

NISSAN NORTH AMERICA, INC.
INFINITI Division
Lead Management Program Dealer Participation Agreement

THIS LEAD MANAGEMENT PROGRAM DEALER PARTICIPATION AGREEMENT ("**AGREEMENT**") IS BETWEEN YOU, AN AUTHORIZED INFINITI DEALER ("**DEALER**") AND NISSAN NORTH AMERICA, INC. ("**NNA**"). BY CLICKING ON THE "I ACCEPT" BOX, DEALER ACKNOWLEDGES THAT IT HAS AGREED TO ALL OF THE TERMS OF THIS AGREEMENT AND THAT DEALER HAS AGREED TO BECOME A PARTY TO, AND LEGALLY BOUND BY, THIS AGREEMENT. IF DEALER DOES NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT CLICK ON THE "I ACCEPT" BOX. DEALER WILL NOT BE ABLE TO PARTICIPATE IN THE LEAD MANAGEMENT PROGRAM IF DEALER DOES NOT CLICK ON THE "I ACCEPT" BOX. THE LEAD MANAGEMENT PROGRAM IS OPTIONAL. DEALER IS UNDER NO OBLIGATION WHATSOEVER TO PARTICIPATE IN THE LEAD MANAGEMENT PROGRAM.

This Agreement was last updated on **June 12, 2019**.

NNA and Dealer agree as follows:

1. **Lead Management Program.**
 - a. **General.** The Lead Management Program promotes the efficient collection and use of customer sales leads and Dealer engagement in the interactive/eBusiness marketing space (the "Program"). The Program assists Dealers by: (1) collecting information provided by potential customers of Dealer for the purchase of vehicles from different sources, including INFINITI OEM websites, Dealer's website, third party lead providers and other online and off-line sources (collectively, "Leads"); (2) purchasing third party Leads; (3) distributing Leads to Dealers; (4) providing training to Dealers to assist them in the sales process relating to the Leads; (5) and analyzing and reporting Dealer performance information. Registration for the Program is completed by Dealer through the login and password protected Internet portal provided by NNA located at www.nnanet.com (as updated from time to time) (the "Dealer Portal").
 - b. **Designation of Program Managers.** Dealer shall designate and maintain one or more sales professionals dedicated to participating in the Program and responsible for Leads ("Program Managers").
 - c. **Lead Management Program Tool.** The Program is designed to be used in conjunction with third party software tools that can accept Lead information provided by NNA and provide Lead traffic disposition reporting as required by NNA (each a "Tool"). Dealer shall indicate which Tool it desires to use during the registration process for the Program. Dealer will be required to use only those third party Tools certified by NNA ("Certified Tool(s)"). Dealer will no longer be able to participate in the Program unless it uses a Certified Tool. A current list of Certified Tool providers will be made available on the Dealer Portal and is subject to change at the sole discretion of NNA. Dealer may elect to use a different Tool by making a selection through the Dealer Portal and such selection shall be effective the following day and reflected in the next monthly

Reporting Period (defined below). Dealer is solely responsible for entering into any and all agreements with any of the Certified Tool providers and such agreements shall be solely between the respective Certified Provider and Dealer (and not NNA). Dealer hereby consents to NNA disclosing Dealer's enrollment in the Program to the Tool provider selected by Dealer and Dealer acknowledges and agrees that the Tool provider will provide, among other things, Lead disposition data to NNA (or NNA's designee) for all INFINITI leads in the Dealer Certified Tool.

- d. **Third Party Lead Volume and Delivery.** Dealer will select the number of third party Leads it desires to purchase and receive upon registration for the Program through the Dealer Portal. Dealer may change the volume of Leads desired through the Dealer Portal and such change will become effective the next business day. The number or type of sources for Leads available through the Program may change without notice to Dealer. There is no guarantee that the number of Leads requested will be delivered; however, Dealer will only be charged for the number of Leads as set forth in Section 2 below. Third party leads will be provided based on a formula equally applied to all Dealers participating in the Program. While such formula is subject to change, Leads shall be delivered in the following order: first, to the consumer selected Dealers assuming said Dealer has remaining Lead volume, second, to the primary market area, to the extent possible, of the applicable Dealer assuming Dealer has remaining Lead volume, and finally to the next closest applicable Dealer(s) who has remaining Lead volume. Leads will be delivered via https post. Dealers may be provided an opportunity to purchase more Lead volume during a Reporting Period.
- e. **Reports.** NNA will make daily and monthly reporting (each, a "Reporting Period") available to Dealer through the Dealer Portal with information regarding the Program and performance of Dealer ("Reports"). Reports are also provided to NNA so that it may, among other things, calculate Certification Levels of Dealers (defined below).
- f. **Training.** Training for Dealers is offered through a combination of online courses and in-dealership consultation as described in the Dealer Portal as updated from time to time.
- g. **Certification Status.** Certification status is a required component for participation in the Program. Any change in Certification status shall be effective the next monthly Reporting period. Dealer may also enroll in the Program but not be certified to the extent it does not qualify for Certification. The Certification status indicates the performance of Dealer in the Program and affects, among other things, pricing to Dealer for third party Leads. In any event, Dealer will not qualify for Certification if it does not use a Certified Tool.
- h. **Certification Measurement.** The measurement criteria used in connection with calculation of Certification status is as set forth in the Dealer Portal as updated from time to time at NNA's sole discretion. Any change in measurement criteria shall be effective the next monthly Reporting Period.
- i. **Re-certification and "In Grace" Period.** Dealers are re-certified in each monthly Reporting Period and may be reclassified according to the then current

requirements. NNA, at its sole discretion, may modify the Certification requirements and criteria by updating the same on the Dealer Portal and such modification will be effective the next monthly Reporting Period. If Dealer fails to comply with the requirements described on the Dealer Portal to maintain respective Certification status, NNA will allow Dealer a 30-day "grace period" to meet requirements of its current Certification status before being reclassified as not certified. NNA's decision with respect to Dealer's Certification status shall be final.

- j. **Dealer Websites and Leads from Dealer Websites.** When notified by NNA, it will be a condition to participating in the Program that Dealer have and maintain a Dealer website (the "Dealer Website"). In addition, when notified by NNA, Dealer shall transmit all Dealer Leads from the Dealer Website to NNA for use in connection with the Program and Dealer hereby grants a license to NNA to use the Leads in every manner now or hereinafter contemplated under this Agreement. Dealer acknowledges that Dealer Website provider may be required to provide NNA with Dealer Website information and metrics as a condition of being an NNA Certified Dealer Website provider. Dealer grants a license to NNA and NNA's designated Dealer Site Metrics Provider (DSMP) to use the data provided for the purposes of analyzing shopping behavior, providing reporting, and in the case of NNA only, administering marketing programs. Without limiting the foregoing, Dealer shall ensure that its privacy policy displayed on its Dealer Website enables the provision of such Dealer Website information and metrics to NNA and the use thereof by NNA and the DSMP.
 - k. **Dealer Vehicle Inventory.** Dealer shall make available to NNA and its designees New, Used, and or CPO/Pre-Owned vehicle inventory data (e.g. from the Dealer Management System (DMS)). NNA and its designees (authorized by the Dealer as indicated on the electronic enrollment form as referenced in paragraph 1(a) above) will use the information obtained from the Dealership computer systems primarily for purposes of (1) creating reports regarding dealership inventory data, (2) Dealer Inventory display on NNA supported consumer facing websites, and (3) administering other marketing programs.
2. **Fees.** Dealer hereby agrees to pay NNA the following fees and expenses (collectively, the "Fees"):
- a. **Lead Fees.** The fees for Leads will be determined by calculating the actual number of third party Leads provided to Dealer multiplied by the then current flat rate assigned to Dealer's Certification status as posted on the Dealer Portal (collectively, the "Lead Fees") or as otherwise published by NNA. The flat fee portion of the Lead Fees shall be subject to change by NNA at its sole discretion and effective upon the next monthly Reporting Period when notified by NNA to Dealer by e-mail or updated through the Dealer Portal. Leads from INFINITI OEM Websites and off-line sources will be provided at no-charge to Dealer.
 - b. **Expenses.** In addition to the above, Dealer shall be responsible for all out-of-pocket expenses of NNA incurred in connection with this Agreement. Dealer is responsible for all of Dealer's expenses relating to participation in training including, without limitation, travel and room and board.

- c. **Legal Compliance.** Notwithstanding any of the foregoing, to the extent any of the Fees are deemed impermissible as a matter of law, then Dealer shall be charged in a manner permissible in accordance with law(s).
3. **Payment.**
 - a. **Payment.** The fees and any taxes shall be due the 10th day of each month (the "Due Date") and will be automatically charged to and drawn against Dealer's non-vehicle account at such time. NNA reserves the right, in its sole discretion, to require Dealer to pay for Leads in advance of NNA submitting them to Dealer, in a form acceptable to NNA. Payments not received within thirty (30) days of the Due Date shall accrue interest at the monthly rate of one and one half percent (1.5%) from the Due Date but shall not otherwise exceed the maximum amount allowed by law.
 - b. **Taxes.** The Fees and expenses under this Agreement do not include any taxes. If any sales, use, and personal property taxes are, or should ultimately be, assessed against or are required to be collected by NNA or by any taxing authority, Dealer agrees to pay an amount equal to any and all of these charges; provided, however, that NNA shall pay all taxes based on NNA's income.
4. **No Franchise Fee.** Dealer represents and warrants that it is not obligated to enter into this Agreement, that the Program is entirely optional and that only the Fees paid hereunder relate to the Program. Dealer understands and acknowledges that the Fees associated with the Program are not, and should not, be construed as franchise fees pursuant to any relevant federal or state statute.
5. **Modification or Cancellation of Program.** NNA may, in its sole discretion and at any time, modify, cancel or suspend the Program, or any part thereof, without cause. NNA's cancellation of the Program will not alter Dealer's obligation to pay all charges made to its non-vehicle billing account or other Lead Fees owed; provided, however, that if NNA cancels the Program, then NNA will either refund to Dealer money paid on a pro-rata basis for the then current monthly Reporting Period or no additional Lead Fees shall be due, as applicable. In all matters relating to the interpretation and application of any rule or phase of the Program, the decision of NNA shall be final.
6. **Term and Termination.**
 - a. **Term.** The Initial Term of this Agreement shall commence as of the date Dealer clicks on the "I Accept" button and shall continue for the period of one (1) year thereafter (the "**Initial Term**"). Upon expiration of the Initial Term, this Agreement shall automatically renew for additional one (1) year periods (each, a "Renewal Term") on the same terms and conditions as the immediately preceding Initial Term or Renewal Term, as applicable.

b. **Termination or Cancellation.** In addition to any other termination rights set forth herein, this Agreement may be terminated upon the occurrence of one or more of the following events; provided that a termination by either party pursuant to this Section 6 or elsewhere in this Agreement does not preclude any other legal, equitable or other remedies available to the parties:

(i) *Termination for Convenience.* Either party may terminate this Agreement for convenience upon thirty (30) days' notice prior to the other party.

(ii) *Non-Payment Default.* NNA may terminate this Agreement immediately and without notice in the event of a non-payment default of Dealer in which case Fees paid shall not be refundable.

(iii) *Bankruptcy or Insolvency.* Either party may terminate this Agreement immediately upon written notice to the other party in the event that proceedings in bankruptcy or insolvency are instituted by or against the other party, or a receiver is appointed, or if any substantial part of the assets of the other party is the object of attachment, sequestration or other type of comparable proceeding, and the proceeding is not vacated or terminated within sixty (60) days after its commencement or institution.

(iv) *Material Breach of this Agreement.* For other breaches not provided for above, either party may terminate this Agreement in the event that the other party to this Agreement has materially breached this Agreement; provided, however, that the termination shall not be effective unless: (i) the terminating party provides the written notice ("**Termination Notice**") via overnight courier to the other party setting forth the facts and circumstances constituting the breach, and (ii) the party alleged to be in default does not cure such default (as reasonably determined solely by the party not in default) within thirty (30) days following receipt of the Termination Notice. In the event that the nature of the default specified in the Termination Notice cannot be reasonably cured within thirty (30) days following receipt of the Termination Notice, a party shall not be deemed to be in default if the party presents a schedule agreeable to the other party (in such other party's reasonable discretion), within the thirty (30) days period, to cure the default, commences curing the default and thereafter diligently executes the same to completion within one (1) month from commencing to cure such default. If the breach specified in the Termination Notice is timely cured or cure is commenced and diligently pursued, the Termination Notice shall be deemed rescinded and this Agreement shall continue in full force and effect.

7. **Dealer Portal License and Restrictions.**

- a. **License, Equipment and Connection.** Dealer is hereby granted a non-exclusive, revocable, non-sublicensable and non-transferable license to use the Dealer Portal to participate in the Program only under the terms of this Agreement. Dealer shall provide the necessary computer equipment, telecommunication equipment, operating and other necessary software to access and use the Dealer Portal and to participate in the Program. Dealer shall be responsible for selecting, obtaining and maintaining any equipment and ancillary services needed to connect to or otherwise access the Dealer Portal, including without limitation, modems, hardware, servers, software, operating systems, networking equipment, web servers, Internet access, and long distance and local telephone service. Dealer shall be solely responsible for ensuring that the Dealer connection is compatible with the Dealer Portal.
 - b. **Account Passwords.** Dealer shall be solely responsible for all use of its passwords relating to the Dealer Portal and such passwords shall be deemed Confidential Information (defined below). Dealer may not share its passwords with third parties or attempt to access the Dealer Portal without using the passwords assigned to it. NNA may rely on the information provided through the Dealer Portal and Dealer shall indemnify and hold NNA harmless from and against any and all damages or losses of any kind in connection with, relating to or arising out of use of the Dealer Portal.
 - c. **Data Security.** Dealer shall maintain, in connection with the operation of the Dealer Portal and the Dealer Website, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, authentication, non-repudiation, virus detection and eradication. Dealer shall ensure that the sending of all data through the Dealer Portal is secure.
 - d. **Use Restrictions.** The license granted herein is in no sense a sale or transfer of ownership rights in the Dealer Portal. NNA reserves all rights not expressly granted herein.
8. **Program is Optional.** PARTICIPATION IN THE PROGRAM IS OPTIONAL. Dealer acknowledges that it may have agreements in place with third parties for the provision of similar services provided for in the Program. Dealer acknowledges that NNA has specifically made no representations or promises to Dealer concerning the positive and/or negative impact that the implementation of the Program will have on Dealer's operations. Dealer acknowledges and agrees that it is solely responsible for its legal and other obligations under any of its current agreements with third parties and NNA does not take any responsibility or liability whatsoever with respect to or concerning such agreements. Dealer hereby indemnifies NNA and holds NNA harmless from any and all losses or damages whatsoever to the extent a claim is brought by any third party to such current agreements. Dealer acknowledges that NNA's only obligations to Dealer with respect to the Program is as set forth in this Agreement.
9. **Warranty Disclaimer.** THE PROGRAM IS PROVIDED "AS IS" WITH NO WARRANTIES OF ANY KIND. IN NO EVENT DOES NNA WARRANT THAT THE DEALER PORTAL IS ERROR FREE OR THAT DEALER WILL BE ABLE TO

OPERATE THE DEALER PORTAL WITHOUT PROBLEMS OR INTERRUPTIONS. IN ADDITION, DUE TO THE CONTINUAL DEVELOPMENT OF NEW TECHNIQUES FOR INTRUDING UPON AND ATTACKING NETWORKS, NNA DOES NOT WARRANT THAT THE DEALER PORTAL OR ANY EQUIPMENT, SYSTEM OR NETWORK ON WHICH THE PORTAL IS USED WILL BE FREE OF VULNERABILITY TO INTRUSION OR ATTACK. THERE IS NO GUARANTEE THAT THE ADOPTION OF THE PROGRAM BY DEALER WILL INCREASE SALES. ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, NONINFRINGEMENT, OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTIES SET FORTH ABOVE FAIL OF THEIR ESSENTIAL PURPOSE. NNA DOES NOT WARRANT THAT THE PROGRAM WILL MEET ANY OF DEALER'S REQUIREMENTS.

10. **Limitation of Liability.** ALL LIABILITY OF NNA UNDER THIS AGREEMENT, OR OTHERWISE, SHALL BE LIMITED TO THE MONEY PAID TO NNA UNDER THIS AGREEMENT DURING THE THREE (3) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. ALL LIABILITY UNDER THIS AGREEMENT IS CUMULATIVE AND NOT PER INCIDENT. IN NO EVENT SHALL NNA BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF DEALER HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

11. **Confidentiality.**
 - a. **Confidential Information.** Each party acknowledges that under this Agreement, they may receive or have access to information which is confidential or proprietary to the other party, including, but not limited to, financial, marketing, technical, engineering, design or other information ("**Confidential Information**"). Each party agrees that all Confidential Information which it receives from the other under this Agreement or which such party or any of its employees or agents have access to pursuant to this Agreement shall be kept strictly confidential in accordance with all of the terms and conditions of this Agreement. Such Confidential Information shall include, but not be limited to: all documents, drawings, reports or other written materials; all orally disclosed information; and all electronically stored information contained in NNA's computer systems or computer databases. In addition, Confidential Information shall include any information, technical data or know-how including, but not limited to, that which comprises or relates to the other party's confidential and proprietary trade secrets, hardware, software (source code and object code), screens, specifications, methods, processes, designs, plans, drawings, data, prototypes, discoveries, research, developments, processes, procedures, intellectual property (including inventions, whether patentable or not), market research, marketing techniques and plans, business plans and strategies, Private Information (defined below), price lists, pricing policies and financial information or other business and/or technical information and materials, in oral, demonstrative, written, electronic, graphic or machine-readable form and any analyses, compilations, studies or documents. Each party expressly agrees that all such information shall be

presumed to be Confidential Information of the other party and shall be kept strictly confidential, provided it is marked as "confidential" or if orally disclosed it is reduced to writing within a reasonable period after disclosure. NOTICE TO NORTH CAROLINA DEALERS: THIS AGREEMENT RELATES TO THE TRANSFER AND ACCESSING OF CONFIDENTIAL INFORMATION AND CONSUMER RELATED DATA.

- b. **Obligation to Safeguard Confidential Information.** Each party shall at all times during the term of this Agreement, and for five (5) years thereafter or such other period as required by law, whichever is greater, protect and safeguard the Confidential Information of the other and agrees not to, in whole or in part, sell, lease, license, assign, transfer, or disclose the Confidential Information to any third party and shall not copy, reproduce, or distribute the Confidential Information except as expressly permitted in this Agreement or an Assignment Order.
 - c. **Limitations on Disclosure and Use.** Each party agrees that it will not disclose any Confidential Information, except to those employees or agents who need access to the information in order to perform services or in connection with this Agreement and who agree to keep such information confidential. Each party agrees that it will not use such Confidential Information for any purpose other than performing services or as otherwise allowed under this Agreement.
 - d. **Exclusions.** Obligations of confidentiality shall not apply if: (i) the Confidential Information is, or becomes (other than through a breach of this Agreement) generally known to the public; (ii) the Confidential Information is developed independently without use of the Confidential Information; (iii) the Confidential Information was rightfully received by Dealer without obligation of confidentiality from a third party; (iv) the Confidential Information was already known by the receiving party without any obligation of confidentiality prior to obtaining the Confidential Information from the disclosing party; or (v) disclosure is required by law, provided that the receiving party gives the disclosing party prompt notice of the request for disclosure, cooperates with the disclosing party in obtaining a protective order or other remedy, and discloses only that portion of the Confidential Information which it is legally compelled to disclose. Notwithstanding the foregoing, Confidential Information shall not be deemed to have been known by the receiving party merely because it is embraced by general information previously known to the receiving party or merely because it is expressed in publications in general terms not specifically including Confidential Information.
 - e. **Injunctive Relief.** Each party acknowledges that any breach of the provisions of this Section 11 or Section 12 of this Agreement will cause the disclosing party immediate and irreparable harm for which there are no adequate remedies at law and will entitle disclosing party to seek immediate injunctive relief, in addition to any other remedies which may be available. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.
12. **Privacy, Security and NNA Systems.**

- a. **Private Information.** Dealer acknowledges that it has received, may receive, or may have access to consumer, customer or individual information ("**Private Information**") in connection with the provision of services under this Agreement, which information may be subject to the protections of federal, state and/or local privacy safeguards or information security laws, and Dealer further agrees, warrants and represents that it will comply with all requirements imposed by these laws, including without limitation, financial privacy laws. Except with respect to the rights granted to NNA in Dealer Leads, all Private Information shall be deemed NNA Confidential Information subject to the confidentiality provisions of this Agreement. Notwithstanding anything herein to the contrary, Private Information shall continue to be subject to the confidentiality obligations under this Agreement for so long as NNA deems the information to be Private Information and shall survive the expiration or earlier termination of this Agreement. Dealer hereby agrees to maintain and implement procedures, processes, systems and security safeguards reasonably sufficient to ensure the confidentiality of such Private Information including obtaining customer's consent where applicable.

- b. **NNA Systems.** To the extent that the Dealer requires access to any computer systems or networks of NNA and its Affiliates ("**NNA Systems**") in connection with the provision of services under this Agreement, including the Dealer Portal, such access shall be provided in NNA's sole discretion and shall be subject to any security requirements and user guidelines (collectively, the "**Access Procedures**") provided by NNA to the Dealer. The Dealer will comply with Access Procedures, and NNA reserves the right to change, update or supplement the Access Procedures at any time by providing them to the Dealer. Further, Dealer shall not (i) access any NNA Systems other than those specifically identified in writing by NNA, (ii) perform any form of penetration testing and/or vulnerability assessment of the NNA Systems, and (iii) use more than one network card or similar connection from being active when accessing the NNA Systems (including, without limitation, any "split-tunneling or "dual-homed" configurations or devices) except for dual network card configurations that are designed to provide fault tolerance and teaming provided that they are on the same subnet. As necessary, NNA will provide passwords or other means necessary to permit access to the NNA Systems. At NNA's request, Dealer will return any devices provided by NNA that permit access to the NNA Systems and will provide a written certification stating that all passwords or other directions for accessing the NNA Systems have been deleted and/or destroyed. Dealer shall provide to NNA access to Dealer's personnel, and to Dealer's data and records during normal business working hours for the purpose of performing audits of either Dealer or any of its subcontractors to verify Dealer's compliance with the Access Procedures. Dealer shall be liable for any damage or loss of computer files or programs, disruption of use of any part of NNA Systems or other computer systems of NNA or its Affiliates, or other loss or damage to NNA or its Affiliates or third parties that is caused by Dealer's access to the NNA Systems or Dealer's failure to comply with the Access Procedures.

13. **General.**

- a. **Notices.** Except with respect to notice of Dealer's termination for convenience, which shall be through the Dealer Portal, all notices and correspondence

pertaining to this Agreement shall be in writing and shall be delivered by hand or certified mail, return receipt requested and postage prepaid, or by a nationally recognized courier service, or by facsimile transmission, or by e-mail, provided that notice by e-mail shall not be acceptable for notification of a breach of this agreement, and be addressed as follows:

If to NNA:

Nissan North America, Inc.
One Nissan Way
Franklin, Tennessee, 37067
Attention: INFINITI Division, Senior Manager, Lead Management (ELMS)

with a copy to:

Nissan North America, Inc.
One Nissan Way
Franklin, Tennessee, 37067
Attention: Director, Corporate Transactions, Legal Department

If to Dealer, to the address of record of Dealer or to the e-mail indicated in the Dealer Portal.

Any notice provided allowed by e-mail under this Agreement shall be sent to Dealer to the e-mail address designated through the Dealer Portal. It is Dealer's sole responsibility to maintain and update such e-mail address and any notice shall be deemed received by Dealer and effective if sent to such address regardless of whether such address is functional. Except as provided herein, notice will be effective only upon receipt by the party being served, except that notice will be deemed received 72 hours after posting by the United States Post Office, by the method described above. Confirmation of receipt of any facsimile sent must be received in order to presume that the transmission was received. Each party is responsible for informing the other of any changes in his/her or its address by sending proper notice.

- b. **Entire Agreement/Non-Disclosure Agreements.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior expressions, whether written or oral. Dealer acknowledges that it is not entering into this Agreement on the basis of any representations which are not expressly stated herein. This Agreement constitutes a separate and complete agreement and in no event will this Agreement become a part of, be merged with, or modify or amend any other rights or obligations existing under any other agreement between NNA and Dealer or any other third party; provided however, any non-disclosure agreement entered into between the parties with respect to the subject matter of this Agreement is hereby superseded in its entirety by this Agreement; further provided, however, any confidential information exchanged under any prior non-disclosure agreement shall be deemed Confidential Information and governed under the terms of this Agreement. For the avoidance of doubt, this Agreement is not a part of, is not merged with, and does not in any way modify or amend the NNA Dealer Sales & Service Agreement and Standard Provisions currently in effect between Dealer and NNA.

- c. **Force Majeure.** Except for the obligation to pay monies due and owing, neither party shall be liable for any delay or failure in performance due to events outside the defaulting party's reasonable control, including without limitation acts of God, earthquake, labor disputes, industry wide shortages of supplies, actions of governmental entities, riots, war, terrorism, fire, epidemics, or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the defaulting party shall be extended for a period equal to the period during which such event prevented such party's performance.
- d. **Waiver of Class Action.** Dealer hereby waives any right it may have to participate in any class actions related to or arising out of this Agreement.
- e. **No Agency.** NNA and Dealer are independent contractors and have no power or authority to bind the other or to create any obligation or responsibility on behalf of the other. Nothing herein will be construed as implying a joint venture, agency, employer-employee or partnership relationship between the parties. Dealer and its representatives shall not make any representations or warranties to any third party regarding the Program. Dealer is solely responsible for all of its own taxes, withholding, and other similar statutory obligation related to this Agreement.
- f. **No Assignment.** Dealer has been retained to provide services hereunder because of Dealer's commitments contained in this Agreement, and further, because of NNA's confidence in Dealer, which confidence is personal in nature. Dealer may not assign this Agreement or delegate its duties hereunder without the prior written consent of NNA. The provisions hereof will be binding upon and inure to the benefit of the parties, their successors and permitted assigns.
- g. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which taken together will be considered one and the same agreement.
- i. **Survival.** The making of all payments due hereunder and the terms and conditions of the following sections shall survive any termination or expiration of this Agreement: Sections 2, 3, 4, 5, 8, 9, 10, 11, 12, and 13.

By clicking on the "I ACCEPT" box, Dealer acknowledges that it agrees to all of the terms of the "Lead Management Program Dealer Participation Agreement" above.

In order to enable the checkbox, please scroll to the end of the agreement.

I Accept I Decline