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(d)   *Authority*.   Licensee, and the individual accepting these terms on behalf of Licensee, hereby represents and warrants that it has the full power and authority to accept the terms of this Agreement on behalf of Licensee and that Licensee agrees to be bound by the terms of this Agreement.

7.   Termination.

(a)   Unless earlier terminated as provided herein, the term of this Agreement shall commence on the acceptance of this Agreement by Licensee and continue for an initial period of twelve (12) months (the "**Initial Term**").   Thereafter, this Agreement will automatically renew for additional one-year periods (each a "**Renewal Term**"), unless either party provides advance written notice of its intent not to renew at least thirty (30) days prior to the end of the then current Term.   As used in this Agreement, both the Initial Term and each Renewal Term may be referred to collectively as the "**Term**".

(b)   Either party may terminate this Agreement, effective immediately: (i) upon mutual consent; (ii) in the event the other party materially breaches this Agreement and does not cure such breach within thirty (30) days of written notice from the non-breaching party setting forth the nature of the material breach; or (iii) in the event the other party submits in writing its inability to pay its debts as they become due; makes a general assignment for the benefit of creditors; institutes proceedings to be adjudicated bankrupt; consents to the filing of a petition of bankruptcy against it; seeks reorganization under any bankruptcy act, or consent to the filing of a petition seeking such reorganization.

(c)   Upon termination of this Agreement for any reason, Licensee shall immediately discontinue all use of the Software.   Thereafter, Licensee shall have no further right, license or privilege to access, or use the Software. Those portions of the Agreement that must survive termination in order to give effect to its essential purpose, will survive termination of this Agreement.

8.   Confidentiality.

(a)   Swift Sites Confidential Information.   Licensee acknowledges and agrees that it may receive from Swift Sites certain proprietary, confidential, and/or non-public information pertaining to the Software, Swift Sites' other technology, and Swift Sites' financial, employment, and/or other business affairs (the "**Swift Sites Confidential Information**"). Licensee shall not disclose or publicize the Swift Sites Confidential Information without Swift Sites' prior written consent. Licensee shall use its reasonable efforts (but in no case less than the efforts used to protect its own proprietary information of a similar nature) not to disclose and not to use the Swift Sites Confidential Information for its own benefit or for the benefit of any other person, third-party, firm or corporation in a manner inconsistent with the purpose of this Agreement. The terms of confidentiality and non-disclosure contained herein shall expire five (5)

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(c) **Ownership**. Licensee Confidential Information shall remain the sole property of Licensee, and Swift Sites Confidential Information shall remain the sole property of Swift Sites. Swift Sites shall also own all rights to the aggregate and de-identified data in its possession and the analysis of such de-identified and aggregate data performed by Swift Sites.

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(b) *Acknowledgement.* Accessing or using the Software constitutes acceptance of this Agreement in its entirety. Licensee will confirm this acceptance when Licensee presses the "**I Accept**" button (or equivalent) in the terms and conditions dialog box presented by the Software or associated website during first use. This Agreement sets forth the entire agreement of the parties and supersedes all prior or contemporaneous writings, negotiations, and discussions with respect to the subject matter hereof. Neither party has relied upon any such prior or contemporaneous

communications. This Agreement may not be amended or superseded unless agreed in writing by both parties.

(c)   *Independent Contractors*. The parties are independent contractors and will so represent themselves in all regards. Neither party is the agent of the other and neither may bind the other in any way.

(d)   *No Waiver*. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than in an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any prior or subsequent breach of this Agreement.

(e)   *Force Majeure*. To the extent caused by force majeure, no delay, failure, or default will constitute a breach of this Agreement.

(f)   *Assignment & Successors*. Licensee may not assign this Agreement or any of its rights or obligations hereunder without Swift Sites' express written consent. Any attempted assignment in violation of this provision shall be void *ab initio*. Except to the extent forbidden in the previous sentence, this Agreement will be binding upon and inure to the benefit of the respective successors and assigns of the parties.

(g)   *Choice of Law & Jurisdiction*. This Agreement will be governed solely by the internal laws of the State of North Carolina, without reference to such State's principles of conflicts of law. The parties consent to the personal and exclusive jurisdiction of the federal and state courts of Wake County, North Carolina. This Agreement shall not be governed by the 1980 U.N. Convention on Contracts for the Sale of Goods.

(h)   *Severability*. To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.