

This Is An Electronic Contract. You Have Previously Agreed To Transact This Business Electronically.

Dealer End User License Agreement

The digital advertising products, services and websites (referred to collectively as the "Services") are made available as optional features of the Lexus Dealer Digital Advertising Program offered by Lexus, U.S.A., Inc. ("TMS/USA") to its dealers. The Services are provided by TMS/USA's service provider, Sanctus, LLC doing business as Shift Digital ("Shift Digital") to the automotive dealer ("Dealer") subscribing to the Services. The Services are subject to the terms set forth in this Dealer End User License Agreement ("Agreement"). Dealer represents and warrants that it is a licensed automotive dealer authorized to sell and service vehicles under a franchise agreement with TMS/USA. In order to use the Services, Dealer must first agree to the terms set forth in this Agreement. Dealer may not use the Services if Dealer does not accept the terms of this Agreement. Dealer can accept the terms of this Agreement by enrolling for and/or by using the Services, in which case, Dealer understands and agrees that Shift Digital will treat Dealer's use of the Services as acceptance of the terms of this Agreement. The definition of Services hereunder shall also include any online access to any enrollment portal, informational web pages, and/or online reporting service (collectively, the "Secure Web Services") provided by Shift Digital.

Services

Shift Digital agrees to provide the Services to Dealer 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 Dealer or Shift Digital selects. Shift Digital, in its sole discretion, may change any Service Provider, at any time and for any reason.

Restrictions on Use of Services.

Use of the 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"). Dealer 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. Dealer may use the Services only for purposes that are permitted hereunder and in accordance with applicable laws and regulations. Dealer 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. Without limiting the foregoing, Dealer 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.

Ownership of Content and Services.

Dealer 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) (collectively referred to as "Content") which are provided by Shift Digital, its Service Providers, or TMS/USA in connection with the Services, or which Dealer may have access to as part of, or through Dealer'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, Service Providers, TMS/USA and/or their licensors. Dealer 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. Dealer further acknowledge that the Services may contain information which is designated confidential; Dealer agrees not to disclose such information without Shift Digital's prior written consent.

Advertising Services.

Dealer 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 Dealer's behalf relating to Dealer's automotive dealership. Dealer is solely responsible for all: (a) campaigns and budget allocation and management (creative or targets), whether generated by or for Dealer; and (b) web site content, services and landing pages that create links, or directs viewers, to any advertised services and products (collectively "Dealer's Products and Services"). Dealer 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 Dealer request. Dealer authorizes and consents to all such placements. Shift Digital or the Service Provider may reject or remove any Advertisement for any or no reason.

Licenses

Provided Dealer is not in default of any obligation under the Agreement, and provided Dealer has paid all applicable fees, subject to the terms and conditions of the Agreement, Shift Digital grants Dealer a personal, worldwide, royalty-free, non-assignable and non-exclusive license to use the Provided Content as part of the Services provided to Dealer. This license is for the sole purpose of enabling Dealer to use and enjoy the benefit of the Services in the manner permitted by this Agreement. Dealer retains any copyright and/or other intellectual property rights Dealer already holds in Content which Dealer submits, posts or displays on or through, the Services ("Dealer Content"). By submitting, posting or displaying the Dealer Content, Dealer gives Shift Digital, and each Service Provider to which Shift Digital provides the Dealer 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 in order to provide the Services.

Access to Dealer's Web Site.

In the event the performance of the Services requires Shift Digital or the Service Provider to access Dealer's computer systems to collect data or perform the Services, Dealer specifically requests and authorizes such access and will provide, and has all rights and authorizations required to provide, such access. Dealer hereby authorizes Shift Digital, TMS/USA, the Service Providers, and any Publisher that produces, collects or receives data pertaining to the Dealer's website(s), advertising activity, sales leads, lead generation activity, Dealer's use of the Services, or any of Dealer's other business activities (the "Dealer Data"), to transfer, provide or otherwise make available the Dealer Data to Shift Digital, TMS/USA, the Service Providers, and any third party in connection with providing the Services hereunder.

The Dealer Data shall continue to be owned by the Dealer. Neither Shift Digital nor the Service Provider will use the Dealer Data or other customer information for any other purposes than those intended with the Services. Nothing in this Agreement shall obligate Shift Digital, TMS/USA or any Service Provider to retain any Dealer Data.

Dealer understands and agrees that Shift Digital and/or the Service Providers may engage a data polling service to poll and transmit Dealer Data from Dealer's DMS or other computer systems. Dealer hereby grants to Shift Digital and the Service Providers a royalty-free, non-exclusive, non-transferable, non-cancelable license to use the Dealer Data, including without limitation any sales and inventory data (to the extent available) obtained from Dealer'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 Dealer Data shall not be used to disclose to any third party Dealer's name or the name of any consumer, and shall not be sold to any third party.

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

DEALER ACKNOWLEDGES AND AGREES THAT (A) DEALER 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 DEALER'S AGENT, AND NOT AS THE AGENT OF GOOGLE OR ANY OTHER THIRD PARTY. NEITHER SHIFT DIGITAL, TMS/USA, 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 DEALER DATA IN THE SERVICES.

Shift Digital and/or the Service Providers may access Dealer Data in accounts created and managed by Shift Digital and/or the Service Providers on the third party sites or, if Dealer provides its account information and authorizes access to accounts managed by Dealer, Shift Digital and/or the Service Providers may access Dealer's accounts directly on those third party sites. Dealer hereby authorizes and permits Shift Digital and/or the Service Providers to use the Dealer Data (i) to provide the Services, (ii) in the promotional materials of Shift Digital and/or the Service Providers, but only when Dealer Data is combined with other dealers' information/data and presented in an aggregated and de-identifiable manner, and/or (iii) to develop reports for TMS/USA, which may include directly sharing Dealer Data with TMS/USA.

Dealer Co-Op Advertising Program

TMS/USA may offer to support the marketing of its authorized dealers through a Dealer Co-op Digital Advertising Program (the "Co-op Program"). Dealer's participation in any Co-op Program is subject to the following terms and conditions specified by TMS/USA:.

(a) Dealer agrees that it must comply with all Co-op Program policies (the "Policies") in effect at the time of the Dealer marketing for which Dealer seeks financial support under the Program. Dealer agrees that TMS/USA is not obligated to make any payment to Dealer under the Program in the event Dealer or any of its vendors fails to comply with any of the Policies. A copy of TMS/USA's current Policies is available at www.lexusdealerdigital.com.

(b) Dealer understands and agrees that TMS/USA may change the Policies from time to time in its sole discretion. Dealer further understands that any changes to the Policies will be posted on www.lexusdealerdigital.com website and agrees that TMS/USA is not otherwise required to provide notice of changes in the Policies. Dealer agrees that it is responsible for knowing what is required by the Policies and ensuring that Dealer and each of its vendors fully comply with them.

(c) Dealer understands and agrees that Dealer's marketing spending must only be for the specific purposes set forth in the Policies in order to be eligible for payment under the Program; spending for any other purpose will not qualify. Neither Dealer nor any of Dealer's vendors will use any payments under the Program for any purpose except to defray the actual costs of marketing eligible for reimbursement under the Policies. For example, payments under the Program may not be used for the purpose of supporting marketing programs not eligible under the Program or providing rebates to Dealer.

(d) Dealer agrees that it is responsible for compliance with any local, state or federal statutes, rules and regulations ("Law") that may apply to the marketing and that TMS/USA is not responsible for any such

violation of Law. If TMS/USA becomes aware of any violation of Law associated with Dealer's marketing, TMS/USA may withhold or seek the return of any payments under the Program made to or on behalf of Dealer and associated with such marketing.

(e) Dealer agrees that TMS/USA has the right to audit Dealer and each of its vendors, including any invoices and any other records relating to this Agreement or the Program, at any time and for any reason with respect to claims for reimbursement under the Program made by or on behalf of Dealer. Dealer agrees that it and each of its vendors will cooperate fully with any such audit. Dealer agrees that if Dealer or any of its vendors fails to fully cooperate, Dealer will return to TMS/USA all payments made to or on behalf of Dealer under the Program with respect to all expenses subject to such audit. Dealer agrees that, in the event Dealer refuses to cooperate with an audit under this section, TMS/USA may also, in its sole discretion, exclude Dealer from participating in the Program.

(f) Dealer understands that, under the Policies, TMS/USA may refuse to reimburse expenses to the extent those expenses were incurred in conjunction with Marketing produced for Dealer by a vendor that TMS/USA has disqualified from the Program for failing to comply with the Policies. Dealer further understands that a vendor may be disqualified as a result of marketing services vendor provided to dealers other than Dealer and not connected in any way with Dealer. TMS/USA makes information with respect to the disqualification of a vendor available on the Program website.

(g) In the event TMS/USA determines that payments made under the Program were made erroneously to or on behalf of Dealer, Dealer agrees to return to TMS/USA all such co-op payments. In the event that TMS/USA determines that Dealer knew or should have known that expense submissions made on its behalf were erroneous, TMS/USA may also, in its sole discretion, suspend Dealer's participation in the Program. After the expiration of any such disqualification period, Dealer may seek reinstatement of its eligibility under the Program; reinstatement will be in TMS/USA's sole discretion. Dealer's eligibility for reinstatement may be dependent upon Dealer fulfilling any reasonable conditions to reinstatement placed upon it by TMS/USA. Such conditions may include the requirement that Dealer reimburse TMS/USA for its reasonable costs of any audit of Dealer or any other expenses relating to Dealer's failure to comply with the Program Policies or this Agreement. Dealer also agrees that TMS/USA may require Dealer to evidence reasonable steps taken to ensure that it will fully comply with the Policies and the Dealer Advertising Co-op Agreement in effect at that time.

(h) To the fullest extent possible, disputes arising under this Agreement regarding the Program shall be settled through amicable discussions between Dealer and TMS/USA. If any dispute cannot be resolved in such manner, before resorting to any other legal remedy, Dealer and TMS/USA shall attempt in good faith to resolve the dispute by mediation before and in compliance with the rules established by any mutually acceptable alternative dispute resolution organization, including, but not limited to, JAMS and the International Institute for Conflict Prevention and Resolution ("IICPR"). The selection of an organization

shall be made within ten (10) business days after notification from one party to the other. If an organization/judge and applicable rules have not been agreed upon within such ten-day period, then the dispute shall be mediated in accordance with the IICPR Mediation Procedure, and a single mediator will be chosen by IICPR. If Dealer and TMS/USA are unable to resolve the dispute within sixty (60) days of the first mediation session, then Dealer may elect to submit the matter to binding arbitration or private adjudication or either Dealer or TMS/USA may commence a lawsuit.

(i) Any notice to TMS/USA required or permitted under this section of this Agreement, shall be directed to:

Lexus/Toyota Motor Sales, USA, Inc.
Attn:
6781 Headquarters Dr,
Plano, TX 75024

(i) The obligations undertaken and agreements made in this section shall survive such termination of this Agreement.

Modification to 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 sixty (60) days prior written notice to Dealer. Some modifications or changes may result in a fee increase or decrease for such Services. Dealer's continued use of the Services hereunder after the sixty (60) day notice period will constitute Dealer's acceptance of the change in the Services and Dealer's agreement to pay the fees associated with such change in Services.

Payment of Fees and Billing.

Dealer agree 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 Dealer agrees to pay the fees for the Services through, and in accordance with the terms of, Dealer's TMS/USA parts statement; provided, that in the event billing through the TMS/USA parts statement is not feasible, Shift Digital may invoice Dealer directly for the Services and Dealer agrees to pay such invoice within 45 days of receipt. 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 Dealer requests the change so long as Dealer 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 Dealer's TMS/USA

parts statement. Shift Digital may increase fees by giving Dealer not less than sixty (60) days written notice prior to the effective date of the price increase. If Dealer fails to pay for the Services timely through its TMS/USA parts account, Dealer 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).

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. Dealer 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, Service Providers or TMS/USA. The Dealer's TMS/USA parts statement may include any such taxes that TMS/USA determines it is obligated to collect from Dealer with respect to the Services, and Dealer agrees to timely remit the same to TMS/USA.

Compliance with Law

Shift Digital shall provide the Services and perform its obligations under this Agreement, and Dealer shall use the Services and perform its obligations under this Agreement, in compliance with all applicable federal, state and local laws, rules and regulations.

Dealer Warranties.

DEALER HEREBY REPRESENTS AND WARRANTS THAT ANY AND ALL DEALER CONTENT SUBMITTED FOR PUBLICATION OR DISPLAYED ON DEALER'S WEBSITE 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.

Termination

Dealer may cancel the Services online through its account, if online cancellation functionality is available, or, if not available, with not less than 60 days prior written notice to Shift Digital. The cancellation may be subject to 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 Dealer must pay for those Advertisements. Upon cancellation or expiration of this Agreement, Dealer 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 Dealer may terminate this Agreement by written notice to Shift Digital. Shift Digital may, at any time and for any reason, terminate this Agreement upon ten (10) days prior written notice to Dealer. This Agreement will automatically terminate without requirement of notice by either party effective on the date of the expiration or termination of Dealer's franchise agreement with TMS/USA for any reason.

No Warranties.

DEALER EXPRESSLY UNDERSTAND AND AGREE THAT DEALER'S USE OF THE SERVICES AND THE PROVIDED CONTENT IS AT DEALER'S SOLE RISK AND ARE PROVIDED "AS IS" AND "AS AVAILABLE." IN PARTICULAR, SHIFT DIGITAL, THE SERVICE PROVIDERS, TMS/USA AND THEIR AFFILIATES AND LICENSORS DO NOT REPRESENT OR WARRANT TO DEALER THAT: (A) DEALER'S USE OF THE SERVICES OR THE PROVIDED CONTENT WILL MEET DEALER'S REQUIREMENTS, OR (B) DEALER'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 DEALER'S OWN DISCRETION AND RISK AND THAT DEALER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO DEALER'S COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY DEALER FROM SHIFT DIGITAL, ANY SERVICE PROVIDER OR TMS/USA, OR THROUGH OR FROM THE USE OF THE SERVICES SHALL CREATE ANY WARRANTY. SHIFT DIGITAL, EACH SERVICE PROVIDER, AND TMS/USA 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.

Limitation of Liability.

SUBJECT TO APPLICABLE LAW, DEALER EXPRESSLY UNDERSTANDS AND AGREES THAT SHIFT DIGITAL, THE SERVICE PROVIDERS, TMS/USA, AND THEIR AFFILIATES AND LICENSORS SHALL NOT BE LIABLE TO DEALER FOR: (A) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY DEALER, 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 DEALER, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF: (I) ANY CHANGES WHICH SHIFT DIGITAL, ANY SERVICE PROVIDER OR TMS/USA 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 CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH DEALER'S USE OF THE SERVICES; (III) DEALER'S FAILURE TO PROVIDE SHIFT DIGITAL. SERVICE PROVIDER OR TMS/USA WITH ACCURATE ACCOUNT INFORMATION; OR (IV) DEALER'S FAILURE TO KEEP DEALER'S PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL. THE LIABILITY OF SHIFT DIGITAL, THE SERVICE PROVIDERS AND TMS/USA HEREUNDER, IF ANY, SHALL NOT EXCEED, IN THE AGGREGATE, AN AMOUNT EQUAL TO THE MONTHLY SERVICE FEE PAID BY DEALER FOR THE MONTH IN WHICH THE DEFECT OR BREACH OCCURRED.

Indemnification.

DEALER WILL DEFEND, INDEMNIFY AND HOLD TMS/USA, SHIFT DIGITAL, THE SERVICE PROVIDERS, AND EACH OF THEIR EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, REPRESENTATIVES AND AFFILIATES HARMLESS FROM AND AGAINST ALL LOSS, CLAIMS, DEMANDS, CAUSES OF ACTIONS, AND ADMINISTRATIVE OR REGULATORY ACTIONS OF WHATEVER KIND OR CHARACTER, WHETHER BROUGHT BY DEALER OR ANY THIRD PARTY, AND INCLUDING COSTS, ATTORNEYS' FEES AND EXPENSES RELATING TO THIS AGREEMENT AND/OR THE SERVICES PROVIDED UNDER THIS AGREEMENT AND/OR DEALER'S PRODUCTS AND SERVICES, AND/OR ARISING FROM OR RELATED TO A BREACH OF THIS AGREEMENT OR ANY REPRESENTATION OR WARRANTY OF DEALER UNDER THIS AGREEMENT, BUT EXCLUDING CLAIMS, DEMANDS AND CAUSES OF ACTIONS ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PERSON OR ENTITY SEEKING INDEMNIFICATION.

Authorized Third Party Beneficiaries

TMS/USA AND EACH SERVICE PROVIDER SHALL BE DEEMED THIRD PARTY BENEFICIARIES OF THE INDEMNIFICATION AND LIMITATION OF LIABILITY PROVISIONS OF THIS AGREEMENT.

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 date 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.

Relationship of Parties.

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

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.

Amendment of Agreement.

This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

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.

Assignment.

Dealer 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 Dealer and is a licensed dealer authorized to sell and service automobiles under a franchise agreement with TMS/USA. This Agreement may be assigned by Shift Digital. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

Governing Law.

This Agreement shall be governed by the laws of the State of Michigan without regard to its conflict of laws provisions. Dealer and Shift Digital agree to submit to the exclusive jurisdiction of the courts located within the county of Wayne, Michigan to resolve any legal matter arising from the Terms. Notwithstanding the foregoing, a party may apply for injunctive remedies (or an equivalent type of urgent legal relief) in any appropriate jurisdiction.

I understand that by signing my name below, as a duly authorized representative of dealer, I am electronically signing this EULA and I understand and agree that I'm binding the named Dealer to its Terms and Conditions as though I signed this EULA on paper with an ink signature.