

By accepting this end user license agreement, you agree to all program and/or provider content below.

Contents

Master Terms and Conditions of Use and End User License Agreement.....	2
Shift Digital Retailer Data Access Agreement	11
INFINITI Retailer Digital Marketing Program Terms	16

Additional Service Terms

Call Tracking	19
Black Book	20
Kelley Blue Book	21
Podium	22
Shift Digital Customer Data Platform	23

Master Terms and Conditions of Use and End User License Agreement

IMPORTANT - READ CAREFULLY: Sanctus, LLC, a limited liability company doing business as Shift Digital (“**Shift Digital**”), makes the Services, as defined below, available as part of INFINITI Retailer Digital Marketing Program. This “**Agreement**” includes these Master Terms and Conditions of Use and End User License Agreement, the Shift Digital Retailer Data Access Agreement, the INFINITI Retailer Digital Marketing Program Terms, and the Additional Service Terms. Although the INFINITI Retailer Digital Marketing Program is sponsored by the INFINITI Division of Nissan North America, Inc. (“**INFINITI**”), INFINITI is not providing or otherwise responsible for the Services and is not a party to this Agreement. 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’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 COMPLETING ENROLLMENT ON THE ENROLLMENT PORTAL 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.

1. Services.

The “**Services**” are the products and services, including, without limitation, the websites, software, tools, digital advertising, and related content and services, the electronic enrollment portal, informational web pages, and/or online reporting service provided by Shift Digital and/or the Service Providers (defined below).

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 and is responsible for any unauthorized activity that occurs under Retailer’s account as a result of a compromised or lost password. 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.

Certain Services may be subject to certain Additional Service Terms. Retailer agrees to the applicable Additional Service Terms, and Retailer understands that it may not use such Services unless it agrees to the applicable Additional Service Terms.

RETAILER SHALL, AS REQUIRED BY APPLICABLE LAW OR REGULATION, PROVIDE NOTICE TO RETAILER'S CUSTOMERS AND OBTAIN CONSENT FROM RETAILER'S CUSTOMERS FOR USE OF THE SERVICES. RETAILER WILL MAINTAIN AND MAKE AVAILABLE TO ITS CUSTOMERS A PRIVACY POLICY AS REQUIRED BY LAW OR REGULATION.

Retailer will ensure that all websites or other Services provided to Retailer during the term of the Agreement that are accessible to consumers contain privacy statements complying with all applicable laws governing the use, collection, protection, or other processing of personal information. **"Personal Information"** generally means information that identifies, relates to, describes, is reasonably capable of being associated with, or could or reasonably be linked, directly or indirectly, with identifiable individuals or households. Without limiting the generality of the foregoing, Retailer's privacy policy will state how the consumer's Personal Information will be used, collected, stored, protected, and otherwise processed including in connection with the Services. Retailer does not provide and during the term of the Agreement will not provide Personal Information to Shift Digital, except in a manner consistent with its published privacy policies, in full compliance with all laws pertaining to such information, and in a manner that provides safe and secure storage and protection of such Personal Information.

3. Restrictions on Use of Services.

Retailer agrees to not 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 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, use, 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 reproduce, adapt, publish, perform, or publicly display 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 acknowledges that the Services may contain information which is designated by Shift Digital as confidential. Retailer agrees not to use such confidential information for any purpose not expressly authorized by this Agreement or to disclose such confidential 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, excepting INFINITI and the Service Providers, in each case acting on behalf of Retailer) creates, approves, 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; is fraudulent or deceptive; is discriminatory; or violates someone's privacy.

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, royalty-free, non-assignable, nontransferable, non-sub-licensable and non-exclusive license to use the Services and the Provided Content provided to Retailer in the United States and Canada. 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 used to provide 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 sublicense 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 grants 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 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 has 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. 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 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 has acted in manner which reasonably 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 its intent to terminate 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 Section 13, below. In addition, Shift Digital may disable access to Retailer's account for nonpayment 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 contained in Retailer's account. Retailer acknowledges and agrees that Shift Digital 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.

10. 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. The fees for the Services shall be billed to and Retailer agrees to pay the fees for the Services through, and in accordance with the terms of, Retailer's INFINITI parts statement; provided, that Shift Digital may invoice Retailer directly for the Services if authorized by INFINITI to do so, and Retailer agrees to pay such invoice upon receipt via credit card or ACH. 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 pays 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, Shift Digital may terminate Retailer's use of the Services. 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. Except as set forth otherwise herein, all charges under this Agreement will be due and payable as specified on and consistent with the payment terms of Retailer's INFINITI parts statement. 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 through its INFINITI parts account, 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 and reasonable attorney fees). 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.

By entering your billing information, Retailer is authorizing Shift Digital to charge your credit card or withdraw funds from a bank account for use of the Services. Retailer is responsible for maintaining accurate and current account information. If a charge for Services is denied for any reason, use of the services will be terminated. Services provided are on a pre-paid basis and Retailer is charged on a monthly cadence. Please note a 3.5% processing fee will be applied to all credit card interactions. "Shift Digital" may appear as the entity name on invoices and the Retailer's credit card statements in connection with the billing for Services. If Retailer resides in AZ, CT, IN, LA, MA, MS, NM, NY, OH, PA, SC, SD, TN, TX, UT, or WA certain products may incur applicable state taxes. Retailers in other states may be notified if Services become taxable in their state. Regardless of whether Retailer is notified, Retailer is responsible for all applicable local, state, federal, and any other taxes imposed on the purchase of Services, if any.

11. 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. The Retailer's INFINITI parts statement may include any such taxes that INFINITI determines it is obligated to collect from Retailer with respect to the Services, and Retailer agrees to timely remit the same to INFINITI.

12. 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.

13. Termination. Retailer may cancel the Services online through its account, if online cancellation functionality is available, or, if not available, by providing written notice to Shift Digital delivered by email to the email set forth in the INFINITI Retailer Digital Marketing Program Terms. Except as otherwise set forth on the enrollment form for a particular Service, cancellations that occur on or before the 10th day of the month will be effective as of the end of that month and Retailer will be billed for the Services, and be responsible for payment of the Services, through the end of that month. Except as otherwise set forth on the enrollment form for a particular Service, cancellations that occur after the 10th day of the month will be effective at the end of the following month and Retailer will be billed for the Services, and be responsible for payment of the Services, for the remainder of that month and the following month. The cancellation may be subject to promotional terms set forth on the enrollment form, 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 the 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.

14. 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 THE SERVICES AND THE PROVIDED CONTENT ARE PROVIDED "AS IS" AND "AS AVAILABLE". IN PARTICULAR, SHIFT DIGITAL, 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 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 NONINFRINGEMENT.

15. LIMITATION OF LIABILITY. SUBJECT TO APPLICABLE LAW, RETAILER UNDERSTANDS AND AGREES THAT NEITHER SHIFT DIGITAL, 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 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); (II) 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; (III) RETAILER'S FAILURE TO PROVIDE SHIFT DIGITAL OR ANY SERVICE PROVIDER WITH ACCURATE ACCOUNT INFORMATION; OR (IV) RETAILER'S FAILURE TO KEEP RETAILER'S PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL. RETAILER AGREES THAT THE AGGREGATE MAXIMUM LIABILITY OF SHIFT DIGITAL UNDER THIS AGREEMENT FOR DAMAGES, REGARDLESS OF THE FORM OF ACTION, SHALL BE LIMITED TO AN AMOUNT EQUAL TO THE FEES PAID BY RETAILER DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE LAST EVENT GIVING RISING TO LIABILITY. 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.

16. 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 ACTION, 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 GROSS 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; (III) RETAILER'S USE OF THE SERVICES; (IV) RETAILER'S FAILURE TO COMPLY WITH RETAILER'S PRIVACY POLICY; OR (V) RETAILER'S VIOLATION OF APPLICABLE LAW, BUT EXCLUDING, IN EACH CASE, CLAIMS, DEMANDS AND CAUSES OF ACTIONS ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PERSON OR ENTITY SEEKING INDEMNIFICATION.

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

18. 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.

19. 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, or any Service Provider under this Agreement.

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

21. 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.

22. 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.

23. Survival. The provisions of Sections 2, 3, 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 19, 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.

24. 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.

25. 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.

26. 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.

27. 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. Any action to enforce any arbitration proceeding, and any other legal action, suit or proceeding that is not otherwise subject to mandatory arbitration pursuant to Section 28 and arises under or relates this Agreement or the use of the Services shall be heard exclusively in the either the state courts located in the County of Oakland, Michigan, U.S.A. or the Federal court located in the County of Wayne, 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.

28. Arbitration and Class Waiver.

28.1 Arbitration. Retailer agrees to arbitrate any dispute or claim that it may have with Shift Digital or its affiliates that arises out of or relates in any way to this Agreement or Retailer's use of or access to any Services. Such arbitration will be final and binding. If Shift Digital elects in its discretion to submit to arbitration any dispute or claim that it may have against Retailer, any such arbitration will be governed by the provisions of this Section 28.

28.2 Class Waiver. Any arbitration proceeding under this Section 28 will take place on an individual basis. Class arbitrations and class or representative proceedings of any kind are not permitted and Retailer expressly waives its ability to participate in a class or representative proceeding against Shift Digital or its affiliates. If the arbitration clause is found inapplicable to Retailer's dispute with Shift Digital, this class waiver will continue to apply in litigation. Retailer agrees that this class waiver is an essential element of the agreement between Retailer and Shift Digital and that this class waiver may not be severed. In the event that this class waiver is deemed invalid or unenforceable, then the entire agreement to arbitrate in this Section 28 will be null and void.

28.3 Arbitrator Authority. Any dispute or claim subject to arbitration pursuant to this Section 28 must be submitted to binding arbitration before a single arbitrator administered by JAMS pursuant to JAMS Streamlined Rules. The arbitrator will be bound by and will strictly enforce this Agreement and any other applicable Additional Terms between Retailer and Shift Digital, including any limitations of liability contained therein, and may not limit, expand or otherwise modify any of the provisions of the foregoing.

Any arbitration will be held in Birmingham, Michigan, unless otherwise agreed upon by the Parties in writing. Each Party will bear its own expenses in the arbitration and will share equally the costs of the arbitration; provided, however, that the arbitrator will award the applicable Party any costs and fees to which it may be entitled under Section 16 in connection with any indemnification claim.

Shift Digital Retailer Data Access Agreement

1. Access to Retailer's Web Sites, Systems and Data. Retailer hereby authorizes Shift Digital and the Service Providers that produce, collect or receive 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 Service Providers, which may include directly sharing Retailer Data with Service Providers, INFINITI and one or more of INFINITI's third party vendors to provide services directly to INFINITI. Per the terms of the Retailer's agreement with INFINITI, Retailer hereby authorizes INFINITI and INFINITI's third party vendors to use Retailer Data, provided that INFINITI's third party vendors' use is subject to confidentiality obligations as set forth in an agreement between INFINITI and such third party vendors; Shift Digital and the Services Providers are not a party to the foregoing agreements between INFINITI and the Retailer or INFINITI and its third party vendors. 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. 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.
2. Retailer Data Ownership. The Retailer Data shall continue to be owned by the Retailer. Neither Shift Digital nor the Service Provider will use the Retailer Data 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.
3. Retailer License. Retailer hereby grants to Shift Digital and the Service Providers a royalty-free, non-exclusive, nontransferable, non-cancelable, perpetual license to use the Retailer Data, including without limitation any sales and inventory data (to the extent available) obtained from Retailer's computer systems, or use of the services 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, (v) the generation of market analysis data and related products, (vi) development of reports for INFINITI, (vi) in promotional materials of Shift Digital and/or the Service Providers but only for such purpose when Retailer Data is aggregated, anonymized, or otherwise de-identified; and (vii) Shift Digital's and/or the Service Provider's business and operations, which may include (1) analyzing and reporting such aggregated and de-identified data in connection with the conduct of Retailer's business and operations, (2) creation of operational statistics for internal use only; (3) creation and inclusion in financial reporting of aggregate statistics regarding services performed; (4) creation and inclusion in marketing materials of aggregate statistics highlighting the capabilities of Shift Digital's and/or the Service Provider's products and services; and (5) advancing and improving existing products and services, creating new and enhanced product and

services, and development and publication of market and industry intelligence and expertise by Shift Digital and/or the Service Provider.

4. Disclosure to INFINITI. In connection with the Services, Retailer instructs Shift Digital and the Service Providers to disclose all Retailer Data to which Shift Digital and the Services Providers have access, including without limitation Personal Information, to INFINITI on Retailer's behalf.
5. Google AdWords and Analytics. Retailer expressly authorizes 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.
6. Publisher Policies and Terms. Use of the Services is also subject to the applicable policies and terms 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 terms and conditions, editorial guidelines, privacy policies, trademark guidelines, and ad specification requirements ("**Policies**"). Retailer agrees to comply with the Policies during the term of this Agreement and agrees that it has or will enter into a contractual relationship directly with such Publishers for the publication of Advertisements and associated data collection and use that will permit Shift Digital and the Service Providers to provide the related Services in compliance with all applicable laws and regulations. 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 Services by any means other than through the interfaces that are made accessible by Shift Digital or the Service Provider.
7. Personal Information processing. When Shift Digital is processing Personal Information on behalf of Retailer in connection with the Services, the following terms apply:
 - a. Shift Digital will process Personal Information only for the nature and purpose of fulfilling the Services and in accordance with Retailer's written instructions, which are documented in this Agreement and as further identified in the order form. Notwithstanding the foregoing, Shift Digital may also process Personal Information as necessary for Shift Digital to comply with applicable laws and regulations.
 - b. Data subjects whose Personal Information will be processed by Shift Digital in connection with the Services may consist of Retailer's employees, contractors, potential, actual, and former customers, and website visitors.
 - c. Categories of Personal Information to be processed by Shift Digital in connection with Services may include:
 - i. First and last name
 - ii. Street address

- iii. Vehicle of interest
 - iv. Phone number
 - v. Email address
 - vi. IP address
 - vii. Customer-owned VIN
 - viii. Retailer's business contact information
- d. The duration of processing of Personal Information is equal to the term of the Agreement.
- e. Shift Digital will not (i) sell or share Personal Information; (ii) retain, use, or disclose Personal Information for any purpose other than the specific purpose of performing its obligations under the Agreement, including retaining, using, or disclosing the Personal Information for a commercial purpose other than fulfilling its obligations under the Agreement; or (iii) retain, use, or disclose Personal Information outside of the direct business relationship between Company and Shift Digital. For purposes of this Agreement, to "**share**" Personal Information means to disclose Personal Information to a third party for cross-context behavioral advertising or targeted advertising purposes as contemplated by Applicable Privacy Laws. For purposes of this Agreement, to "**sell**" Personal Information means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, Personal Information to a third party for monetary or other valuable consideration. This sub-section will not apply when Shift Digital is processing Personal Information residents for cross-context behavioral advertising purposes or combining Personal Information that Shift Digital processes on behalf of itself or third parties with Personal Information Shift Digital processes on behalf of Retailer (collectively, "**Third Party Service Components**").
- f. Shift Digital will process Personal Information in accordance with all applicable laws and regulations, including, but not limited to, California Consumer Privacy Act (as amended by the California Privacy Rights Act), Connecticut's Act Concerning Personal Data Privacy and Online Monitoring (effective July 1, 2023), Colorado Privacy Act (effective July 1, 2023), Utah Consumer Privacy Act (effective December 31, 2023), Virginia Consumer Data Protection Act, and other federal and state laws and regulations relating to privacy, data security, and the processing, storage, protection, and disclosure of Personal Information (collectively, "**Applicable Privacy Laws**").
- g. All Personal Information will be deemed to be owned or licensed by Retailer and is Retailer Data subject to a duty of confidentiality. Retailer and all Shift Digital personnel and permitted subcontractors that process Personal Information are under a binding obligation to protect the confidentiality of such Personal Information.
- h. Retailer may, upon at least thirty (30) days advance prior written notice, and not more than once per twelve-month period, at Retailer's sole cost and expense, assess Shift Digital's Personal Information processes for compliance with these terms and Applicable Privacy Laws. Retailer will use reasonable efforts to minimize the disruption to Shift Digital's business operations from such assessment and will comply with all reasonable directives from Shift Digital if accessing Shift Digital's facilities, systems, or documents. Retailer will reimburse Shift Digital for reasonable expenses incurred, including

compensation for Shift Digital personnel time expended, in connection with such audit/review.

- i. Shift Digital will not disclose Personal Information to any sub-processors without the prior approval of Retailer. Retailer consents to Shift Digital's disclosure of Personal Information to the sub-processors, including the Service Providers, identified on the program enrollment website, Shift Digital's third party data center, and additional sub-processors as approved by Retailer in writing from time to time. Shift Digital will notify Retailer of any changes to the sub-processors that it uses to process Personal Information by updating the list available on the program enrollment website, and Retailer shall have ten (10) business days to object to each such change beginning on the date Shift Digital updates the list (the "**Objection Period**"). If Retailer does not object to the changed sub-processors within the Objection Period, Retailer will be deemed to have irrevocably approved the changed sub-processors. This sub-section will not apply to Shift Digital's processing of Personal Information for Third Party Service Components.
- j. Shift Digital will either inform i) Retailer of any data subject request received by Shift Digital relating to Personal Information processed on behalf of Retailer, or ii) the requesting data subject that they should make their request directly to the Retailer. Retailer will notify Shift Digital of any data subject request received by Retailer to which Shift Digital must comply and provide information reasonably necessary for Shift Digital to comply with such request.
- k. To the extent prohibited by Applicable Privacy Laws, Shift Digital will not combine Personal Information it processes on behalf of Retailer with Personal Information it processes on behalf of third parties or itself. This sub-section will not apply when Shift Digital processes Personal Information in connection with Third Party Service Components.
- l. Shift Digital will implement reasonable technical, administrative, organizational, and physical safeguards to protect Personal Information against unauthorized access, use, disclosure, alteration or destruction, including, to the extent applicable, a written information security program for the protection of "non-public personal information" as defined under GLBA and its implementing regulations.
- m. Shift Digital will notify Retailer in writing in the event that it determines it is no longer able to meet its obligations under Applicable Privacy Laws or this Agreement with regard to its processing of Personal Information under the Agreement. After providing reasonable notice to Shift Digital, Retailer may take actions that, in Retailer's reasonable discretion and at Retailer's cost, are appropriate to stop and/or remediate Shift Digital's noncompliant processing of Personal Information.
- n. Upon termination of the Agreement or upon Retailer's request, Shift Digital will promptly return or destroy (with written certification), at Retailer's option, except that Shift Digital may choose destruction if return is impractical, any or all of Retailer's Personal Information in its possession or control unless (i) retention of such Personal Information is required by laws or regulations applicable to Shift Digital, (ii) Shift Digital determines, in its sole discretion, it needs to retain such Personal Information to pursue or defend against an actual or potential legal claim, (iii) such Personal Information is stored in an archive or backup system (only until such Personal Information is deleted from such

system in the ordinary course of Shift Digital's business), or (iv) Retailer consents to the retention thereof.

INFINITI Retailer Digital Marketing Program Terms

For the INFINITI Retailer Digital Marketing Program

Retailer represents and warrants that it is a licensed automotive retailer authorized to sell and service vehicles under a franchise agreement with INFINITI Division of Nissan North America, Inc. (“**INFINITI**”).

INFINITI is a third party beneficiary of this Agreement as provided in Section 18 of the Agreement, however, Shift Digital does not have the power or authority to bind INFINITI through this Agreement or otherwise.

Retailer agrees to deliver all notices required hereunder to info@infinitidigitalprogram.com.

[Additional Service Terms](#)

Additional service terms begin on the following page.

Call Tracking

Retailer acknowledges that, as part of the Services, Retailer may receive use of and access to certain tollfree 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 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.

Black Book®

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.

Kelley Blue Book®

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.

Podium Corporation, Inc.

If Retailer subscribes to one or more services provided by Podium Corporation, Inc. (“**Podium**”), Retailer understands and agrees that Retailer’s use of such services shall be subject to, and Retailer agrees to the additional terms and conditions set forth at, <https://legal.podium.com/#termsofservice-us>, which are incorporated herein by reference and made a part of the Agreement.

Shift Digital Customer Data Platform

These Supplemental Terms and Conditions of Use (the “**Supplemental Terms**”) are a legal contract between Shift Digital and Retailer. Retailer’s electronic signature/agreement below authorizes Shift Digital to begin providing SDCCDP Services (as defined below) and billing Retailer immediately. Retailer agrees to pay the applicable fees for Services as set forth in the electronic Fee Exhibit(s) incorporated herein by reference. The Supplemental Terms supplement the Agreement. To the extent that there is a conflict between the Agreement and these Supplemental Terms, these Supplemental Terms shall control.

For the purposes of the Agreement and these Supplemental Terms, the term “**Services**” shall additionally refer to Shift Digital’s SDCCDP Services, defined as Shift Digital’s customer data platform and related services, which includes but is not limited to, the “Broadcast” and “First Watch” products. The SDCCDP Services include Shift Digital’s consumer data analysis platform that integrates information obtained about Retailer’s website visitors (collected via a cookie, pixel, or other automated tool) and existing or potential customers with (i) data sourced from Retailer’s marketing and/or consumer databases and (ii) data obtained by Shift Digital on Retailer’s behalf from third-party data sources. The platform will utilize proprietary technology to analyze such data to produce customer insights for Retailer via various methods.

1. **Permitted Scope of Use, Restrictions.** Retailer may use the Services solely to market its products and services and as set forth herein. Retailer is prohibited from reselling data provided in connection with the Services and from using such data for any purpose not expressly permitted herein.
2. **License to Shift Digital.** Retailer grants Shift Digital solely during the term of the Agreement a worldwide, non-exclusive, non-sublicensable, non-transferable (except as permitted in the assignment provisions of the Agreement) right in connection with performing the SDCCDP Services to (i) access, download, and receive Retailer Data, as applicable, (ii) store, reproduce, modify, and use Retailer Data, and (iii) share Retailer Data with INFINITI for purposes of cross context behavioral advertising and to analyze or predict consumers’ personal preferences, interests, economic situation, location, or behaviors.
3. **License from Shift Digital to Retailer.** Shift Digital grants Retailer the right to access and use the SDCCDP Services when actively enrolled and paying for the SDCCDP Services only. Shift Digital owns and retains all right, title, and interest (including, without limitation, all intellectual property rights) in any data, technology, infrastructure, methods, or know-how used in collecting data and creating audiences in connection with the SDCCDP Services. Other than the rights expressly licensed to Retailer herein, no right, title, or interest in the SDCCDP Services is transferred to Retailer.
4. **Authorization for Shift Digital to Act as Agent for Third-Party Data Sources.** Retailer authorizes, appoints, and directs Shift Digital to act as its agent to obtain data from third-party sources in connection with providing Retailer with the Services set forth herein. Retailer understands that all third-party data sources, including data containing Personal Information regarding consumers,

are directly providing data to Retailer and that Retailer is not obtaining or purchasing that information from Shift Digital.

5. **Tags and Pixels.** The SDCDP Services may include use of tags or pixels (collectively, “**Pixels**”) to measure exposure and/or conversion that may be installed in websites, applications, emails, and other electronic communication methods (collectively, “**Sites**”). Retailer represents and warrants that (i) no terms of use, privacy policy, or representations made by Retailer to individuals will be violated by such Pixel use; (ii) Retailer’s Sites will display privacy policies that disclose applicable data collection practices, including the types of data collected and purposes for which data is collected by or transferred to third parties, plus working mechanisms that conspicuously enable consumer opt-outs in accordance with applicable laws and regulations; and (iii) Pixels will not be used in conjunction with any Sites directed to persons under the age of 18, or in any manner implicating the Children’s Online Privacy Protection Act. Retailer shall not remove Pixels from Sites or install Pixels into unauthorized Sites without notice to and consent of Shift Digital. Shift Digital reserves the right to exclude use of any Pixel that, in Shift Digital’s opinion, does not comply with this Agreement.
6. **Services Data.** The term “**Retailer Data**” as set forth in the Agreement, shall be expanded to also include any data, including Personal Information of consumers, that is collected, shared, or otherwise used in connection with the Services set forth herein, including data that Retailer purchases through Shift Digital as set forth in Section 4 above. So long as Retailer is enrolled to receive the SDCDP Services, the Parties agree Section 7(c) of the Shift Digital Retailer Data Access Agreement may additionally include the following categories of Personal Information:
 - a. Characteristics of protected classifications under California or Federal law, including a consumer’s racial or ethnic origin;
 - b. Commercial information, including records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies;
 - c. Internet or other electronic network activity information, including, but not limited to, browsing history, search history, and information regarding a consumer’s interaction with an internet website application, or advertisement;
 - d. Geolocation data; and
 - e. Inferences drawn from any of the information identified in this Section or Section 7(c) of the Shift Digital Retailer Data Access Agreement to create a profile about a consumer reflecting the consumer’s preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes.
7. **Legal Compliance.** Retailer shall comply with applicable laws, legislation, rules, regulations, governmental requirements, and industry standards, expressly including Retailer’s obligations under Applicable Privacy Laws (as defined in the Shift Digital Retailer Data Access Agreement). Retailer understands and agrees Retailer is responsible for obtaining all required permissions and make all required disclosures regarding the collection, use, and sharing of Retailer Data and Personal Information pursuant to Applicable Privacy Laws.

8. **Change in Law.** The state of the law with respect to behavioral advertising, contextual advertising, cookies, Personal Information, and informational privacy is unsettled. A new or change in existing applicable local, state, federal, and international laws, rules, and regulations may limit or prohibit the delivery of, access to, or use of certain or other activities as contemplated herein. Neither Party makes any representations or warranties with respect to such changes in law, and each Party expressly disclaims any representations, warranties, guarantees, covenants, or obligations relating thereto.
9. **Prohibitions.** (i) Retailer is prohibited from further resale or providing access to third parties of the SDCCP Services; (ii) Retailer is prohibited from providing to Shift Digital any sensitive Personal Information under Applicable Privacy Laws, including, but not limited to, the provision of data associated with any individual's health or medical condition, sexual orientation, religion, or status as a person under the age of 18; (iii) Retailer is prohibited from using the SDCCP Services to sell or advertise adult entertainment, tobacco, illegal gambling, or firearms, or to reidentify, derive any data from, or otherwise reverse engineer data Retailer may receive through the SDCCP Services; and (iv) Retailer will not and will not attempt to resolve the identity of any natural person whose pseudonymized or anonymized data is provided to Retailer through the SDCCP Services. Further, Retailer shall only use the Retailer Data that Retailer obtains from the SDCCP Services for purposes of advertising and marketing Retailer's products and services in the United States, and for no other purposes.
10. **Retailer Warranties.** Retailer warrants that (i) where Shift Digital distributes Retailer Data to INFiniti, Retailer has an agreement in place with INFiniti for its receipt of Retailer Data, and that the handling of Retailer Data by INFiniti is subject to the terms and conditions of that separate agreement; (ii) Shift Digital is an intended third party beneficiary with respect to these required provisions, with the right to enforce its terms directly against Retailer; and (iii) Retailer grants Shift Digital all licenses and authorizations necessary to provide the Retailer Data to enable the use of the SDCCP Services.
11. **Compliance.** Retailer agrees to use the Services solely for the limited and specific purposes set forth herein and will, at all times, comply with Applicable Privacy Laws with regard to Retailer's use and disclosure of Retailer Data. Shift Digital may monitor and audit Retailer's use and disclosure of Retailer Data for compliance with Retailer's agreements with Shift Digital and Applicable Privacy Laws. Retailer will provide written notice to Shift Digital if Retailer determines that Retailer is no longer able to meet Retailer's obligations under this section and Applicable Privacy Laws with regard to Retailer Data used or obtained in connection with the SDCCP Services. Upon receipt of such notice, Shift Digital may take steps that, in its sole discretion, are appropriate to halt and/or remediate any unauthorized or legally noncompliant use or disclosure of the Services.