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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

JOINT GLOSSARY OF TERMS TO
BE USED IN MERITS HEARING

Glossary of Terms To Be Used in Merits Hearing

AGM – Area General Manager. The Nissan employee to whom the in-field region personnel such as the DOMs, FOMs and LPM directly report. The AGM reports to the Regional Vice-President.

Air Distance – the straight line measurement between two points, as the crow flies.

APA – Asset Purchase Agreement, also called a "buy/sell" agreement.

Balanced Days Supply Allocation System – A weighted allocation system used by Nissan which factors the dealer's sales share in a region and its days-supply, balancing the foregoing with a second inventory cycle 30 days later, based solely on days-supply.

Blue Sky – "Goodwill" or the value of the non-hard assets of a franchised business identified in a buy/sell or APA.

Body on Frame Vehicle – A truck, as opposed to a car.

Buy/Sell – An agreement between a buyer and seller to document the terms of a proposed transfer of the assets of a dealership and/or franchise rights between them. Buy/sells must be submitted to the manufacturer for approval under both the Dealer Agreement and state law.

C.A.R.S. – also known as "Cash for Clunkers" was a federally funded program intended to provide incentives for more fuel-efficient vehicle when trading in a less fuel-efficient vehicle.

Census Tracts – Geographical area used by the U.S. Government as part of each decennial census. Census tracts are usually part of a political subdivision, such as a county. Census tracts are designed to contain between 1,200 and 8,000 persons, with an optimal size of 4,000 persons.

Close Rate – The ratio between (for any given time period) the number of sales from Leads received and the Ups logged by the sales team at the dealership.

Competitive Registrations – All vehicles registered with the state to addresses within a given geography, for vehicles sold within those vehicle segments designated by the manufacturer as segments in which its own vehicles compete.

C&I – Contests and Incentives provided to dealers and dealer employees by Nissan for meeting specified sales objectives, according to a set of program rules.

CRM Tool – Customer Relationship Management Tool, allowing a dealership to manage the sales prospects and then assist customers.

CSI - Customer Satisfaction Index. – a measure of a Dealer's performance in satisfying customers. Can be broken down into Sales and Service Customer Satisfaction Indexes.

Customer Pay – Maintenance or repair work on a vehicle that is performed by the dealer, which is not covered by a manufacturer's warranty and is paid for by the customer.

Composite Group – A group of Nissan dealers' financial statements compiled and averaged by Nissan that are used to compare a dealer's relative performance in various metrics found in the financial statements.

Days-Supply - The level of inventory that a dealer has on the ground at the dealership plus inbound vehicle shipments, divided by the dealer's daily sales rate (the sales of particular model divided by the number of days in a month) which is also known as "travel rate."

Dealer Agreement – Nissan Dealer Sales and Service Agreement. Also known (under Vehicle Code section 331) as a "franchise." The agreement that NNA enters into with its dealers, governing their relationship.

Dealer's Sales – Dealer's total retail sales of new Nissan vehicles, **regardless of where in the United States the vehicles are registered.**

Desk-top Market Study – A study made with in-house (as opposed to in-field) information which assesses the market using only the in-house data available.

Digital Marketing - The online marketing of a dealership and interaction with customers through email, social media or other online activity.

District – The geographic area including sub-groupings of Nissan dealers' PMAs within the Region that are called upon by a DOM and a FOM.

DOM - Dealer Operations Manager – the Nissan employee who regularly calls on Dealers in a District regarding new vehicle sales business and sales customer satisfaction (NSSI) issues.

DND – Dealer Network Development department at Nissan, formerly known as the Market Representation Department.

DP – The Principal Owner of the dealership ("Dealer Principal") as named on the Final Article of the Dealer Agreement. Each Nissan dealer has only one DP.

Drive Distance – the measurement between two points on most likely traveled roads and highways.

Drive Time – the measurement between two points using software to calculate the average time to drive between them.

Dual - A dealership facility at which more than one line-make (and franchise) of new vehicles is offered for either sales or service.

DVB – Dealer Volume Bonus; a type of C&I program.

Exclusive Representation – The housing of only one line-make (and franchise) of vehicles in a dealership facility, as opposed to a Dual.

Expected Sales – a calculation made by NNA of the retail sales each dealer is expected to make, based on the Competitive Registrations of all vehicles in competitive segments in the dealer's PMA, compared to NNA's percentage of industry sales at region average.

EM – Executive Manager - the person named on the Final Article of the Nissan Dealer Agreement who is charged with having full managerial authority and responsibility for the day-to-day operations of the Dealership.

FOM – Fixed Operations Manager. - the Nissan employee who regularly calls on Dealers in a District regarding service business and service customer satisfaction (NCSI) issues.

GM – General Manager of the Dealership as designated by Dealer only, as opposed to an EM who is approved by Nissan.

Guides – the standards established by Nissan with respect to, among other things, dealership facilities, capitalization and flooring.

In-Sell – Vehicles that are sold into a dealer's PMA by other dealers located outside the PMA – also known as “pump-in sales.”

Lead – Personal information provided by a customer through one of several websites, including name, e-mail address, phone number, etc., together with a request that dealership personnel contact them regarding a potential sale

Lead Management – Method by which a dealership staffs and responds to internet leads.

LPM – Loyalty Performance Manager. The Nissan employee who is responsible for helping dealers regarding customer treatment and satisfaction issues.

NCSI – Nissan's Service Satisfaction Index for each dealer.

9 Month Rolling – data comprised of the most recent nine month period, regardless of calendar year.

90 Day Rolling - data comprised of the most recent three month (90 day) period, regardless of calendar year.

Nissan Registrations – all new Nissan vehicles that are **registered** with the state to addresses in a certain geographic area (i.e., PMA, California, Region) **no matter which Nissan dealer sold the vehicles.**

NNA – Nissan North America, Inc. – Respondent in this matter and the distributor of Nissan vehicles and other related products in the U.S.

NOD – Notice of Default of Dealer Agreement – Letter to Dealer indicating that Dealer has breached the terms of the Dealer Agreement in such a manner that NNA believes that if Dealer does not cure the breaches of the Dealer Agreement within the period stated in the NOD, Nissan will take the appropriate action, up to and including issuance of a Notice of Termination (NOT).

NOD Extension – the extension of the time to cure under a NOD..

NOT - Notice of Termination of Dealer Agreement – Letter to Dealer indicating that Dealer has breached the terms of the Dealer Agreement in such a manner that the franchisor believes warrants termination. Must meet the requirements of Vehicle Code section 3060 in California.

NREDI – Nissan Retail Environment Design Initiative. A facility and sign program developed by Nissan to create a consistent brand image for all Nissan Dealership Facilities.

NSSI – Nissan's measure of Sales Satisfaction Index for each dealer.

OEM – Original Equipment Manufacturer – used to referred to manufacturers in general – "OEMs".

OFF – Owner's First Fund that Nissan pays a dealership based on its performance in NSSI, NCSI and service retention.

Organic Results – Search results that are produced by the GOOGLE algorithm without the business having to pay for the Leads generated.

Package – Contains the required documents for evaluating, reviewing and processing a change being considered to a Dealer Agreement; such as, changes of ownership, facility, location, management, or the issuance of NODs and NOTs.

PMA – Primary Market Area. The area assigned by NNA to each Nissan Dealer for sales performance evaluation purposes. The PMA geography is generally reviewed, at a minimum after each decennial census, and is determined by assigning U.S. Government Census Tracts by proximity to the closest dealer. Close calls regarding proximity of Census Tracts may be determined by various methods, such as Drive Distance or Drive Time to each Dealer, ease of transportation by roads, physical terrain, etc.

PV – Planning Volume – number assigned to each dealer, based on Nissan's percentage of total Competitive Registrations at the national level (calendar years 2001 through 2003) and used for the purposes of determining a uniform methodology for providing dealership facility size guidelines, capitalization and floor plan requirements by PMA. Not a sales expectation. NNA's policy is to seek Exclusive Representation in those markets where there is a PV of 400 units or greater.

Regression Analysis - A mathematical tool that estimates the relationship between two or more variables. Regression analysis starts with the presumption that the variables are independent and that no correlation exists. Regression results reflect the degree to which actual correlation overrides the assumption of independence.

Represented Markets. Markets in which NNA is represented to the public by an authorized Nissan Dealer.

Retail Registration (Brand) Effectiveness – The sum of Nissan vehicle registrations in a geographic area (such as region or PMA) no matter which dealer sold the Nissan vehicle divided by the total Competitive Registrations in the same geographic area.

RGM – Regional General Manager working in a particular Nissan region who is responsible for regional staff such as the regional market representation manager.

RMA – Relevant Market Area. – not to be confused with the contractual PMA, this is the statutory protest area within which a dealer may protest the establishment of a new dealer of the same line-make. In California, this area is a 10 air mile radius from the site of a potential new dealer. Vehicle Code § 507.

RMP – Regional Marketing Program. Cooperative advertising program in which the Dealer and Nissan each contribute funds to pay for advertising (TV, internet and print) in the local market area.

RSE - Regional Sales Effectiveness. Analysis provided by NNA to each Dealer, showing the Dealer's sales performance as compared to expected sales, based on a regional average, for various periods of time. All of a Dealer's Sales are counted, no matter where they are made in the U.S., compared to the Competitive Registrations in the Dealer's Primary Market Area (PMA). If a Dealer is at regional average for such comparison, it is shown as being at 100% of average RSE.

RVP – Regional Vice President. Senior Nissan executive in the Region to whom the AGM and RGM report.

Segment-Adjusted RSE - is sales penetration by segment at the Region and applying it to the PMA at the segment level as opposed to the total competitive group level, and calculating an expected level of this brand's registrations in the PMA.

SCN – Santa Cruz Nissan, Inc. dba Santa Cruz Nissan – Protestant in this matter and Nissan dealer in Santa Cruz, CA.

Security Plus – The Nissan extended service contract offered to customers sold through Nissan dealers.

SSER – State Sales Effectiveness in Represented markets. Analysis provided by NNA 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 Primary Market Area (PMA). If a dealer is at state average for such comparison, it is shown as being at 100% of SSER.

S2 – Abbreviation meaning "Subject to Approval" and is issued by Nissan's national Dealer Network Development department for a specific period of time, typically 30 days, within which the Region will send a letter regarding the Dealer Agreement to a dealer (i.e., an NOD, NOD Extension, or NOT).

TPS – Transmittal Package Submission. A memorandum which precedes the development of a Package, for example an NOD or NOT.

Turn and Earn – an allocation system which allocates new vehicles based upon a dealer's sales rate.

12-Month Rolling – data comprised of the most recent twelve month period, regardless of calendar year.

UIO - Units in Operation– The number of vehicles of a certain make registered in a Dealer's PMA, sometimes limited by age of the vehicles.

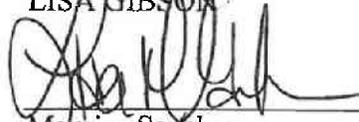
Ups – refers to a potential customer walking into the dealership. Term originated from a salesperson getting "up" from a chair in order to assist a potential customer.

USAI - Urban Science Applications, Inc. – a third party vendor company which provides NNA with analysis of census, sales and registration data, market studies, as well as expert testimony.

Valid Lead – leads that containing enough information that allows a dealer to contact the potential customer.

Dated: May 20, 2014

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