

Universal Terms and Conditions of Use and End User License Agreement

INFINITI Retailer Digital Marketing Program

IMPORTANT --- READ CAREFULLY: The products and services (referred to collectively as the "Services") are made available by Sanctus, LLC, a limited liability company doing business as Shift Digital ("Shift Digital"), for automotive Retailers that have been authorized by INFINITI Division of Nissan North America, Inc. ("INFINITI") to sell and service INFINITI brand vehicles. INFINITI is not providing or otherwise responsible for the Services and is not a party to these Universal Terms and Conditions of Use and End User License Agreement (this "Agreement"). INFINITI is a third party beneficiary of this Agreement as provided in Section 18, however, Shift Digital does not have the power or authority to bind INFINITI through this Agreement or otherwise. This Agreement is a legal contract between you, the automotive Retailer ("Retailer") subscribing to the Services, and Shift Digital. The Services are subject to the terms set forth in this Agreement. Retailer represents and warrants that it is a licensed automotive Retailer authorized to sell and service vehicles under a franchise agreement with INFINITI.

Retailer's enrollment for any Services authorizes Shift Digital to begin providing Services and billing Retailer immediately. Retailer agrees to pay the applicable fees for Services as set forth in the electronic enrollment portal or order form, incorporated herein by reference.

IN ORDER TO USE THE SERVICES, RETAILER MUST FIRST AGREE TO THE TERMS SET FORTH IN THIS AGREEMENT BY CLICKING "ENROLL NOW" ON THE ENROLLMENT PORTAL AFTER MAKING THE SERVICE SELECTIONS, OR BY SELECTING SERVICES AND SIGNING A SERVICES ENROLLMENT FORM. RETAILER MAY NOT USE THE SERVICES IF RETAILER DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT. RETAILER CAN ACCEPT THE TERMS OF THIS AGREEMENT BY ENROLLING FOR AND/OR BY USING THE SERVICES, IN WHICH CASE, RETAILER UNDERSTANDS AND AGREES THAT SHIFT DIGITAL WILL TREAT RETAILER'S USE OF THE SERVICES AS ACCEPTANCE OF THE TERMS OF THIS AGREEMENT.

Before you continue, you should print or save a local copy of this Agreement for your records.

The definition of Services hereunder shall also include any online access to the electronic enrollment portal, informational web pages, and/or online reporting service (collectively, the "Secure Web Services") provided by Shift Digital.

1. Services.

Shift Digital agrees to provide the Services to Retailer in accordance with the terms and conditions of this Agreement. Shift Digital may provide all or part of the Services through one or more third party service providers ("Service Providers") that Retailer or Shift Digital selects. Shift Digital, in its sole discretion, may change any Service Provider, at any time and for any reason.

2. Use of the Services.

In order to access certain Services, Retailer may be required to provide information about Retailer and Retailer's business (such as identification, billing or contact details). Retailer agrees that any information Retailer provides will be accurate, complete and up to date. Retailer agrees to maintain the confidentiality of passwords associated with any account Retailer uses to access the Services. Retailer acknowledges that the Services may allow Retailer to designate administrators for the Services, thereby granting certain rights and authorizations relating to, among other things, selection of, and preferences for, Services and billing. Retailer agrees that Retailer is solely responsible for all fees, costs or other expenses charged related to any selections made by Retailer or Retailer's designees.

Retailer acknowledge that, as part of the Services, Retailer may receive use of and access to certain toll-free and local tracking phone numbers, as well as other Services relating to such numbers (collectively, with the services, the "Number(s)"). Retailer acknowledges and understands that when a person (the "Caller") calls a Number, the Caller will be automatically advised that each call is subject to recording and monitoring prior to the connection of the telephone call to Retailer through the Number (the "Recorded Call Message"). Retailer represents, warrants and agrees in connection with Retailer's use of the Services, that Retailer has reviewed the legality of recording, monitoring, storing, and divulging telephone calls, that Retailer is permitted to engage in such activities, and that Retailer shall use the Number(s) in full compliance with all applicable laws and regulations. Retailer represents and warrants that Retailer has had the opportunity to review the proposed usage of the Numbers with Retailer's legal counsel, and that Retailer has established proper procedures to protect the privacy of, and otherwise comply with all applicable laws and regulations with respect to, Callers and the Call Receivers (defined below). In the event the Recorded Call Message requires a revision in order to comply with applicable laws, then Retailer shall promptly notify Shift Digital in writing of that fact, advising Shift Digital as to the exact language necessary to comply with the applicable laws. Retailer agrees and acknowledges that neither Shift Digital, nor INFINITI, nor any Service Providers accept any responsibility for (a) the legality of recording, monitoring, storing and/or divulging telephone calls and (b) the legality of the language used in the Recorded Call Message.

Retailer agrees and acknowledges that applicable laws and regulations may require that Retailer provide notice to and/or receive express consent and permission from, in writing or otherwise, all agents (including employees), independent contractors, and/or other persons who receive telephone calls (the "Call Receivers"). Retailer agrees, acknowledges, represents and warrants that Retailer will provide

and/or obtain all notices, consents, and permissions relating to Call Receivers, as required by applicable laws and regulations.

Retailer will not use these Services in connection with any unsolicited or harassing messages (commercial or otherwise) including but not limited to unsolicited or unwanted SMS or text messages. Retailer will not improperly engage in activity which the United States Federal Communications Commission or other government authority has prohibited. Retailer is personally responsible for all SMS messages originated and sent via the chat Services provided to Retailer. Actions taken using Retailer's credentials shall be deemed to be actions taken by the Retailer.

RETAILER SHALL, AS REQUIRED BY APPLICABLE LAW OR REGULATION, PROVIDE NOTICE TO RETAILER'S CUSTOMERS AND OBTAIN CONSENT, IF REQUIRED FOR USE OF THE SERVICES, IN RETAILER'S PRIVACY POLICY AND/OR AS OTHERWISE REQUIRED BY LAW OR REGULATION.

If Retailer subscribes to one or more Black Book® online trade-in tools, Retailer understands and agrees that Retailer's use of such online trade-in tools shall be subject to, and Retailer agrees to the additional terms and conditions set forth at, <http://www.intelliprice.com/VeretechTC/TermsOfUse.htm>, which are incorporated herein by reference and made a part of the Agreement.

If Retailer subscribes to one or more Kelley Blue Book® online trade-in tools, Retailer understands and agrees that Retailer's use of such online trade-in tools shall be subject to, and Retailer agrees to the additional terms and conditions set forth at, <http://b2b.kbb.com/atcleaddriver>, which are incorporated herein by reference and made a part of the Agreement.

3. Restrictions on Use of Services.

Use of certain Services is subject to the applicable policies of the search engine, website or network publishers ("Publishers") on which display ads, videos or other advertising media ("Advertisements") are posted or displayed in connection with the Services, including without limitation any Publisher's editorial guidelines, privacy policies, trademark guidelines, and ad specification requirements ("Policies"). Retailer agrees to comply with the Policies during the term of this Agreement. Shift Digital or the Service Provider may modify Advertisements to comply with any Policies in its sole discretion. Retailer agrees not to access (or attempt to access) any of the Secure Web Services by any means other than through the interfaces that are made accessible by Shift Digital or the Service Provider. Retailer agrees not to engage in any activity that interferes with or disrupts the Services (or the servers and networks which are connected to the Services). Without limiting the foregoing, Retailer agrees not to reverse-engineer, reverse-assemble, decompile, or otherwise attempt to derive any source code of any Secure Web Service or other program associated with the Services.

4. Compliance with Applicable Laws.

Shift Digital shall provide the Services and perform its obligations under this Agreement, and Retailer shall use the Services and perform its obligations under this Agreement, in compliance with all applicable laws and regulations. Retailer may use the Services only for purposes that are permitted hereunder and in accordance with applicable laws and regulations. Retailer shall at all times comply with all applicable laws, legislation, rules, regulations, governmental requirements and industry standards with respect to Retailer's use of the Services and the performance by Retailer of Retailer's obligations hereunder, including, but not limited to, any applicable provisions of Title V of the Gramm-Leach-Bliley Financial Services Modernization Act of 1999 and regulations promulgated under that Act or other federal, state, and local laws, rules, regulations, and ordinances governing the privacy and security of customer information that apply to Retailer. Retailer agrees to protect and maintain the privacy of such information accordingly.

5. Ownership of Content and Services.

Retailer acknowledges and agrees that all materials and information (such as data files, written text, computer software, music, audio files or other sounds, photographs, manuals, documents, illustrations, pricing information, videos or other images) which are provided by Shift Digital, its Service Providers, or INFINITI in connection with the Services, or which Retailer may have access to as part of, or through Retailer's use of, the Services (the "Provided Content"), together with the Services, including any copyright and/or other intellectual property rights in the Services and the Provided Content, are owned by Shift Digital, INFINITI, the Service Providers and/or their licensors. Retailer may not modify, rent, lease, loan, sell, or distribute the Provided Content or the Services or create derivative works based on the Provided Content or the Services (either in whole or in part), except as provided in this Agreement. Retailer further acknowledge that the Services may contain information which is designated confidential; Retailer agrees not to disclose such information without Shift Digital's prior written consent.

6. Retailer Content.

Retailer agrees that it is solely responsible for all content, materials and information provided by Retailer or that Retailer (or any third party acting on behalf of Retailer) creates, transmits or displays while using the Services ("Retailer Content") and for the consequences of these actions (including any loss, liability, fine or damage.) Shift Digital reserves the right (but shall have no obligation) to pre-screen, review, flag, filter, modify, refuse or remove any or all Retailer Content from any Service in Shift Digital's sole discretion. Retailer represents, warrants and covenants that the Retailer Content shall not contain anything that infringes copyrights, trademarks, publicity or any other rights of others; violates any law or regulation, is defamatory or libelous; is abusive, harassing, or threatening; is obscene, vulgar, or profane; or violates someone's privacy.

7. Advertising Services.

Retailer understands that part of the Services may include, among other things, the creation and posting of Advertisements on the World Wide Web and otherwise by Shift Digital or the Service Provider on Retailer's behalf relating to Retailer's automotive Dealership. Retailer is solely responsible for all: (a) campaigns and budget allocation and management (creative or targets), whether generated by or for Retailer; and (b) web site content, services and landing pages that create links, or directs viewers, to any advertised services and products (collectively "Retailer's Products and Services"). Retailer understands and agrees that Advertisements may be placed on any website or property provided by a Publisher upon which Shift Digital or the Service Provider may select or Retailer requests. Retailer authorizes and consents to all such placements. Shift Digital or the Service Provider may reject or remove any Advertisement for any or no reason. Retailer may not use or republish any Advertisements or other marketing materials provided to Retailer by Shift Digital or a Service Provider without prior written consent from Shift Digital.

8. Licenses.

Provided Retailer is not in default of any obligation under this Agreement, and provided Retailer has paid all applicable fees, subject to the terms and conditions of this Agreement, Shift Digital grants Retailer a limited, restricted, revocable, personal, worldwide, royalty-free, non-assignable, non-transferable, non-sub-licensable and non-exclusive license to use the Services and the Provided Content provided to Retailer. This license is for the sole purpose of enabling Retailer to use and enjoy the benefit of the Services in the manner permitted by this Agreement. Retailer retains any copyright and/or other intellectual property rights Retailer already holds in Retailer Content. The products and services of the Service Providers may contain license terms specific to such products or services, and Retailer agrees to comply with all such license terms included in any click through or shrink wrap license or of which Shift Digital otherwise makes Retailer aware. Retailer may not (and Retailer may not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the software provided with the Services (the "Software") or any part thereof, or any of the other proprietary elements of the Service, or allow any third parties to use the Services, or any portion thereof, in any way. Retailer may not assign (or grant a sub-license of) any rights to use the Software, or any of the other proprietary elements of the Service, grant a security interest in or over Retailer's rights to use the Software or any other proprietary elements of the Service, or otherwise transfer any part of Retailer's rights to use the Software or any other proprietary elements of the Service. Retailer agrees not to remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) which may be affixed to or contained within the Services.

By submitting, posting or displaying the Retailer Content, Retailer gives Shift Digital, and each Service Provider to which Shift Digital provides the Retailer Content for the purposes of providing the Services, a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display and distribute the Retailer Content in order to provide the Services as contemplated in this Agreement. This license is for the sole purpose of enabling Shift Digital and the Service Providers to provide the Services as contemplated in this Agreement. Retailer agrees that this license includes a right for Shift Digital and the Service Providers to make Retailer Content available to other companies, organizations or individuals with whom we have

relationships for the provision of these Services. Retailer understands that Shift Digital and the Service Providers, in performing the Services, may (a) transmit or distribute the Retailer Content over various public networks and in various media; and (b) make such changes to the Retailer Content as are necessary to conform and adapt the Retailer Content to the technical requirements of connecting networks, devices, services or media. Retailer agrees that this license shall permit Shift Digital and the Service Providers to take these actions. Retailer represents and warrants that it have all the rights, power and authority necessary to grant the above license. Shift Digital and the Service Providers shall use the Retailer Content in accordance with the license and rights granted by Retailer herein for the purpose of providing the Services to Retailer.

9. Access to Retailer's Web Sites, Systems and Data.

Retailer hereby authorizes Shift Digital, the Service Providers, and any Publisher that produces, collects or receives data pertaining to the Retailer's website(s), advertising activity, sales leads, lead generation activity, Retailer's use of the Services, or any of Retailer's other business activities (the "Retailer Data"), to transfer, provide or otherwise make available the Retailer Data to Shift Digital, INFINITI, and the Service Providers, in connection with providing the Services hereunder. The Retailer Data shall continue to be owned by the Retailer. Neither Shift Digital nor the Service Provider will use the Retailer Data or other customer information for any other purposes than those intended with the Services or as otherwise provided herein. Nothing in this Agreement shall obligate Shift Digital or any Service Provider to retain any Retailer Data.

In the event the performance of the Services requires Shift Digital and/or the Service Providers to access Retailer's computer systems to collect Retailer Data or perform the Services, Retailer specifically requests and authorizes such access and will provide, and has all rights and authorizations required to provide, such access. Retailer understands and agrees that Shift Digital and/or the Service Providers may engage a data polling service to poll and transmit Retailer Data from Retailer's DMS or other computer systems. Retailer hereby grants to Shift Digital and the Service Providers a royalty-free, non-exclusive, non-transferable, non-cancelable license to use the Retailer Data, including without limitation any sales and inventory data (to the extent available) obtained from Retailer's computer systems, solely for the purposes of (i) performing the Services, (ii) consumer, vehicle, and industry research and reference, (iii) evaluation of sales lead performance, (iv) combining with other data to create proprietary market price and incentive guides, and (v) the generation of market analysis data and related products; provided, the Retailer Data shall not be used to disclose to any third party Retailer's name or the name of any consumer, and shall not be sold to any third party.

Retailer expressly authorize Shift Digital and the Service Providers to access Retailer Data maintained by third parties, including Google in such services as Google AdWords and Google Analytics, on Retailer's behalf as Retailer's agent in order to provide the Services.

RETAILER ACKNOWLEDGES AND AGREES THAT (A) RETAILER IS RESPONSIBLE FOR COMPLIANCE WITH GOOGLE ADWORDS AND GOOGLE ANALYTICS POLICIES, TERMS OF USE, AND APPLICABLE LAWS AND REGULATIONS, AND (B) WHEN SHIFT DIGITAL AND/OR THE SERVICE PROVIDERS ARE ACCESSING AND RETRIEVING ACCOUNT INFORMATION FROM THIRD PARTY SITES, SHIFT DIGITAL AND/OR SERVICE PROVIDERS ARE ACTING AS RETAILER'S AGENT, AND NOT AS THE AGENT OF GOOGLE OR ANY OTHER THIRD PARTY. NEITHER SHIFT DIGITAL, INFINITI, THE SERVICE PROVIDERS, GOOGLE NOR ANY OTHER THIRD PARTY PROVIDES ANY WARRANTY OR GUARANTY (EXPRESS OR IMPLIED) OF ANY RESULTS OR OTHERWISE WITH RESPECT TO ACCESS OR USE OF RETAILER DATA IN THE SERVICES.

Shift Digital and/or the Service Providers may access Retailer Data in accounts created and managed by Shift Digital and/or the Service Providers on the third party sites or, if Retailer provides its account information and authorizes access to accounts managed by Retailer, Shift Digital and/or the Service Providers may access Retailer's accounts directly on those third party sites. Retailer hereby authorizes and permits Shift Digital and/or the Service Providers to (i) use the Retailer Data to provide the Services, (ii) to aggregate and de-identify the Retailer Data (i.e., combine the Retailer Data with other Retailers' information/data and present the combined data in a manner that does not identify Retailer as the source of any of the aggregated data or attribute any of the combined data to Retailer) and use the Retailer Data in the such aggregated and de-identified manner for any reasonable business purpose in perpetuity, and/or (iii) to develop reports for INFINITI, which may include directly sharing Retailer Data with INFINITI.

10. Modification to Services; Termination of the Services.

Shift Digital reserves the right to modify or change the Services provided hereunder by modifying current features, deleting features and/or adding features, upon prior written notice to Retailer. Some modifications or changes may result in a fee increase or decrease for such Services. Retailer's continued use of the Services hereunder after notice will constitute Retailer's acceptance of the change in the Services and Retailer's agreement to pay the fees associated with such change in Services. Retailer acknowledges and agrees that Shift Digital may stop (permanently or temporarily) providing the Services, or any part thereof, to Retailer if: (a) Retailer has breached any provision of this Agreement (or have acted in manner which clearly shows that Retailer does not intend to, or is unable to comply with the provisions of this Agreement); or (b) Shift Digital is required to do so by law (for example, where the provision of the Services to Retailer is, or becomes, unlawful); or (c) the Service Provider selected by Retailer or Shift Digital to provide the Services has terminated its relationship with Shift Digital or ceases to offer the Services, or any part thereof, to Retailer; or (d) the provision of the Services to Retailer by Shift Digital is, in Shift Digital's sole opinion, no longer commercially viable, or (e) Shift Digital provides Retailer with thirty (30) days prior written notice of terminate of the Services, or any part thereof, with or without cause. If Retailer wishes to stop using the Services at any time, Retailer agrees to provide Shift Digital with prior written notice of its intent to cancel receiving the Services in accordance with the provisions of set forth below. In addition, Shift Digital may disable access to Retailer's account for non-payment of Services. Retailer acknowledges and agrees that if Shift Digital disables access to

Retailer's account, Retailer may be prevented from accessing the Services, Retailer's account details or any files or other content which is contained in Retailer's account. Retailer acknowledges and agrees that Shift Digital, INFINITI and the Service Providers will not be liable in any way for any inconvenience, delay, damages, losses or other claims related to disabling Retailer's access to the account.

11. Payment of Fees and Billing.

Retailer agrees to pay the fees for the Services in the amounts set forth in the online registration process or, if an order form was used, on the order form. Retailer agrees to pay for the Services via credit card or ACH. If Retailer pays for the Services via credit card, Retailer agrees to pay the credit card processing fee included in the billing statement/invoice. Retailer authorizes Shift Digital to charge Retailer's credit card or debit Retailer's bank account via ACH for the fees for the Services (including charging Retailer's credit card for the credit card processing fee.) Retailer agrees to provide proper authorization to allow Shift Digital to debit Retailer's bank account to collect fees due for the Services. All fees owed by Retailer to third parties (for example, financial institutions, financial processors, and merchant account providers), are Retailer's sole responsibility. Retailer is responsible for the accuracy of credit card or ACH account information which Retailer provides to Shift Digital and must promptly inform Shift Digital of any changes thereto. If Retailer is paying by credit card, payment for the Services is on a pre-paid basis and Retailer is charged on a periodic basis (as specified in the online registration process or order form, e.g., monthly, quarterly, etc.), for the Services and Retailer is responsible for maintaining accurate and current credit card information. If Retailer is paying by Credit Card, Retailer agrees to any additional fees associated as outlined in the online registration process. If credit card charges for the Services are denied for any reason, use of the Services will be terminated. Cancellations that occur on or before the 10th day of each calendar month will be billed for the remainder of that month. Cancellations that occur after the 10th of any month will be billed for the remainder of that month and the following month. Any changes in advertising packages (e.g., to increase or reduce the amount of the package) will take effect as of the first day of the month following the month in which Retailer requests the change so long as Retailer makes the request not less than five (5) business days prior to the end of the month. Shift Digital may increase fees by giving Retailer not less than sixty (60) days written notice prior to the effective date of the price increase. If Retailer fails to pay for the Services timely, Retailer agrees to pay to Shift Digital, in addition to the fees for the Services: (i) a finance charge equal to the lower of 1.5% per month or the maximum amount permitted by law, and (ii) all costs incurred in connection with collection of past due amounts (including collection agency fees, reasonable attorneys' fees, and court costs). In addition to the other rights reserved hereunder, Shift Digital expressly reserves the right to terminate the Services and disable Retailer's access to the Services for non-payment.

12. Taxes.

All fees stated hereunder are subject to applicable sales, use, excise or similar taxes, whether or not included at the time the fees are billed. Retailer assumes exclusive liability for, and shall pay before delinquency, all sales, use, excise and other taxes, charges or contributions of any kind now or hereafter

imposed on, with respect to, or measured by the Services except for taxes based on the net income of Shift Digital or Service Providers.

13. Retailer Warranties.

RETAILER HEREBY REPRESENTS AND WARRANTS THAT ANY AND ALL RETAILER CONTENT SUBMITTED FOR PUBLICATION OR DISPLAYED ON RETAILER'S WEBSITE OR IN DIGITAL ADVERTISING, OR IN ANY SOCIAL MEDIA, WILL NOT VIOLATE OR OTHERWISE INFRINGE UPON ANY COPYRIGHT, TRADEMARK, PATENT, STATUTORY, COMMON LAW OR PROPRIETARY RIGHT OF OTHERS, OR CONTAIN ANYTHING CONSIDERED OBSCENE OR LIBELOUS.

14. Termination.

Except as provided herein, in the electronic enrollment portal or order form, or in additional terms and conditions applicable to certain Services, Retailer may cancel the Services by providing at not less than 30 days' prior written notice to Shift Digital delivered by email to info@infinitidigitalprogram.com. The cancellation of certain Services may be subject to Publisher's policies or the ability to re-schedule reserved inventory or cancel Advertisements already in production. Cancelled Advertisements may be published despite cancellation if cancellation of the Advertisements occurs after any applicable commitment date as set forth in advance by Shift Digital or the Service Provider, in which case Retailer must pay for those Advertisements. Upon cancellation or expiration of this Agreement, Retailer will be responsible for any Advertisements already run. If Shift Digital materially defaults in its performance under this Agreement and fails either substantially to cure such default within thirty (30) days after receiving written notice specifying the default or, for those defaults that cannot reasonably be cured within thirty (30) days, promptly to commence curing such default and thereafter proceed with all due diligence substantially to cure the default, then Retailer may terminate this Agreement by written notice to Shift Digital. Shift Digital may, at any time and for any reason, terminate this Agreement upon thirty (30) days prior written notice to Retailer. This Agreement will automatically terminate without requirement of notice by either party effective on the date of the expiration or termination of Retailer's franchise agreement with INFINITI for any reason.

15. NO WARRANTIES.

RETAILER EXPRESSLY UNDERSTANDS AND AGREES THAT, RETAILER'S USE OF THE SERVICES AND THE PROVIDED CONTENT IS AT RETAILER'S SOLE RISK AND ARE PROVIDED "AS IS" AND "AS AVAILABLE." IN PARTICULAR, SHIFT DIGITAL, INFINITI, THE SERVICE PROVIDERS AND THEIR AFFILIATES AND LICENSORS DO NOT REPRESENT OR WARRANT TO RETAILER THAT: (A) RETAILER'S USE OF THE SERVICES OR THE PROVIDED CONTENT WILL MEET RETAILER'S REQUIREMENTS, OR (B) RETAILER'S USE OF THE SERVICES OR PROVIDED CONTENT WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES, INCLUDING ANY PROVIDED CONTENT, IS DONE AT RETAILER'S OWN DISCRETION AND RISK AND THAT RETAILER

WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO RETAILER'S COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF RETAILER DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY RETAILER FROM SHIFT DIGITAL, ANY SERVICE PROVIDER OR INFINITI, OR THROUGH OR FROM THE USE OF THE SERVICES SHALL CREATE ANY WARRANTY. SHIFT DIGITAL, INFINITI AND EACH SERVICE PROVIDER EXPRESSLY DISCLAIM ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES AND THE PROVIDED CONTENT INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

16. LIMITATION OF LIABILITY.

SUBJECT TO APPLICABLE LAW, RETAILER UNDERSTANDS AND AGREES THAT NEITHER SHIFT DIGITAL, NOR INFINITI, NOR THE SERVICE PROVIDERS, NOR ANY OF THEIR AFFILIATES OR LICENSORS SHALL BE LIABLE TO RETAILER FOR: (A) ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY RETAILER, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSS; (B) ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY RETAILER, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF: (I) ANY RELIANCE PLACED BY RETAILER ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN RETAILER AND ANY THIRD PARTY REGARDING RETAILER'S USE OF THE SERVICES, (II) ANY CHANGES WHICH SHIFT DIGITAL OR ANY SERVICE PROVIDER MAY MAKE TO THE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICES (OR ANY FEATURES WITHIN THE SERVICES); (III) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY RETAILER CONTENT, RETAILER DATA, AND/OR OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH RETAILER'S USE OF THE SERVICES; (IV) RETAILER'S FAILURE TO PROVIDE SHIFT DIGITAL OR ANY SERVICE PROVIDER WITH ACCURATE ACCOUNT INFORMATION; OR (V) RETAILER'S FAILURE TO KEEP RETAILER'S PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL. THE ABOVE LIMITATIONS ON LIABILITY SHALL APPLY REGARDLESS OF WHETHER A PARTY IS NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

RETAILER ACKNOWLEDGES AND AGREES WITH SHIFT DIGITAL THAT (A) INFINITI HAS MADE NO REPRESENTATIONS OR WARRANTIES TO RETAILER AS TO ANY SERVICES PROVIDED BY SHIFT DIGITAL OR ANY SERVICE PROVIDER, (B) RETAILER AGREES NOT TO MAKE ANY CLAIM WHATSOEVER, AND HEREBY WAIVES ALL CLAIMS IT MAY HAVE, AGAINST INFINITI WITH RESPECT TO ANY SERVICES PROVIDED BY SHIFT DIGITAL OR ANY SERVICE PROVIDER.

17. INDEMNIFICATION.

RETAILER WILL DEFEND, INDEMNIFY AND HOLD SHIFT DIGITAL, THE SERVICE PROVIDERS, INFINITI AND EACH OF THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, MANAGERS, SHAREHOLDERS, AGENTS, REPRESENTATIVES AND AFFILIATES (COLLECTIVELY, THE "INDEMNIFIED PARTIES") HARMLESS FROM AND AGAINST ALL THIRD PARTY, CLAIMS, DEMANDS, SUITS, CAUSES OF ACTIONS, AND ADMINISTRATIVE OR REGULATORY ACTIONS OF WHATEVER KIND OR CHARACTER, AND INCLUDING ANY RELATED LIABILITIES, OBLIGATIONS, LOSSES, DAMAGES, FINES, JUDGMENTS, SETTLEMENTS, CHARGES, COSTS, AND EXPENSES (INCLUDING ATTORNEYS' FEES AND ACCOUNTANTS' FEES AND DISBURSEMENTS (COLLECTIVELY, "CLAIMS") TO THE EXTENT THAT SUCH CLAIMS RELATE TO, ARISE OUT OF OR RESULT FROM: (I) ANY INTENTIONAL OR WILLFUL MISCONDUCT OR NEGLIGENCE BY RETAILER OR OF ANY OF RETAILER'S EMPLOYEES, AGENTS OR SUBCONTRACTORS; (II) A BREACH OF THIS AGREEMENT BY RETAILER, INCLUDING A BREACH OF ANY OF RETAILER'S REPRESENTATIONS, WARRANTIES OR COVENANTS UNDER THIS AGREEMENT OR (II) RETAILER'S USE OF THE NUMBERS.

18. AUTHORIZED THIRD PARTY BENEFICIARIES.

EACH SERVICE PROVIDER SHALL BE DEEMED A THIRD PARTY BENEFICIARY OF THE INDEMNIFICATION AND LIMITATION OF LIABILITY PROVISIONS OF THIS AGREEMENT. INFINITI SHALL BE DEEMED A THIRD PARTY BENEFICIARY OF THE INDEMNIFICATION PROVISIONS OF THIS AGREEMENT.

19. Force Majeure.

Each party hereto shall be excused from performance hereunder, except for payment obligations, and to the extent that it is prevented from performing any obligation hereunder, in whole or in part, as a result of delays caused by the other party or an act of God, war, civil disturbance, court order, labor dispute, third party nonperformance or other cause beyond its reasonable control, including failures, fluctuations or non-availability of electrical power, heat, light, air conditioning, computing or information systems or telecommunications equipment or the inability of hardware or software leased or acquired by sale or license from third parties to process without error or malfunction any data. Such nonperformance shall not be a default or ground for termination as long as reasonable means are taken to remedy expeditiously the problem causing such nonperformance.

20. Relationship of Parties.

Shift Digital and the Service Providers are independent contractors, and no agency, partnership, joint venture, employer- employee or other similar relationship is intended or created between or among Retailer, Shift Digital and any Service Provider under this Agreement.

21. Waiver.

Any failure or delay in exercising or enforcing any rights or remedies that are available under this Agreement (or that we have the benefit of under any applicable law or otherwise) shall not be deemed to be a waiver of any other rights or remedies and that all of such rights and remedies will remain available.

22. Notices.

Any notice to be provided under this Agreement shall be in writing and shall be delivered to the last known address of the party to receive the notice, which shall be considered delivered three days after mailing if sent certified mail, return receipt requested, or when received, if sent by e-mail, facsimile, prepaid courier, express mail or personal delivery.

23. Entire Agreement.

This Agreement constitutes the entire agreement and understanding of the parties in respect of the subject matter contained herein and supersedes all prior agreements, consents and understandings relating to such subject matter. The parties agree that there is no oral or other agreement relating to such subject matter between the parties which has not been incorporated into this agreement.

24. Survival.

The provisions of Sections 2, 3, 5, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, and 28 of this Agreement, and any right or obligation of the parties in this Agreement which, by its express terms or nature and context, is intended to survive termination, will survive the termination of this Agreement and the Services.

25. Changes to this Agreement.

Shift Digital may make changes to this Agreement or put into place Additional Terms from time to time at its discretion. When these changes are made, Shift Digital will notify Retailer and make a new copy of this Agreement available on the maintenance tool point of entry for the Services. Retailer understands and agrees that its use of the Services after the date on which this Agreement or any Additional Terms have changed shall constitute Retailer's agreement to and, acceptance of the updated Agreement or Additional Terms. Except as set forth herein, this Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

26. Severability.

If any provision of this Agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions. Headings used in this Agreement are for reference purposes only and are not a part of this Agreement.

27. Assignment.

Retailer may not assign this Agreement without the prior written approval of Shift Digital, except that no approval shall be required to assign this agreement to any person or entity which is, directly or indirectly, controlled by, controlling, or under common control with Retailer and is a licensed Retailer authorized to sell and service automobiles under a franchise agreement with INFINITI. This Agreement and all rights of Shift Digital hereunder may be assigned by Shift Digital, including, without limitation, to INFINITI, without consent, payment or other condition (excepting reasonable notice to Retailer). This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

28. Choice of Law; Venue.

This Agreement shall be construed in accordance with the substantive laws of the State of Michigan without reference to its conflicts of law principles. The parties expressly disclaim any application to this Agreement of the provisions of the 1980 United Nations Convention on Contracts for the International Sale of Goods. All disputes and controversies pertaining to this Agreement, the performance of the parties hereunder and the enforcement hereof shall be heard exclusively in the federal or state courts located in the County of Oakland, Michigan, U.S.A. and the parties hereby submit to the jurisdiction thereof and venue therein. Notwithstanding the foregoing, a party may apply for injunctive remedies (or an equivalent type of urgent legal relief) in any appropriate jurisdiction