

## DEALERTRACK ACCESS AGREEMENT

This Dealer Track Access Agreement (this “Agreement”), dated as of the date (the “Effective Date”) that a representative of Dealer (as defined below) clicks on “I Accept” to the terms and conditions hereof, between DealerTrack, Inc. (“DealerTrack”) and each of the other parties hereto (each individually referred to herein as “Dealer”), sets forth the terms and conditions for the use of the DealerTrack system (the “System”). In no way limiting the foregoing, the “System” shall include the Base System and any Premium Components or Integration subscribed to or licensed by Dealer (as such terms are defined in paragraph 1(b) below). Unless otherwise noted, references to this “Agreement” shall mean this Agreement, as amended or supplemented from time to time by any Addenda (as defined below).

WHEREAS, DealerTrack owns and operates the System to provide its dealership customers with Internet-based access to such selected products and services of financial institutions and other third parties as may be offered by DealerTrack and subscribed to by such dealership customers from time to time in accordance with this Agreement, including any addenda, schedules and exhibits hereto entered into between DealerTrack and Dealer (any such addendum, schedule or exhibit, individually an “Addendum”, and collectively, “Addenda”); and

WHEREAS, Dealer has requested to access the System in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **THE SYSTEM**

(a) **License Granted by DealerTrack**

DealerTrack hereby agrees to provide Dealer with use of the System under a nonexclusive, nontransferable, revocable license during the term of this Agreement, in accordance with and subject to the terms of this Agreement.

(b) **Access to the System; Dealer Information Owner(s)**

Dealer’s use of certain credit application and other general information functions of the System (the “Base System”) is currently available free of charge to Dealer and all other dealer subscribers via the website located at the web address [www.dealertrack.com](http://www.dealertrack.com) (the “DealerTrack Website”). In addition, DealerTrack may make available to Dealer an integration between the Base System and certain dealer management systems (“Integration”). Any such Integration will be provided to Dealer upon execution by Dealer of the applicable Addendum and payment of the applicable fee(s), and will be deemed licensed to Dealer pursuant to Section 1(a) above and in accordance with and subject to the terms of such Addendum.

Certain other functions of the System and related services and products (the “Premium Components”) are and will be available to Dealer, in some cases on an integrated basis, upon execution by Dealer of Addenda for the fee(s) and otherwise upon the terms set forth herein and in the applicable Addendum. DealerTrack reserves the right from time to time, upon notice to Dealer, to charge a fee for any or all components of the Base System, to modify the charges applicable to the Premium Components or any Integration, to add, delete or modify any portion of the System and to add to and delete from those products and services which make up the Base System or which are the Premium Components or which are available under any Integration.

To obtain access to the System, Dealer must designate one or more persons to act as a “Dealer Information Owner.” The person clicking “I Accept” to this Agreement hereby represents, warrants and covenants on behalf of Dealer and such person that they have been designated as a Dealer Information Owner by Dealer. Subject to the remainder of this Section 1(B), the Dealer Information Owner(s) will be the only person(s) authorized by Dealer to: (i) grant, modify and revoke access to the System for any other Dealer personnel (each referred to herein as a “User,” which shall also include the Dealer Information Owner(s)), and (ii) designate the level of access that each User shall have to the System, as such access levels are established by DealerTrack from time to time. Dealer represents, warrants and covenants that the Dealer Information Owner(s) shall be duly authorized to bind Dealer with respect to any Addendum or other amendment or modifications to this Agreement. Upon input of such information regarding each Dealer Information Owner as DealerTrack may require, DealerTrack will notify such Dealer Information Owner that it has been granted access to the System via a website notification or a

notification sent to the e-mail address provided by the Dealer Information Owner. The Dealer Information Owner will then be able to grant, modify or revoke access to the System for other Users. DealerTrack will then: (i) add each new User to the System, and (ii) assign each new User a unique user identification (“User ID”) and an Initial Temporary Password (defined below) to access the System.

Dealer acknowledges that its Dealer Information Owner(s) and not DealerTrack are solely responsible for monitoring and controlling each User’s access to and use of the System in accordance with the terms and conditions of this Agreement, the Terms and Conditions of Use (the “Terms of Use”) set forth on the DealerTrack Website and applicable law, and to ensure that there is no unauthorized access to the System. The Dealer Information Owner(s) will be solely responsible for the revocation of any User’s authorization to access the System. DealerTrack may from time to time, at its option, and without prior notice to Dealer, change the process through which access may be granted to the System.

Dealer agrees that if at any time a User designated as a Dealer Information Owner is no longer authorized by Dealer to perform the functions of a Dealer Information Owner as described herein, Dealer will promptly notify DealerTrack. Dealer agrees to maintain an active Dealer Information Owner throughout the term of this Agreement. Dealer hereby authorizes DealerTrack to designate one or more Users as a Dealer Information Owner if Dealer fails to maintain an active Dealer Information Owner. For purposes of this paragraph, a Dealer Information Owner shall be considered “active” at a particular point in time if he or she: (i) is authorized by Dealer to perform the functions of a Dealer Information Owner at such time and (ii) has accessed the System within the previous three months.

(c) **Password; Security**

The “Password” is a unique identification code granting each User access to the System. In accordance with Section 1(b) above, DealerTrack will assign to every new User a temporary password (an “Initial Temporary Password”) in addition to a User ID. The first time that a new User logs onto the System the User will be required to change his/her Initial Temporary Password to a more individualized Password of at least 6 characters consisting of a combination of both numeric and alphabetic characters. DealerTrack may, at its option, change the password parameters without prior notice to any User, and if it does so, each User may be required to change its Password the next time such User enters the System. Dealer agrees to instruct all Users not to disclose their Passwords to anyone and to use the System in accordance with this Agreement, the Terms of Use, and all applicable law. Dealer acknowledges that Dealer, through its Dealer Information Owner(s) and each other User, shall be solely responsible for preserving the confidentiality of each User’s Password and will immediately notify DealerTrack of any known or suspected unauthorized use of a Password or unauthorized access of the System. In addition, Dealer agrees to comply with all reasonable security measures that DealerTrack may from time to time specify to Dealer.

(d) **License Granted by Dealer**

Dealer hereby grants DealerTrack a worldwide, nonexclusive, royalty-free license to use, reproduce, distribute, transmit, disclose, display, modify and create derivative works of the content, data, information and other materials it submits and/or receives via the System (the “Dealer Data”) and to authorize others to exercise the foregoing rights. Notwithstanding anything to the contrary in this Section 1(d), DealerTrack will not disclose or use identifiable nonpublic personal information contained in the Dealer Data other than as may be permitted by applicable law.

(e) **Proprietary Rights**

Except for the limited license to use the System set forth herein, DealerTrack (and/or any third party providers of any components of, or integration for, the System, as applicable) shall own all worldwide right, title and interest in and to any applications made available hereunder, the System, and to any modifications, updates, upgrades, copies, derivative works, augmentations or customizations of the applications or the System, whether created by the Dealer or at Dealer's suggestion or request, or otherwise, including all worldwide intellectual property rights to the same, including, without limitation, all United States, Canadian and worldwide patents, patent applications, copyrights, trademarks, service marks, trade secrets, rights of publicity and other proprietary rights (collectively, the “DealerTrack Proprietary Information”). Dealer hereby assigns to DealerTrack any and all right, title and interest that may be conferred upon Dealer in any DealerTrack Proprietary Information. Dealer will execute such documents as may be deemed reasonably necessary to effect such assignment. All rights not expressly granted to Dealer herein are reserved to DealerTrack (and/or any third party providers of any components of, or integration for, the System, as applicable).

2. **COMPUTER EQUIPMENT; BROWSER ACCESS; INTEGRATION WITH DEALER MANAGEMENT SYSTEM; AGREEMENTS WITH THIRD PARTIES**

(a) **Installation, Maintenance and Operation of Equipment**

Dealer acknowledges that use of the System depends on Dealer's provision of the appropriate hardware and software as set forth herein, or such other hardware or software as DealerTrack may require from time to time (collectively, the "Operating Environment"). Dealer shall be responsible for (i) all fees imposed by a telephone or Internet service provider in connection with its access and use of the System and (ii) the cost of procuring and maintaining the Operating Environment. Dealer agrees that Dealer will utilize a reputable antivirus software program on Dealer's equipment and that Dealer will update such antivirus software periodically in accordance with a commercially reasonable schedule.

(b) **Browser Access**

By utilizing an encrypted browser, each of Dealer's Users may access the System via the Internet. Dealer is responsible for obtaining a browser that satisfies the System browser requirements, as may be modified by DealerTrack from time to time. Dealer further agrees not to attempt to access the System via such browser from outside the United States or Canada. Dealer acknowledges that Dealer's use of any browser may also be subject to the license agreements of the browser manufacturer, in addition to the terms and conditions of this Agreement.

If Dealer utilizes a browser to access the System via the Internet, Dealer is additionally responsible for obtaining Internet services via the Internet service provider of Dealer's choice, for any and all fees imposed by such Internet service provider and any communications service provider charges associated therewith. Dealer acknowledges that there are certain security, corruption, transmission error, and access availability risks associated with using open networks such as the Internet and Dealer hereby expressly assumes such risks (to the extent applicable law allows Dealer to do so). Dealer acknowledges that Dealer has requested access to the System for Dealer's convenience, has made Dealer's own independent assessment of the adequacy of the Internet as a delivery mechanism for accessing information and initiating instructions and that Dealer is satisfied therewith.

(c) **Integration with Dealer Management System**

Only DealerTrack or a third party provider authorized by DealerTrack may provide Integration between the System and a finance and insurance ("F&I") or other dealer management system or application. There may be other hardware and/or software costs associated with Dealer's F&I or dealer management system or application. Dealer is responsible for purchasing, installing and maintaining any components required by the provider of its F&I or dealer management system or application.

(d) **Agreements with Financing Sources and Credit Bureau Reporting Agencies**

Dealer acknowledges that Dealer (and not DealerTrack) is responsible for obtaining, maintaining and complying with any agreements required between Dealer and (i) any financial institutions or other financing sources to which Dealer submits credit applications via the System and (ii) any credit bureau reporting agency from which Dealer retrieves credit reports via the System.

3. **NEW SERVICES**

DealerTrack may, from time to time, introduce new services to the System or modify or delete existing services. DealerTrack shall notify Dealer of any of these changes to services. By using any new or modified services when they become available, Dealer agrees to be bound by the rules concerning these services. Copies of such rules will be made available to Dealer at Dealer's request or will be sent to Dealer if DealerTrack is required by applicable law to automatically provide Dealer with such rules.

4. **REPRESENTATIONS, WARRANTIES AND COVENANTS**

Dealer represents, warrants and covenants to DealerTrack that:

- (a) Dealer is an entity, duly organized, validly existing and in good standing under the laws of the state, province or country of its organization, as applicable, and Dealer is duly licensed or qualified, in good standing, and authorized to do business in all other jurisdictions where the nature of Dealer's activities makes such licensing or qualification necessary.
- (b) Dealer has the power and authority to (i) own its properties and assets, (ii) engage in and transact the business in which Dealer presently engages and proposes to engage pursuant to this Agreement, (iii) enter into this Agreement and (iv) do all things necessary to the proper performance of this Agreement.
- (c) The execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of Dealer.
- (d) The execution, delivery, and performance of any Addenda hereto and the consummation of the transactions contemplated thereby will be duly authorized by all necessary corporate action on the part of Dealer.
- (e) This Agreement constitutes the legal, valid and binding obligation of Dealer, enforceable against Dealer in accordance with its terms.
- (f) Dealer is not required to obtain the consent of any other person, or any consent, license, approval or authorization, registration or declaration from any governmental authority, bureau or agency in connection with the execution, delivery or performance of this Agreement.

Dealer, on its behalf and on behalf of each of its Users, represents, warrants and covenants to DealerTrack as follows:

- (a) That it will comply at all times with all applicable federal, state, provincial and local laws, rules and regulations, including but not limited to, all applicable federal, state, provincial and local consumer protection, privacy protection and credit reporting laws, rules and regulations.
- (b) Except for the credit application and the disclosures and notices relating thereto and other pages, if any, specifically designated by DealerTrack as available to Dealer's customers, it will not show or display to any of its customers or any other third party, in printed form or in any other manner, any information on or related to the System.
- (c) That it will advise each credit applicant of the name and address of the financial institution(s) or other financing sources to whom the applicant's credit application will be submitted prior to actual submission of their credit application through the System.
- (d) That it will either, as required by applicable law,; (i) read verbatim, or (ii) provide a printed copy of all credit application disclosures and/or notices set forth on the System, to each applicant and obtain each applicant's consent to the terms in such disclosures and/or notices prior to submission of their application to any financial institution(s) or other financing sources.
- (e) That it will not use the System for any purpose which is improper or which violates this Agreement, the Terms of Use or any applicable federal, state, provincial or local law, rule or regulation.
- (f) That it will not use the System to obtain the pay-off amount on any financial institution's customer's lease, loan or balloon loan account unless Dealer has first received an express authorization from such customer to do so.
- (g) That it will not, nor will it permit any other person, corporation or entity, without the prior written permission of DealerTrack, to: (i) copy or duplicate the System or any part thereof; (ii) create the source program and/or object program or code associated with any software component of the System; (iii) decompile, disassemble or reverse engineer any software component of the System; (iv) modify, alter or delete any of the copyright notices embedded in or affixed to the copies of any components of the System or any report or document generated therefrom; or (v) export any application provided hereunder or any portion of the System.

- (h) That any transmission of data from its computer equipment or system will be free from (i) intentionally injurious instructions (e.g. "viruses") that are designed to modify, damage, delete or disable the System, or (ii) any hidden passwords that permit unauthorized access to the data or the System by Dealer or any third party.
- (i) That the transmission of any data shall contain no embedded code that could trigger, shut down or disable the System upon the occurrence of any time related event or other event.
- (j) That it will not use the System, including, without limitation, any electronic communication feature thereof, for any purpose that is unlawful, abusive, harassing, libelous, defamatory, obscene or threatening.
- (k) That it has obtained and will continue to obtain and maintain all necessary licenses, releases and consents to grant and/or exercise the rights and licenses set forth herein.

## 5. **CONFIDENTIALITY**

Dealer agrees to and to cause its parent, subsidiaries, affiliates and employees, agents and independent contractors, including, but not limited to, all Users to, keep confidential any and all proprietary information of DealerTrack acquired in connection with this Agreement (including, without limitation, the DealerTrack Proprietary Information), and not publish or disclose in any manner whatsoever such proprietary information to any other person nor use such proprietary information except as expressly set forth herein. Any proprietary information of DealerTrack shall remain the property of DealerTrack and shall not in any manner be deemed licensed or transferred to Dealer. Dealer agrees that any proprietary information supplied to Dealer and/or its parent, subsidiaries, affiliates, employees, agents or independent contractors, including, but not limited to Users, by DealerTrack under this Agreement, or acquired by the activities contemplated by this Agreement shall, at DealerTrack's request, be returned to DealerTrack upon the termination of this Agreement. Dealer acknowledges and agrees that: (a) irreparable injury will result to DealerTrack in the event of breach by Dealer of this obligation of confidentiality, (b) DealerTrack's remedy at law for such breach is inadequate, (c) DealerTrack, in addition to any money damages for any such breach, shall be entitled to temporary and permanent injunctive relief without the necessity of proving damages and (d) that DealerTrack shall not be required to post bond as a condition of such relief.

## 6. **SAFEGUARDING OF CUSTOMER INFORMATION**

Each party shall comply with all privacy and data protection laws, rules and regulations which are or which may in the future be applicable to the terms of this Agreement. DealerTrack agrees to implement and maintain physical, electronic and procedural safeguards to guard all information and data relating to Dealer's customers to which DealerTrack has access pursuant to the terms of this Agreement. Such safeguards shall include appropriate procedures designed to: (i) protect the security and confidentiality of such information, (ii) protect against anticipated threats or hazards to the security or integrity of such information and (3) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer of Dealer.

## 7. **INDEMNIFICATION**

In addition to any other rights or remedies contained herein, Dealer shall defend, indemnify and hold harmless DealerTrack, and its parent, affiliates, agents, employees and independent contractors (including, without limitation, all third party providers to DealerTrack and/or Dealer of any components of, or integration for, the System) from and against any and all losses, liabilities, claims, counterclaims, damages, costs or expenses (including reasonable attorneys' fees and court costs), whether asserted in a judicial or administrative proceeding, arising out of or relating to: (i) a breach by Dealer or any of its Users of any of the terms of this Agreement, the Terms of Use or applicable law; (ii) Dealer's or any of its Users' negligence, omission or misconduct in connection with the performance of any other obligations under this Agreement; (iii) Dealer's or any of its Users' use or disclosure of any information, data, content or other materials submitted to or received through the System or (iv) a breach by Dealer or any of its Users of any agreements with (a) any financial institutions or other financing sources or (b) any provider of credit reports to Dealer.

8. **OTHER AGREEMENTS**

In addition to this Agreement, Dealer agrees to be bound by and comply with such other written requirements (including those transmitted by facsimile, via e-mail or posted on the System) as DealerTrack may furnish to Dealer in connection with either the System or products which may be accessed via the System, DealerTrack's rules and regulations, including the Terms of Use and other acceptable use policies for the System, and applicable state, provincial and federal laws and regulations.

9. **TERM; TERMINATION; SURVIVAL**

The term of this Agreement begins on the Effective Date and continues until terminated as provided herein. DealerTrack reserves the right to terminate this Agreement and the services covered hereby, in whole or in part, at any time without prior notice to Dealer; provided that, for so long as any Addenda are in effect between Dealer and DealerTrack, DealerTrack may not terminate this Agreement unless, in accordance with the terms of such Addenda, DealerTrack terminates each such Addendum. DealerTrack or its suppliers may discontinue or make changes in the information, products or services described herein at any time. DealerTrack reserves the right to terminate any or all web offerings without prior notice to Dealer and without obligation or liability.

Dealer may terminate this Agreement by providing written notice to DealerTrack; provided that, for so long as any Addenda are in effect between Dealer and DealerTrack, Dealer may not terminate this Agreement unless, in accordance with the terms of such Addenda, Dealer terminates each such Addendum.

Sections 1(d), 1(e), 4, 5, 6, 7, 9, 11, 12, 14, 15, 16, 17, and 20 shall survive the termination of this Agreement.

10. **ALTERATIONS AND AMENDMENTS**

The terms of this Agreement and other documentation and requirements associated with the System may be altered or amended by DealerTrack. In such event, DealerTrack shall send notice to Dealer or its Dealer Information Owner via the System, via e-mail or such other address as may appear on DealerTrack records if DealerTrack is required by applicable law to provide such notice in such manner. Any use of the System after DealerTrack sends Dealer or its Dealer Information Owner a notice of such change will signify Dealer's agreement to the change. DealerTrack's records, kept in the ordinary course of business, shall be presumed to accurately reflect the contents of Dealer's instructions to DealerTrack and, in the absence of manifest error, will be binding and conclusive.

11. **GOVERNING LAW**

For any Dealer located in the United States, any disputes arising from or related to the System or services provided to Dealer by DealerTrack shall be governed by the laws of the State of New York (without reference to the conflict of law rules thereof). For any dealers located in Canada, any disputes arising from or related to the System or services provided to Dealer by DealerTrack shall be governed by the laws of the Province of Ontario (without reference to the conflict of law rules thereof). With respect to any litigation arising out of or relating to this Agreement, each party agrees that it shall be filed in and heard by the state, provincial or federal courts with jurisdiction to hear such suits located in Nassau County, New York, for Dealers located in the United States, and the Province of Ontario, for Dealers located in Canada. Notwithstanding the foregoing, either party may apply for injunctive relief in any court of competent jurisdiction.

12. **ASSIGNMENT**

DealerTrack may assign this Agreement. DealerTrack may also assign or delegate certain of its rights and responsibilities under this Agreement to independent contractors or other third parties. Dealer may not assign this Agreement or any of its rights, responsibilities or obligations under this Agreement, without the prior written consent of DealerTrack, which can be withheld in DealerTrack's sole and absolute discretion.

13. **DATA RECORDING**

The Dealer Data, e-mail messages and other information Dealer or any of its Users enter on the System and/or their use of the System may be recorded. By using the System, Dealer, on behalf of itself and each of its Users and customers, consents to such recording.

14. **COPYRIGHT NOTICES**

The works of authorship contained in the System, including but not limited to all design, text, sound recordings and images, are owned by DealerTrack or third party providers. Except as otherwise expressly stated herein, they may not be copied, transmitted, displayed, performed, distributed (for compensation or otherwise), licensed, altered, framed, stored for subsequent use or otherwise used in whole or in part in any manner without DealerTrack's prior written consent, except to the extent permitted by the Copyright Act of 1976 (17 U.S.C. § 107) or by the Copyright Act (Canada), as each is amended and applicable to Dealer, and then, only with notices of DealerTrack's proprietary rights.

15. **TRADEMARK NOTICES**

"DealerTrack" and other trademarks and trade names used by DealerTrack to describe the services provided by DealerTrack in connection with the System are, except as otherwise expressly stated, the property of DealerTrack. Other featured words or symbols, used to identify the source of goods and services provided by third parties, are the trademarks of their respective owners.

16. **WEB CONTENT AND MATERIALS**

The information and materials contained in the DealerTrack Website and the System and the Terms of Use of such information and materials are subject to change without notice. Not all products and services are available in all geographic areas. Dealer's eligibility for particular products and services is subject to final DealerTrack determination and acceptance.

ANY DATED INFORMATION IS PUBLISHED AS OF ITS DATE ONLY, AND DEALERTRACK DOES NOT UNDERTAKE ANY OBLIGATION OR RESPONSIBILITY TO UPDATE OR AMEND ANY SUCH INFORMATION. FURTHERMORE, BY OFFERING INFORMATION, PRODUCTS OR SERVICES VIA THE SYSTEM, NO SOLICITATION IS MADE BY DEALERTRACK TO DEALER OR ANY PERSON TO USE SUCH INFORMATION, PRODUCTS OR SERVICES IN JURISDICTIONS WHERE THE PROVISION OF SUCH INFORMATION, PRODUCTS OR SERVICES IS PROHIBITED BY LAW.

17. **NO WARRANTIES; LIMITATION OF LIABILITY**

NEITHER DEALERTRACK NOR ANY THIRD PARTY PROVIDER OF ANY COMPONENTS OF, OR INTEGRATION FOR, THE SYSTEM IS RESPONSIBLE FOR ANY ERRORS IN OR OMISSIONS FROM THE INFORMATION CONTAINED IN OR ACCESSED THROUGH, OR RESULTS OBTAINED FROM, THE SYSTEM. ALL SUCH INFORMATION AND RESULTS ARE PROVIDED "AS IS" TO DEALER WITHOUT EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF ANY KIND, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES AND CONDITIONS OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTIES ARISING FROM COURSE OF DEALING OR PERFORMANCE. ALL WARRANTIES AND CONDITIONS IMPLIED BY LEGISLATION ARE HEREBY DISCLAIMED BY DEALERTRACK, FOR ITSELF AND ON BEHALF OF EACH SUCH THIRD PARTY PROVIDER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DEALERTRACK DISCLAIMS (FOR ITSELF AND ON BEHALF OF EACH SUCH THIRD PARTY PROVIDER) ANY REPRESENTATION OR WARRANTY THAT THE SYSTEM (I) WILL PERFORM WITHOUT INTERRUPTION OR BE ERROR-FREE OR (II) MEETS DEALER'S REQUIREMENTS. FURTHERMORE, NEITHER DEALERTRACK NOR ANY SUCH THIRD PARTY PROVIDER WILL BE LIABLE FOR ANY DELAY, DIFFICULTY IN USE (INCLUDING, WITHOUT LIMITATION, DEALER'S ABILITY TO COMMUNICATE DATA TO FINANCIAL INSTITUTIONS AND OTHER FINANCING SOURCES), INACCURACY OF INFORMATION, COMPUTER VIRUSES, MALICIOUS CODE OR OTHER DEFECTS IN THE SYSTEM, OR FOR THE INCOMPATIBILITY BETWEEN THE SYSTEM AND THE DEALER'S BROWSER OR OTHER SITE ACCESSING PROGRAM. DEALERTRACK AND SUCH THIRD PARTY PROVIDERS

WILL ALSO NOT BE LIABLE FOR ANY OTHER PROBLEMS EXPERIENCED BY DEALER. NO LICENSE TO DEALER IS IMPLIED IN THESE DISCLAIMERS.

EXCEPT AS MAY BE OTHERWISE EXPRESSLY PROVIDED BY WRITTEN AGREEMENT BETWEEN DEALERTRACK AND DEALER, NEITHER DEALERTRACK NOR ANY SUCH THIRD PARTY PROVIDER WILL HAVE ANY TORT, CONTRACT OR ANY OTHER LIABILITY TO DEALER AND/OR ANY THIRD PARTY ARISING IN CONNECTION WITH ACCESS TO OR USE OF (OR INABILITY TO USE) THE SYSTEM, OR RELIANCE ON ANY INFORMATION, RESULTS OR SERVICES PROVIDED BY THE SYSTEM. NEITHER DEALERTRACK NOR ANY SUCH THIRD PARTY PROVIDER WILL UNDER ANY CIRCUMSTANCES BE LIABLE TO DEALER AND/OR ANY THIRD PARTY, REGARDLESS OF THE FORM OF ACTION, FOR ANY LOST PROFITS OR LOST OPPORTUNITY, OR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES WHATSOEVER, EVEN IF DEALERTRACK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

18. **LINKS TO THIRD PARTY SITES**

The System may contain hyperlinks to other World Wide Web sites that are not operated by DealerTrack. DealerTrack does not control these websites and is not responsible for their contents, nor should the existence of such links be construed as an endorsement of the material appearing on such sites or as implying an association between DealerTrack and their operators. Such hyperlinks are provided for your reference only.

19. **CONSENT TO UNSOLICITED COMMUNICATIONS**

Dealer hereby consents to receive unsolicited advertisements and communications from DealerTrack, its affiliates and agents at the phone numbers, email addresses, and facsimile numbers that Dealer maintains from time to time during the term of this Agreement. This consent is for an unlimited number of such advertisements and communications and will remain in effect until Dealer notifies DealerTrack of its withdrawal of consent using such procedures as DealerTrack may reasonably establish from time to time.

20. **GENERAL**

DealerTrack and its personnel, agents, suppliers and affiliates, in performing this Agreement, are acting as independent contractors and not as employees or agents of Dealer. Under no circumstance shall either party have the right or authority to enter into any contracts or assume any obligations for the other or to give any warranty to or make any representation on behalf of the other. This Agreement, including all schedules, Addenda, the Terms of Use, any additional terms published by DealerTrack, and any click-through agreements, constitutes the complete and exclusive agreement between the parties with respect to the subject matter of this Agreement, and supercedes any previous or contemporaneous negotiations, proposals, understandings, and all oral and written agreements between the parties relating to the subject matter of this Agreement, except that any addenda between Dealer and DealerTrack in effect on the Effective Date with respect to Premium Components shall remain in full force and effect and shall, as of the Effective Date, become Addenda to this Agreement and shall be governed by the terms hereof as set forth herein. No verbal statement of a DealerTrack employee shall affect the rights, obligations or warranties of the parties hereunder. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, invalid or unenforceable, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and, in any event, the remaining provisions of this Agreement shall remain in full force and effect. No failure or delay by either party in exercising any right, power, or remedy under this Agreement and its schedules shall operate as a waiver of any such right, power or remedy.

21. **TERMS APPLICABLE TO NORTH CAROLINA DEALERS ONLY**

(a) In connection with the provision of services to Dealer under this Agreement and any Addenda hereto, Dealer hereby grants its express consent to DealerTrack, its affiliates and agents, to: i) access any and all customer or dealership information maintained in Dealer's Dealer Management Computer System ("DMS"); ii) write data to or extract data from the DMS; and iii) provide access to customer or dealership information maintained in the DMS to third parties.



(b) Dealer acknowledges and agrees that its consent is deemed reasonably necessary in order for DealerTrack to provide to Dealer certain of the services described in this Agreement and any Addenda. Upon Dealer's request, or in the event that Dealer withdraws its consent in accordance with applicable law, DealerTrack will identify to Dealer those services for which Dealer's consent is reasonably necessary to provide such services. DealerTrack will be excused from performing such services for such time as Dealer does not give its consent.

(c) Prior to giving DealerTrack its consent described in paragraph (a) of this Section 21, Dealer acknowledges receipt from DealerTrack of a written list of third parties to whom DealerTrack has provided any North Carolina Dealer Management Computer System data during the 12-month period ending November 1 preceding the date of this Agreement which list identified the scope of the data provided. By January 1 of each calendar year during the term of the Agreement if required by applicable law, DealerTrack will make available to Dealer via the DealerTrack system, e-mail or another method chosen by DealerTrack, a similar list for each successive 12-month period. DealerTrack will provide the first such list by January 1 following the first November 1 during the term of the Agreement.

(d) Dealer acknowledges receipt from DealerTrack of the following notice:

**NOTICE TO DEALER: THIS AGREEMENT RELATES TO THE TRANSFER AND ACCESSING OF CONFIDENTIAL INFORMATION AND CONSUMER RELATED DATA.**

(e) Nothing contained in this Section 21 will prohibit Dealer from providing a means to regularly and continually monitor the specific data accessed from or written to Dealer's computer system and from complying with applicable state and federal laws and any rules or regulations promulgated thereunder.

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