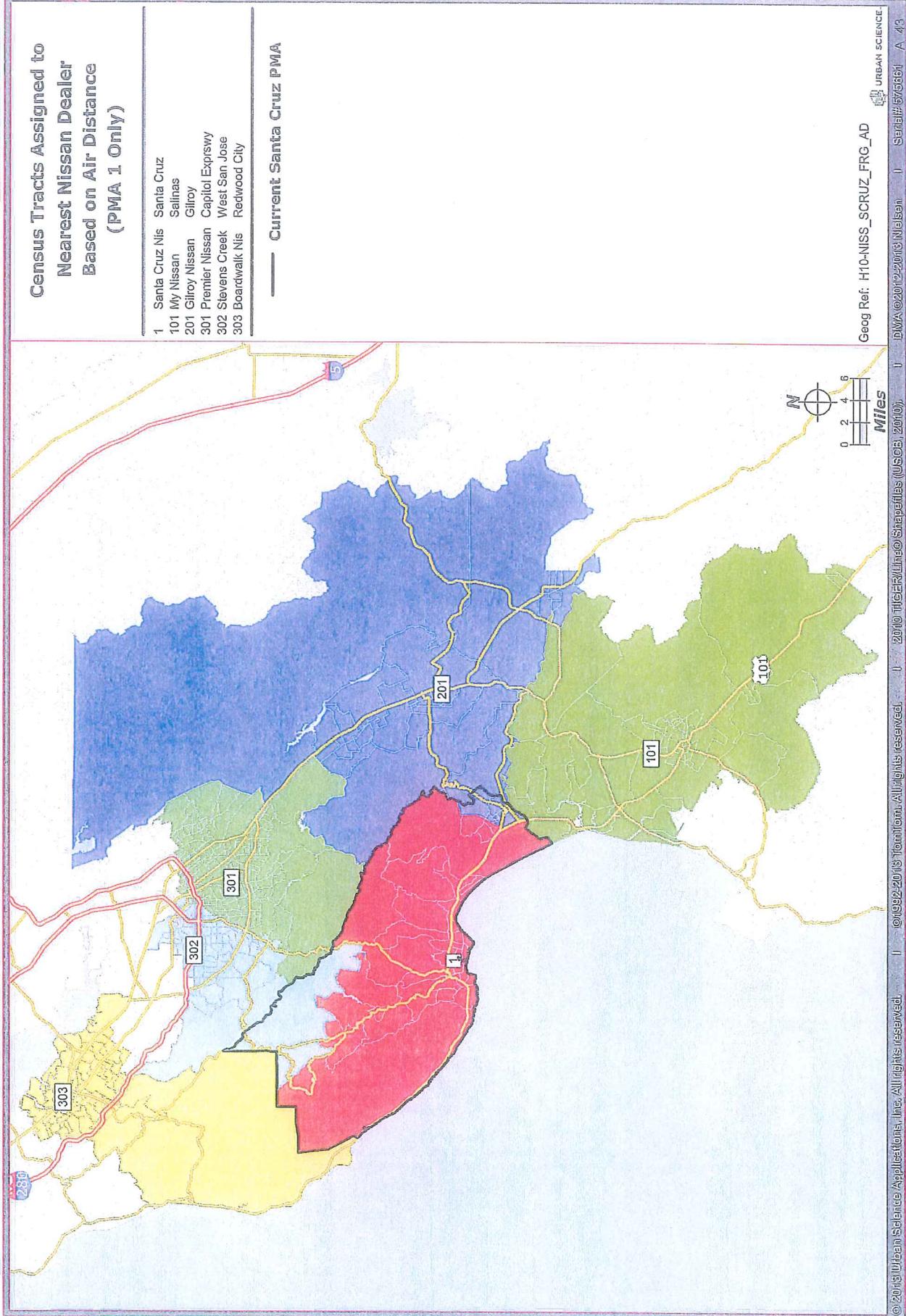


Exhibit J

availability of Nissan Vehicles to Dealer and to other Authorized Nissan Dealers; any special local marketing conditions that would affect Dealer's sales performance differently from the sales performance of other Authorized Nissan Dealers; the recent and long term trends in Dealer's sales performance; the manner in which Dealer has conducted its sales operations (including advertising, sales promotion, and treatment of customers); and the other factors, if any, directly affecting Dealer's sales opportunities and performance.

E. Used Motor Vehicle Sales.

Dealer shall engage in used motor vehicle operations as and to the extent reasonably required for Dealer to effectively perform its responsibilities for the sale of Nissan Vehicles. Subject to requirements and guidelines established by Seller, Dealer shall be entitled to identify such used motor vehicle operations as a part of its Dealership Operations and to apply the Nissan Marks relating to used motor vehicle operations.

F. Dealer Sales Personnel.

Dealer shall organize and maintain a sales organization that includes a sufficient number of qualified and trained sales managers and sales people to enable Dealer to effectively fulfill its responsibilities under this Section 3. Seller may, from time to time, comment on or advise Dealer concerning the qualifications, performance and ability of Dealer's sales personnel as the same affect Dealer's performance of its obligations under this Section 3.

G. Assistance Provided by Seller.

1. Sales Training Courses.

Seller will offer from time to time sales training courses for Dealer sales personnel. Based on its need therefor, Dealer shall, without expense to Seller, have members of Dealer's sales organization attend such training courses and Dealer shall cooperate in such courses as may from time to time be offered by Seller.

2. Sales Personnel.

To further assist Dealer, Seller will provide to Dealer advice and counsel on matters relating to new vehicle sales, sales personnel training and management, merchandising, and facilities used for Dealer's vehicle sales operations.

H. Evaluation of Dealer's Sales Performance. Seller will periodically evaluate Dealer's performance of its responsibilities under this Section 3. Evaluations prepared pursuant to this Section 3.H will be discussed with and provided to Dealer, and Dealer shall have an opportunity to comment, in writing, on such evaluations. Dealer shall promptly take such action as may be required to correct any deficiencies in Dealer's performance of its responsibilities under this Section 3.

Section 4. Determination of Dealer Representation

A. Development of Market Studies.

Seller may, from time to time and in its sole discretion, conduct studies of various geographic areas to evaluate market conditions. Such market studies may, where appropriate, take into account such factors as geographical characteristics, consumer shopping patterns, existence of other automobile retail outlets, sales opportunities and service requirements of the geographic area in which Dealer's Primary Market Area is located, trends in marketing conditions, current and prospective trends in population, income, occupation, and such other demographic characteristics as may be determined by Seller to be relevant to its study. Such studies will make recommendations concerning the market, the Dealership Facilities, and the Dealership Location. Prior to conducting a study which includes the geographic area in which Dealer's

Exhibit K



Sales Effectiveness Report - Represented*
May 2014 Report Month
California State Breakout

Confidential Internal Document
New Report (SSER)

*Data in this report is based on represented PMAs.
 All data segment-adjusted. Expected value is rounded to the nearest whole number. Analysis does not consider NV (LCV) model sales.
 All data reflects full months of operations only. Report will not include dealers that opened in Report Month.
 All data reflects PMAs based on 2010 Census tract geography.

													Twelve Month Rolling				memo: Three Month Rolling			
Region	DMA Name	District Code	Market Name	PMA Name	Dealer Code	PV	Open Date	Dealer Name	Public Dealer State	Dealer Sales	CPTV Regis.	Seg. Adj. Expected Sales @ State Rep. Avg. (SSER)	Seg. Adj. Sales Eff. @ State Rep. Avg. (SSER)	Net Gain /Loss	Dealer Sales	Seg. Adj. Expected Sales @ State Rep. Avg.	Seg. Adj. Sales Eff. @ State Rep. Avg.	Rank		
1	West	LOS ANGELES, CA	03	Los Angeles	Duarte	5380	609	1/17/13	Niss of Duarte	CA	2,088	6,607	743	280.9%	1,345	650	221	293.7%	1	
2	West	LOS ANGELES, CA	05	Los Angeles	Ontario	102C	1,170	3/10/70	Empire Nissan	CA	2,710	10,392	1,175	230.7%	1,535	831	360	230.7%	2	
3	West	SAN FRANCISCO, CA	10	Petaluma CA	Petaluma	322	1,141	5/1/97	North Bay Nis	CA	1,167	4,920	546	213.8%	621	289	150	192.4%	4	
4	West	SACRAMENTO, CA	12	Fairfield CA	Fairfield CA	5249	724	3/8/10	Momentum Nissan	CA	855	4,159	452	189.1%	403	224	132	169.7%	8	
5	West	LOS ANGELES, CA	06	Los Angeles	Cerritos	3387	1,852	2/24/99	Cerritos Nissan	CA	2,491	12,155	1,330	187.2%	1,161	728	399	182.5%	6	
6	West	SAN FRANCISCO, CA	11	San Fran SM	Fremont	5242	1,031	12/30/09	Premier Nissan	CA	1,696	8,545	926	183.2%	770	536	272	197.3%	3	
7	West	LOS ANGELES, CA	03	Los Angeles	L.A. North	042B	1,463	5/13/70	Universal City	CA	3,485	17,103	1,957	178.1%	1,528	1,074	574	187.0%	5	
8	West	YUMA, CA	09	Imperial CA	Imperial	071A	759	11/27/01	Rogers and Rogers	CA	1,057	5,785	631	167.4%	426	322	195	165.4%	9	
9	West	MONTEREY, CA	11	Salinas CA	Salinas	2803	1,186	5/31/00	My Nissan	CA	913	5,018	554	164.9%	359	323	182	177.1%	7	
10	West	LOS ANGELES, CA	05	Los Angeles	Puente Hills	5258	1,387	5/16/10	Puente Hills Nis	CA	2,509	14,436	1,594	157.4%	915	736	488	150.8%	14	
11	West	LOS ANGELES, CA	03	Los Angeles	West Covina	5078	1,748	12/7/06	West Covina Nis	CA	1,959	11,311	1,259	155.6%	700	618	390	158.3%	10	
12	West	PALM SPRINGS, CA	05	Cathedral City CA	Cathedral City	5236	886	11/4/09	Palm Spgs Nis	CA	1,368	7,744	884	154.7%	484	423	275	154.1%	12	
13	West	SACRAMENTO, CA	12	Fairfield CA	Vacaville	5253	430	4/1/10	Nis/Vacaville	CA	730	4,450	474	154.1%	256	215	140	154.1%	11	
14	West	LOS ANGELES, CA	03	Los Angeles	El Monte	5258	871	8/25/10	Ross Nissan	CA	1,660	10,218	1,155	143.7%	505	517	364	142.2%	16	
15	West	SAN DIEGO, CA	07	San Diego	National City	2036	2,856	2/13/97	Mossy Nissan NC	CA	1,951	11,726	1,358	143.6%	593	611	421	145.0%	15	
16	West	LOS ANGELES, CA	06	Los Angeles	Buena Park	5093	2,873	2/13/07	Buena Park Nis	CA	2,825	18,713	2,052	137.7%	773	826	629	131.2%	21	
17	West	LOS ANGELES, CA	05	Los Angeles	Fontana	5159	1,858	4/1/08	Fontana Nissan	CA	1,742	10,975	1,266	137.6%	476	459	392	117.0%	31	
18	West	SACRAMENTO, CA	12	Sacramento	Elk Grove	3773	1,525	8/28/03	Nis/Elk Grove	CA	1,681	11,364	1,227	137.0%	454	454	366	124.0%	28	
19	West	LOS ANGELES, CA	02	Oxnrd Ventr CA	Oxnrd	2867	2,288	4/20/00	Team Nissan	CA	2,087	14,122	1,567	133.2%	520	677	482	140.3%	17	
20	West	SACRAMENTO, CA	12	Sacramento	Roseville CA	2648	1,821	12/23/98	Future Nissan	CA	1,787	12,833	1,358	131.5%	429	496	385	128.6%	24	
21	West	LOS ANGELES, CA	03	Los Angeles	Carson	5230	1,322	9/21/09	Carson Nissan	CA	1,710	12,104	1,326	129.0%	384	522	388	134.6%	19	
22	West	SAN DIEGO, CA	07	San Diego	Escondido	3397	1,786	2/13/97	Mossy Nissan Es	CA	1,501	10,660	1,181	127.1%	320	465	353	131.8%	20	
23	West	LOS ANGELES, CA	06	Los Angeles	Hemet	5181	740	8/11/08	Peddler Nissan	CA	1,683	11,540	1,359	123.9%	324	542	438	123.8%	29	
24	West	FRESNO, CA	11	Fresno	Selma CA	3671	794	1/11/00	Selma Nissan	CA	774	6,099	626	123.5%	148	297	193	153.5%	13	
25	West	SAN FRANCISCO, CA	11	San Fran SM	Sunnyvale	5263	1,090	6/21/10	Nis Sunnyvale	CA	1,642	12,392	1,357	121.0%	285	451	390	115.8%	33	
26	West	LOS ANGELES, CA	06	Los Angeles	Huntington Bch	5163	1,361	4/29/08	Surf City Niss	CA	1,077	8,422	890	121.0%	187	329	262	125.4%	27	
27	West	LOS ANGELES, CA	06	Los Angeles	Long Beach No	5285	1,047	11/19/10	Hooman Nissan	CA	1,685	12,443	1,401	120.2%	284	506	418	121.1%	30	
28	West	SACRAMENTO, CA	12	Tracy CA	Tracy	2494	916	4/12/02	Tracy Nissan	CA	761	5,950	645	118.0%	116	199	186	106.9%	38	
29	West	SAN DIEGO, CA	07	San Diego	Kearny Mesa	3283	1,374	2/13/97	Mossy Nissan Km	CA	1,875	14,329	1,594	117.6%	281	609	465	130.9%	22	
30	West	LOS ANGELES, CA	05	Los Angeles	Redlands	3378	1,487	6/26/96	Metro/Redlands	CA	1,250	9,551	1,067	117.2%	183	443	327	135.4%	18	
31	West	LOS ANGELES, CA	05	Los Angeles	Riverside	3753	1,468	3/30/01	Riverside Nis	CA	1,254	9,395	1,070	117.1%	184	383	343	111.8%	34	
32	West	PALM SPRINGS, CA	05	Indio CA	Indio	3247	1,154	7/26/00	Torre Nissan	CA	1,215	9,525	1,059	114.7%	156	425	325	130.7%	23	
33	West	SAN DIEGO, CA	07	San Diego	Oceanside	3383	2,734	9/30/99	Mossy Nissan Os	CA	2,426	19,322	2,156	112.5%	270	743	640	116.0%	32	
34	West	FRESNO, CA	11	Visalia CA	Visalia	5205	1,199	3/8/94	Visalia Nissan	CA	984	8,542	894	110.1%	90	292	268	109.1%	36	
35	West	LOS ANGELES, CA	05	Los Angeles	Moreno Valley	5305	1,498	4/29/11	Raceway Nissan	CA	1,467	11,776	1,377	106.6%	90	552	434	127.3%	25	
36	West	LOS ANGELES, CA	05	Los Angeles	San Bernardino	3472	1,195	7/14/03	Nis of San Bern	CA	1,104	8,423	1,037	106.4%	67	365	348	104.9%	39	
37	West	SAN FRANCISCO, CA	11	San Fran SM	Redwood City	3822	856	3/28/02	Boardwalk Nis	CA	1,041	8,716	986	105.6%	55	301	275	109.3%	35	
38	West	LOS ANGELES, CA	05	Los Angeles	Montclair	300	2,724	12/3/70	Metro/Montclair	CA	2,246	19,644	2,214	101.4%	32	696	670	103.9%	40	
39	West	MONTEREY, CA	11	Seaside CA	Seaside	3905	448	7/15/03	Cardinale Nis	CA	409	3,531	409	100.0%	0	153	121	126.2%	26	
40	West	FRESNO, CA	11	Fresno	Fresno	3495	1,681	1/20/98	Lithia Nissan	CA	966	8,719	970	99.6%	(4)	279	328	85.2%	61	
41	West	SAN FRANCISCO, CA	11	San Fran SM	West San Jose	2785	1,342	11/20/89	Stevens Creek	CA	1,339	12,335	1,348	99.3%	(9)	363	391	92.8%	52	
42	West	SACRAMENTO, CA	12	Modesto CA	Modesto	2731	1,823	7/28/89	Central Vly Nis	CA	1,190	11,417	1,199	99.2%	(9)	339	364	93.2%	50	





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													Twelve Month Rolling				memo: Three Month Rolling			
Region	DMA Name	District Code	Market Name	PMA Name	Dealer Code	PV	Open Date	Dealer Name	Public Dealer State	Dealer Sales	CPTV Regis.	Seg. Adj. Expected Sales @ State Avg.	Seg. Adj. Sales Eff. @ State (SSER)	Net Gain /Loss	Dealer Sales	Seg. Adj. Expected Sales @ State Avg.	Seg. Adj. Sales Eff. @ State	Rank		
43	West	SAN DIEGO, CA	07	San Diego	W San Diego	5400	1,020	9/27/13	Pacific Nissan	CA	829	7,021	836	99.2%	(7)	336	359	93.7%	49	
44	West	EUREKA, CA	10	Eureka CA	Eureka	211A	277	6/8/72	McCrea Nissan	CA	213	1,860	216	98.5%	(3)	70	71	98.6%	43	
45	West	LOS ANGELES, CA	03	Los Angeles	Glendale CA	3341	1,497	10/27/95	Glendale Nissan	CA	2,243	20,343	2,300	97.5%	(57)	657	681	96.5%	45	
46	West	SAN FRANCISCO, CA	10	San Fran SM	Concord CA	5417	632	2/1/14	Autocom Nis Con	CA	281	2,414	289	97.2%	(8)	221	233	94.8%	47	
47	West	LOS ANGELES, CA	02	Los Angeles	Van Nuys	5393	1,354	7/22/13	Nis of Van Nuys	CA	1,455	13,059	1,501	97.0%	(46)	521	523	99.7%	42	
48	West	SAN DIEGO, CA	07	San Diego	El Cajon	3439	2,184	6/13/97	Mossy Nissan Ec	CA	1,816	16,792	1,891	96.0%	(75)	569	571	99.7%	41	
49	West	SAN FRANCISCO, CA	10	San Fran SM	San Leandro	3788	912	9/26/01	San Leandro Nis	CA	621	5,814	650	95.5%	(29)	173	202	85.5%	60	
50	West	CHICO, CA	10	Chico CA	Chico	024B	621	3/21/66	Chico Nissan	CA	439	4,448	474	92.6%	(35)	124	135	92.2%	53	
51	West	LOS ANGELES, CA	03	Los Angeles	Downey	5154	1,484	2/13/08	Downey Nissan	CA	2,199	20,619	2,379	92.4%	(180)	692	768	90.1%	54	
52	West	SAN FRANCISCO, CA	10	San Fran SM	Hayward	5191	936	12/2/08	Hayward Nissan	CA	981	9,698	1,066	92.0%	(85)	357	328	108.7%	37	
53	West	LOS ANGELES, CA	03	Los Angeles	Gardena	153C	1,639	2/2/70	Gardena Nissan	CA	1,096	10,621	1,206	90.9%	(110)	362	381	94.9%	46	
54	West	FRESNO, CA	11	Merced CA	Merced	3445	557	6/26/97	Razarrri Nissan	CA	389	3,917	429	90.8%	(40)	90	130	69.5%	76	
55	West	CHICO, CA	10	Redding CA	Redding	5274	553	8/2/10	Crown Nissan	CA	434	4,420	485	89.4%	(51)	117	136	85.8%	59	
56	West	LOS ANGELES, CA	06	Los Angeles	Tustin	5338	1,392	12/29/11	Tustin Nissan	CA	1,397	14,799	1,581	88.4%	(184)	420	451	93.2%	51	
57	West	SANTA BARBARA, CA	02	Santa Maria CA	Santa Maria	3763	821	5/14/01	Santa Maria Nis	CA	551	5,731	626	88.0%	(75)	146	197	74.0%	68	
58	West	LOS ANGELES, CA	06	Los Angeles	Orange	5162	2,159	4/29/08	Stadium Nissan	CA	2,019	20,805	2,295	88.0%	(276)	693	707	98.1%	44	
59	West	LOS ANGELES, CA	02	Los Angeles	Mission Hills	5248	1,820	2/22/10	Nis Mission His	CA	1,799	18,175	2,045	87.9%	(246)	570	638	89.3%	56	
60	West	LOS ANGELES, CA	03	Los Angeles	Downtown LA	249	2,110	8/6/68	Nis Downtown LA	CA	2,837	27,520	3,229	87.9%	(392)	886	1,013	87.5%	57	
61	West	SAN FRANCISCO, CA	10	San Fran SM	Antioch	3570	1,179	11/24/98	Antioch Nissan	CA	788	8,516	931	84.7%	(143)	213	300	71.0%	73	
62	West	SANTA BARBARA, CA	02	Santa Barbr CA	Santa Barbara	3630	846	7/30/99	S Barbara Nis	CA	564	5,874	668	84.5%	(104)	158	191	82.7%	63	
63	West	BAKERSFIELD, CA	02	Bakersfield CA	Bakersfield	3810	2,125	12/21/01	Nis Bakersfield	CA	1,405	16,389	1,710	82.2%	(305)	361	519	69.6%	75	
64	West	SAN FRANCISCO, CA	10	Fairfield CA	Vallejo	246	662	11/16/66	Vallejo Nissan	CA	462	5,000	568	81.3%	(106)	163	173	94.3%	48	
65	West	LOS ANGELES, CA	06	Los Angeles	Corona	5367	1,492	8/29/12	Corona Nissan	CA	1,088	12,600	1,357	80.2%	(269)	223	408	54.7%	89	
66	West	SACRAMENTO, CA	12	Sacramento	Folsom	5347	988	3/30/12	Fut Nis Folsom	CA	655	7,795	818	80.0%	(163)	162	230	70.6%	74	
67	West	SAN FRANCISCO, CA	11	San Fran SM	Capitol Exprswy	5222	2,744	8/13/09	Premier Nissan	CA	1,755	20,005	2,199	79.8%	(444)	529	650	81.4%	64	
68	West	SAN DIEGO, CA	07	San Diego	Poway	3899	1,506	6/2/03	Mossy Nis Poway	CA	973	11,330	1,225	79.5%	(252)	289	344	84.1%	62	
69	West	SACRAMENTO, CA	12	Sacramento	Davis	3917	649	9/9/03	Hanlees Nissan	CA	436	5,045	549	79.4%	(113)	136	152	89.5%	55	
70	West	SAN FRANCISCO, CA	10	Santa Rosa CA	Santa Rosa	3979	830	3/17/05	Nissan Santa Ro	CA	830	9,428	1,051	78.9%	(221)	243	324	75.0%	66	
71	West	SACRAMENTO, CA	12	Sacramento	Shingle Spgs	2434	712	11/7/86	Shingle Spg Nis	CA	352	4,220	450	78.2%	(98)	89	121	73.4%	70	
72	West	LOS ANGELES, CA	05	Victorville CA	Victorville	3951	1,452	7/21/04	Valley Hi Nis	CA	953	10,958	1,235	77.2%	(282)	274	378	72.5%	72	
73	West	LOS ANGELES, CA	02	Los Angeles	Simi Valley	3037	1,099	1/27/97	First Nissan	CA	638	7,891	859	74.3%	(221)	193	259	74.4%	67	
74	West	LOS ANGELES, CA	06	Los Angeles	Irvine	5112	1,316	5/31/07	OC Nis-Irvine	CA	960	12,411	1,331	72.1%	(371)	276	380	72.6%	71	
75	West	LOS ANGELES, CA	03	Los Angeles	South Bay	090A	1,476	3/19/03	AN Niss South Bay	CA	1,254	16,036	1,746	71.8%	(492)	447	518	86.3%	58	
76	West	LOS ANGELES, CA	06	Los Angeles	Costa Mesa	3540	1,720	6/30/98	Connell Nissan	CA	1,032	13,323	1,445	71.4%	(413)	314	426	73.6%	69	
77	West	SAN FRANCISCO, CA	10	San Fran SM	Millbrae	5324	728	9/8/11	Nis of Burligam	CA	597	7,808	853	70.0%	(256)	160	246	64.9%	79	
78	West	SANTA BARBARA, CA	02	San Ls Obsp CA	San Ls Obispo	3741	858	12/22/00	Coast Nissan	CA	369	4,850	538	68.5%	(169)	100	153	65.3%	78	
79	West	LOS ANGELES, CA	02	Palmdale CA	Palmdale	3728	1,768	8/31/01	Antelope Vly	CA	908	11,423	1,347	67.4%	(439)	284	447	63.5%	81	
80	West	SAN FRANCISCO, CA	10	San Fran SM	Richmond CA	3392	833	10/17/96	Hanlees Hilltop	CA	488	6,349	727	67.1%	(239)	169	224	75.5%	65	
81	West	SACRAMENTO, CA	12	Sacramento	East Sacramento	5126	2,066	7/30/07	Maita's Nis Sac	CA	1,121	15,009	1,683	66.6%	(562)	275	487	56.5%	87	
82	West	LOS ANGELES, CA	03	Los Angeles	Alhambra	5424	1,840	3/18/14	Alhambra Nissan	CA	318	4,073	479	66.4%	(161)	318	479	66.4%	77	
83	West	SAN FRANCISCO, CA	10	Napa CA	Napa	247	532	11/4/65	Napa Nissan	CA	291	4,038	451	64.5%	(160)	90	139	64.9%	80	
84	West	LOS ANGELES, CA	02	Los Angeles	Valencia	5281	1,623	10/1/10	Nissan of Valencia	CA	829	12,208	1,314	63.1%	(485)	234	388	60.3%	85	



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85	West	SAN FRANCISCO, CA	11 Gilroy CA	Gilroy	3242	483	12/21/93	Gilroy Nissan		CA	353	5,220	571	(218)	104	174	59.9%	86		
86	West	LOS ANGELES, CA	06 Temecula CA	Temecula	3774	2,283	7/17/01	Quality Nissan		CA	1,170	17,642	1,936	(766)	373	591	63.2%	83		
87	West	SAN FRANCISCO, CA	10 San Fran SM	Walnut Creek	5416	759	2/1/14	Autocom Nis Wal		CA	165	2,468	289	(124)	140	227	61.8%	84		
88	West	LOS ANGELES, CA	06 Los Angeles	Garden Grove	2793	1,879	3/17/00	OC Nissan - GG		CA	819	12,898	1,446	(627)	227	443	51.2%	92		
89	West	LOS ANGELES, CA	06 Los Angeles	San Juan Capis	5392	0	7/15/13	Ocean Nis SJ Ca		CA	472	8,030	856	(384)	139	289	48.1%	94		
90	West	SACRAMENTO, CA	12 Stockton CA	Stockton	5403	902	10/1/13	Nis of Stockton	<input checked="" type="checkbox"/>	CA	410	6,691	748	(338)	209	329	63.4%	82		
91	West	SAN FRANCISCO, CA	10 San Fran SM	Colima	2261	1,522	11/16/84	Serramonte Nis	<input checked="" type="checkbox"/>	CA	830	13,665	1,539	(709)	248	458	54.1%	90		
92	West	SAN DIEGO, CA	07 San Diego	Chula Vista	5377	1,565	12/12/12	Nis Chula Vista		CA	715	12,404	1,378	(663)	217	419	51.8%	91		
93	West	FRESNO, CA	11 Fresno	Clovis CA	5224	785	8/18/09	Nissan of Clovi		CA	404	7,555	806	(402)	99	245	40.5%	96		
94	West	SAN FRANCISCO, CA	11 San Fran SM	Dublin CA	5130	1,260	8/29/07	Dublin Nissan		CA	600	12,620	1,319	(719)	99	368	26.9%	99		
95	West	SAN FRANCISCO, CA	10 San Fran SM	Oakland	5394	939	8/30/13	Autocom Nissan		CA	536	9,795	1,186	(650)	240	470	51.1%	93		
96	West	SAN FRANCISCO, CA	10 San Fran SM	San Rafael	5397	640	9/10/13	Nissan Marin		CA	276	5,340	628	(352)	144	258	55.7%	88		
97	West	LOS ANGELES, CA	05 Barstow CA	Barstow	2136	179	4/7/83	Soutar's		CA	57	1,239	141	(84)	19	44	42.9%	95		
98	West	MONTEREY, CA	11 Santa Cruz CA	Santa Cruz	0638	621	3/20/72	Santa Cruz Nis		CA	260	6,664	765	(505)	76	230	33.1%	97		
99	West	SAN FRANCISCO, CA	10 San Fran SM	San Francisco	5334	1,071	2/24/12	Nissan San Fran	<input checked="" type="checkbox"/>	CA	497	15,434	1,830	(1,333)	164	543	30.2%	98		
											1,17,925	1,060,329			35,533					
											California State Totals And Sales Pen									



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1	Central	DENVER, CO	11	Denver	Englewood	5041	645	3/31/06	Larry Miller	CO	1,075	6,715	653	164.6%	422	325	172	188.5%	1		
2	Central	COLORADO SPRING:	11	Pueblo CO	Pueblo	3977	418	3/1/05	Dave Solon Nis	CO	443	2,951	282	157.0%	161	116	86	135.6%	3		
3	Central	DENVER, CO	11	Greeley CO	Greeley	172	609	9/4/63	Ehrlich Nissan	CO	723	5,521	484	149.5%	239	212	152	139.0%	2		
4	Central	ALBUQUERQUE, NV	13	Durango CO	Durango	1998	217	5/27/03	Economy Nissan	CO	221	1,707	168	131.5%	53	59	46	127.3%	5		
5	Central	GRAND JUNCTION, I	13	Montrose CO	Montrose	2477	154	4/10/87	Montrose Nissan	CO	142	1,128	111	127.8%	31	42	32	131.0%	4		
6	Central	DENVER, CO	11	Longmont CO	Longmont	5082	640	12/18/06	Valley Nissan	CO	675	5,898	570	118.4%	105	174	161	107.8%	8		
7	Central	DENVER, CO	11	Denver	Boulder	3748	668	2/12/01	Boulder Nissan	CO	708	6,031	602	117.6%	106	200	169	118.2%	6		
8	Central	DENVER, CO	11	Denver	Centennial	3524	2,417	10/31/00	AN Niss Arapahoe	CO	1,687	16,870	1,618	104.3%	69	480	445	108.0%	7		
9	Central	COLORADO SPRING:	11	Colorado Spring	N Colorado Spgs	5017	1,235	12/15/05	Woodmen Nissan	CO	1,021	10,392	980	104.1%	41	281	266	105.7%	9		
10	Central	DENVER, CO	11	Denver	Aurora CO	014C	1,603	10/4/84	Tynan's Nissan	CO	1,747	17,532	1,715	101.9%	32	527	499	105.5%	10		
11	Central	DENVER, CO	11	Denver	Wheat Ridge	5356	1,384	7/3/12	Empire Lakewood	CO	1,152	12,251	1,208	95.3%	(56)	339	341	99.4%	11		
12	Central	DENVER, CO	11	Ft Collins CO	Ft Collins	2216	971	3/26/84	Tynan's Nissan	CO	798	9,047	856	93.2%	(58)	233	256	91.1%	12		
13	Central	COLORADO SPRING:	11	Colorado Spring	S Colorado Spgs	5018	1,030	12/15/05	S Colorado Spgs	CO	763	9,195	872	87.5%	(109)	221	256	86.5%	13		
14	Central	GRAND JUNCTION, I	13	Grand Junction CO	Grand Junction	3262	389	4/6/94	Jim Fuoco Mtr	CO	248	3,145	289	85.8%	(41)	67	88	75.8%	14		
15	Central	DENVER, CO	11	Denver	Littleton	5149	1,336	12/12/07	AN Niss Southwest	CO	534	9,022	879	60.7%	(345)	149	251	59.5%	15		
16	Central	DENVER, CO	11	Denver	Federal Heights	3525	1,980	5/21/99	AN Niss 104	CO	909	16,185	1,558	58.4%	(649)	270	475	56.9%	16		
											12,846	133,590					3,695				
											Colorado State Totals And Sales Pen										



Exhibit L



Advertising and the Dealership

Franchised new-car dealerships spent \$7.6 billion on advertising in 2013, up 6.1 percent from \$7.2 billion the previous year.

Average ad expense per new-vehicle retailed fell to \$616, down 0.8 percent. For various advertising (newspapers, radio, television, direct mail, Internet and other), dealer advertising for newspaper, print and radio has declined since 2003—with newspaper advertis-

ing declining the most, down more than 30 percentage points. Internet advertising increased the most since 2003, up nearly 30 percentage points.

The average dealership spent 33 percent of advertising on the Internet in 2013, up from 26.5 percent. Radio advertising fell to 14.5 percent, from 15.9 percent. Television advertising increased slightly to 20.8 percent, from 20.2 percent.

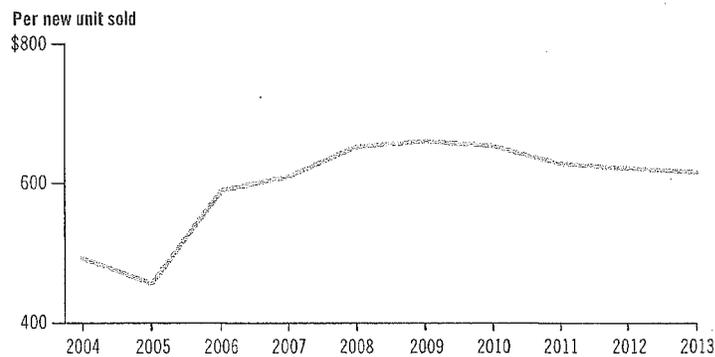
Estimated advertising expenses per dealership in 2013

By number of new units sold

By media used	Average of all dealerships	1-149	150-399	400-749	750 or more
Newspapers	\$66,253	\$26,910	\$32,907	\$47,892	\$81,020
Radio	\$65,690	\$19,336	\$28,770	\$62,840	\$91,617
Television	\$97,657	\$17,451	\$36,598	\$92,694	\$162,376
Direct Mail	\$46,208	\$11,064	\$19,999	\$39,139	\$75,002
Internet	\$111,822	\$26,828	\$52,798	\$95,557	\$172,453
Other	\$42,114	\$11,046	\$21,364	\$35,249	\$61,476
Total	\$429,744	\$112,635	\$192,436	\$373,371	\$643,942
Total advertising as a % of total sales	1.04%	1.11%	1.05%	1.01%	0.92%
Total advertising per new vehicle sold	\$616	\$862	\$616	\$517	\$410

Source: NADA

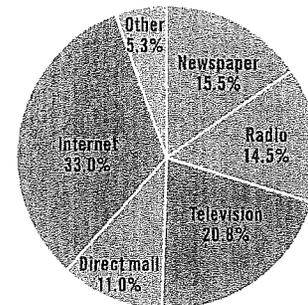
Total dealership advertising



Source: NADA

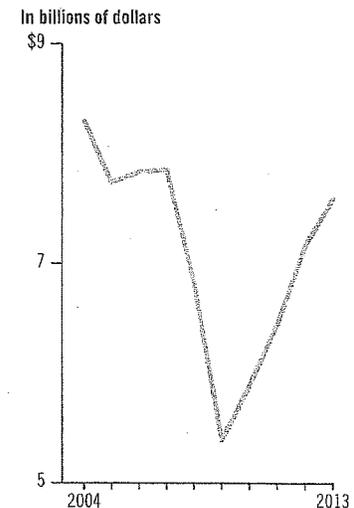
Advertising expenditures, by medium, 2013

Percent of total



Source: NADA

Total dealership advertising expenditures



Source: NADA

PROOF OF SERVICE

I, Elly Cordero, declare:

I am employed in Orange County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 600 Anton Boulevard, Suite 900, Costa Mesa, California 92626-7221. On August 13, 2014, I served a copy of the within document(s): **PROPOSED CONDITIONS FOR MANDATORY SETTLEMENT CONFERENCE**

- X by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Costa Mesa, California addressed as set forth below.

- X by transmitting via electronic mail the document(s) listed above to the e-mail address(es) set forth below on this date before 5:00 p.m. and the transmission was reported as complete and without error.

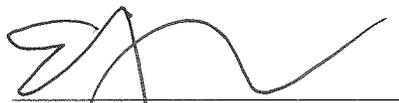
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Gavin M. Hughes, Esq.
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Counsel for Protestant
SANTA CRUZ NISSAN,
INC., dba SANTA CRUZ
NISSAN

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 13, 2014, at Costa Mesa, California.



Elly Cordero