THIS MASTER SERVICES AGREEMENT ("**AGREEMENT**") IS BETWEEN LIGHTYEAR DEALER TECHNOLOGIES, LLC DBA DEALERBUILT AND ITS AFFILIATES (“**DEALERBUILT**") AND THE ENTITY LISTED IN THE ORDER, INCLUDING ANY AFFILIATES USING THE SERVICES (“YOU") AND PROVIDES THE TERMS AND CONDITIONS GOVERNING ORDERS PLACED UNDER THIS AGREEMENT. BY EXECUTING AN “ORDER” FORM, STATEMENT OF WORK, OR ACKNOWLEDGMENT FORM, YOU AGREE TO THE TERMS OF THIS AGREEMENT AND ACKNOWLEDGE RECEIPT OF DEALERBUILT’S PRIVACY POLICY. THIS AGREEMENT IS EFFECTIVE AS OF THE DATE ACCEPTED BY YOU AND EXECUTED BY DEALERBUILT ("**EFFECTIVE DATE**")

1. PROVISION OF SERVICES

1.1. **Provision of Services.** DealerBuilt will make the Services available to You in accordance with this Agreement.

1.2. **Subscriptions.** Unless otherwise provided in the applicable Order, (a) Services are purchased as subscriptions pursuant to an Order, (b) additional subscriptions may be added during a subscription term via an Order, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions unless specified differently on the Order.

1.3. **Provision of Equipment.** DealerBuilt will provide You the Equipment listed in an Order to support Your use of the Services. You will provide, and be responsible for, any hardware, software, connectivity or licenses necessary to access and use the Services. You will ensure that Your Internet connectivity meets the minimum requirements specified by DealerBuilt. You will install the Equipment listed in an Order in a suitable installation environment and install all site-specific wiring, cabling, electrical and other utilities required for installing the Equipment.

1.4. **Security.** You must keep Your registration information accurate and complete during the term of the Agreement. You are responsible for the security of passwords of all Users, for all activities that occur in User accounts, and for Your Users' compliance with this Agreement, the User Documentation, Orders and applicable laws and regulations. You must use commercially reasonable efforts to prevent unauthorized use of, or access to, the Services and must promptly notify DealerBuilt: (a) of any unauthorized use of, or access to, a User’s account; or (b) if any password is lost, stolen, disclosed to an unauthorized party or otherwise compromised, of which You become aware.

1.5. **Acceptable Use.** You must not: (a) make the Services or Content available to, or use the Services or Content for the benefit of, anyone other than You, (b) modify, copy or create derivative works based on the Services; (c) disassemble, reverse engineer, or decompile the Services or part thereof; (d) copy any ideas, features, content, functions, user interface or graphics of the Services, (e) use the Service in a way intended to work around the Service’s technical limitations, recurring fees calculation, or usage limits, (f) use the Services to store or transmit malicious code or infringing, libelous, offensive, unlawful or tortious material, or material in violation of applicable law; (g) interfere with or disrupt the integrity or performance of the Services, (h) modify, delete or remove any ownership, title, trademark, patent or copyright notices from the Services; (i) unless otherwise set forth in this Agreement, sell, distribute, rent, lease, sublicense, display, modify, time share, outsource or otherwise provide the Services or Content to any third party or use it in a service bureau or outsourcing environment, (j) use the Services in violation of this Agreement, the Order, or User Documentation. DealerBuilt reserves the right, but have no obligation, to investigate any violation of this provision or misuse of the Services and take any action that DealerBuilt believes is reasonable and appropriate under the circumstances.

1.6. **Historical Data Conversion.** DealerBuilt will use reasonable efforts to convert Your historical data from your existing technology provider for the fees set forth in the Order. You will cooperate with DealerBuilt by providing DealerBuilt with an onsite PC(s) to connect to existing technology

provider(s), records, reports and other necessary information, access and documentation required for this purpose.

1.7. **Your Legal Compliance.** You are responsible for complying with all applicable federal, state, and local laws, rules and regulations applicable to You and Your use of the Services, such as, without limitation, those related to advertising, electronic communications and solicitations, telemarketing, "do not call" and "do not contact" compliance, call recording, privacy and consumer protection including but not limited to Section 5 of the FTC Act (15 U.S.C. Section 45), the CAN-SPAM Act (15 U.S.C. Sections 7701-7713), the Telemarketing Consumer Fraud and Abuse Prevention Act (15 U.S.C. Sections 1601-1608), the Federal Trade Commission Telemarketing Sales Rule (16 C.F.R. 310.1, et seq.), and the Federal Communications Commission telemarketing regulations (47 C.F.R. 64.1200 et seq.). You bear the sole responsibility for ensuring that proper "unsubscribe", "do not call", "do not contact" and other privacy and consumer protection protocols are in use.

2. THIRD PARTY PROVIDERS

2.1. **Integration with Third Party Applications.** The Services may contain features designed to interoperate with Third Party Applications. These Third Party Applications are not part of the Services, and the Agreement does not apply to them. DealerBuilt cannot guarantee the continued availability of such Service features and may cease providing them without entitling You to any refund, credit, or other compensation, if for example and without limitation, the provider of a Third Party Application ceases to make the Third Party Application available for interoperation in a manner acceptable to DealerBuilt.

2.2. **Third Party Applications and Your Data.** If You choose to use a Third Party Application with a Service, You grant DealerBuilt permission to allow the Third Party Application and its provider to access Your Data as required for the interoperation of that Third Party Application with the Service. DealerBuilt is not responsible for any use, disclosure, modification or deletion of Your Data resulting from access by such Third Party Application or its provider

2.3. **Third-Party Content.** Any third-party Content, including the Third Party Forms, we make accessible is provided on an "as-is" and "as available" basis without any warranty of any kind. You acknowledge and agree that DealerBuilt is not responsible for, and have no obligation to control, monitor, or correct, third-party Content. DealerBuilt disclaims all liabilities arising from or related to third-party Content.

2.4. **Mobile Access to Services.** You or Your Users may access certain Services through mobile applications obtained from third-party websites such as Android or Apple app store. The use of mobile applications may be governed by the terms and conditions presented upon download/access to the mobile application and not by the terms of the Agreement.

3. FEES AND PAYMENT

3.1. **Service Fees and Equipment Charges.** You will pay all fees specified in Orders. Except as otherwise specified in an Order, fees for Services are based on Services purchased and not actual usage. Monthly Service Fees will remain unchanged for a period of twelve months after the first item's "Go Live Date" within a brand or company. Unless otherwise specified in an Order, the annual price increase of service will be CPI+2%. CPI is the Consumer Price Index – All Urban Consumers published by the United States Department of Labor. The following Services are excluded from price increase protection: All One Time items, Transactional items, legacy items

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marked with an * on Your invoice, and Other Provider items. Other Provider items include but not limited to OEM Fees, Copywritten forms Fees, API Fees, Vendor Fees, Data Fees, Compliance Fees, etc. which we reserve the right to pass on such additional increases to You at any time.

3.2. **Invoicing and Payment.** All fees will be invoiced and must be paid in advance in accordance with the billing frequency stated in the applicable Order. Unless otherwise stated in an Order, invoiced charges are due upon receipt of the invoice. You are responsible for providing complete and accurate billing and contact information to DealerBuilt and notifying DealerBuilt of any changes to such information.

3.3. **Overdue Charges.** If any invoiced amount is not received by DealerBuilt by the due date, then without limiting DealerBuilt's rights or remedies, (a) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by applicable law, whichever is lower, and/or (b) DealerBuilt may condition future renewals and Orders on payment terms shorter than those specified in **Section 3.2.** For all past due invoices, You agree to pay all costs of collection (including collection agency fees), reasonable attorney fees and court costs. You agree to submit any disputes regarding fees in writing to DealerBuilt within 90 days of the disputed invoice, otherwise the dispute will be waived, and the fees therein will be final and not subject to challenge.

3.4. **Suspension of Service and Acceleration.** If any amount owed by You under this Agreement is 90 or more days overdue, DealerBuilt may, without limiting DealerBuilt's other rights and remedies, accelerate Your unpaid fee obligations so that all such obligations become immediately due and payable, and suspend DealerBuilt's services to You until such amounts are paid in full. Other than for customers paying by credit card or direct debit whose payment has been declined, DealerBuilt will give You at least 10 days' prior written notice that Your account is overdue, before suspending services to You.

3.5. **Payment Disputes.** DealerBuilt will not exercise its rights under **Section 3.3** or **Section 3.4** if You are disputing the applicable charges reasonably, notified DealerBuilt of dispute within 90 days of receipt of the disputed invoice, and in good faith and are cooperating diligently to resolve the dispute.

3.6. **Taxes.** DealerBuilt's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). You are responsible for paying all Taxes associated with Your purchases hereunder. If DealerBuilt has the legal obligation to pay or collect Taxes for which You are responsible under this **Section 3.6**, DealerBuilt will invoice You and You will pay that amount unless You provide DealerBuilt with a valid tax exemption certificate authorized by the appropriate taxing authority.

3.7. **Audit.** DealerBuilt has the right to audit usage to ensure licensing, agreement, and Service fee accuracy. If an error is found, it will be corrected on the following invoice with a notice. You will have 30 (thirty) days to resolve and if applicable request credit for the respective items on that month's invoice. You have the right to Audit the agreement and invoice. If an error is found, you may submit a request at AR@DealerBuilt.com.

3.8. **Future Functionality.** You agree that Your purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by DealerBuilt regarding future functionality or features.

4. TERM AND TERMINATION

4.1. **Term of Agreement.** This Agreement becomes legally binding when executed by both parties. The Term of Services commences on the "Go Live" Date and continues until all Services under an Order have expired or have been terminated. Termination of one or more of the Services does not automatically terminate the entire Agreement unless all Services have expired or been terminated.

4.2. **Term of Services.** The default term of each Service, if not specified on the Order is 36 (thirty-six) months. If the term of each Service subscription is specified in the applicable Order it will replace the default term. Except as otherwise specified in an Order, Service subscriptions will automatically renew for 12 (twelve) months unless either party gives the other notice of non-renewal at least 90 (ninety) days before the end of the relevant subscription term. Unless otherwise specified in an Order, all month-to-month renewals will be at DealerBuilt's then current price.

4.3. **Termination.** A party may terminate this Agreement: (i) upon 30 (thirty) days written notice to the other party of a material breach of this Agreement by such other party if such breach remains uncured at the expiration of such period, (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors; or (iii) upon 90 (ninety) days written notice prior to the end of the then current term.

4.4. **Refund or Payment upon Termination.** If this Agreement is terminated by You in accordance with Section 4.3, DealerBuilt will refund You any prepaid fees covering the remainder of the term of all Orders after the effective date of termination. If this Agreement is terminated by DealerBuilt in accordance with Section 4.3, You will pay any unpaid fees covering the remainder of the term of all current Orders. In no event will termination relieve You of Your obligation to pay any fees payable to DealerBuilt for the period prior to the effective date of termination.

4.5. **Data Recovery.** DealerBuilt shall implement and maintain a comprehensive Disaster Recovery (DR) and Business Continuity Plan to minimize disruptions to services provided under this Agreement. In the event of an incident affecting service availability, the Service Provider commits to restoring essential services within a commercially reasonable timeframe.

- Recovery Point Objective (RPO): DealerBuilt will ensure that data loss does not exceed 24 hours, based on scheduled backups and replication intervals.
- Recovery Time Objective (RTO): DealerBuilt will use commercially reasonable efforts to restore services following an interruption as quickly as possible.

4.6. **Data Deletion.** Upon termination or expiration of the Agreement, the Services shall be deactivated at our discretion and Your Data shall be purged at our discretion, but no later than applicable law.

4.7. **Wind Down Solution.** At DealerBuilt's sole discretion, it may offer a Wind Down Solution that provides a limited number of Users historical access to limited Services. This Wind Down Solution, if offered, will have prepayment, Service Fees, Term, and Termination Notification requirements as set for the applicable Order.

5. PROPRIETARY RIGHTS AND LICENSES

5.1. **Reservation of Rights.** DealerBuilt or its licensors retain all ownership and intellectual property rights in and to the Services and Content, derivative works thereof, and anything developed or

delivered by or on behalf of DealerBuilt under this Agreement. Except as expressly granted to You under this Section 5, all rights to DealerBuilt's assets and properties, including all intellectual property, are hereby reserved by DealerBuilt.

5.2. **Your Data.** As between You and DealerBuilt, You retain ownership of Your Data. You are responsible for the accuracy, quality, integrity, legality and reliability of Your Data. Subject to the terms and conditions of this Agreement, You grant DealerBuilt a limited, worldwide, non-exclusive non-transferable and royalty-free license to access, use, process, copy, distribute, disclose, make derivative works of, perform, export and display Your Data, and any Third Party Products created by or for You: (a) to provide, maintain and improve the Services; (b) to prevent or address service, security, support or technical issues; (c) as required by applicable law; (d) to the maximum extent permitted under the terms of any consents/license received with respect to Your Data; and (e) as expressly permitted in writing by You. Notwithstanding the foregoing and anything to the contrary in the Agreement including DealerBuilt's Data Processing Agreement and to the extent permitted by applicable Data Protection Laws, You acknowledge that DealerBuilt shall have a right to process Data for the purposes of creating anonymized or de-identified information for DealerBuilt's own legitimate business purposes, including where You have requested a Service that includes the provision of benchmarking reports, compiling anonymized benchmarking reports and statistics.

5.3. **Consents.** You represent and warrant that You have secured all rights in and to Your Data and all consents as may be necessary: (a) to grant DealerBuilt the licenses contained in this Section 5; and (b) for the use of Your Data by DealerBuilt and our service providers pursuant to the terms of this Agreement.

5.4. **Feedback.** You may from time to time provide suggestions, comments, or other feedback to DealerBuilt with respect to the Services. You grant to DealerBuilt a worldwide, perpetual, irrevocable and royalty-free license to use and incorporate into DealerBuilt's products and services any suggestion, enhancement request, recommendation, correction or other feedback provided by You or Users.

6. DATA PROTECTION

6.1. Protection of Your Data. DealerBuilt will maintain reasonable administrative, physical, and technical safeguards that are designed to protect the security, integrity and confidentiality of Your Data. Those safeguards will include measures for preventing unauthorized access, use, modification, deletion and disclosure of Your Data as described in DealerBuilt's Data Processing Agreement. You are responsible for properly configuring and using the Services in a manner that will provide appropriate security and protection, as well as taking reasonable steps to secure Your Data. You and DealerBuilt will each comply with applicable Data Protection Laws and the Data Processing Agreement.

7. CONFIDENTIALITY

7.1. **Confidential Information.** "**Confidential Information**" means all information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information includes Your Data and any Personal Data contained therein; DealerBuilt's Confidential Information

includes the Services and Content; and Confidential Information of each party includes the terms and conditions of this Agreement and all Orders (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party; provided that none of the foregoing exclusions will apply to Your Data, including without limitation any Personal Data.

7.2. **Protection of Confidential Information.** The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its affiliates' employees and contractors who need that access to perform obligations under this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not less protective of the Confidential Information than those herein. Neither party will disclose the terms of this Agreement or any Order to any third party other than its affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure will remain responsible for such affiliate's, legal counsel's or accountant's compliance with this "Confidentiality" section. Notwithstanding the foregoing, DealerBuilt may disclose the terms of this Agreement and any applicable Order under terms of confidentiality materially as protective as set forth herein: (a) to a subcontractor or Third Party Application provider to the extent necessary to perform DealerBuilt's obligations to You under this Agreement, or (b) in connection with a merger, acquisition, bankruptcy, dissolution, reorganization, sale of some or all of DealerBuilt's assets, financing, sale of all or a portion of DealerBuilt's business, a similar transaction or proceeding, or steps in contemplation of such activities.

7.3. **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by applicable law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by applicable law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

8. WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

8.1. **Mutual Warranties.** Each party represents that (a) it is duly organized and validly existing under the laws of the state or country of its incorporation or formation, (b) it has validly entered into this Agreement and that it has the power and authority to do so, (c) the Agreement is a valid obligation binding upon both Parties and enforceable in accordance with its terms, and (d) to the best of each

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party's respective knowledge, the execution, delivery, and performance of the Agreement by each party does not materially conflict with any agreement that party has with a third party.

8.2. **DealerBuilt's Warranties.** DealerBuilt warrants that during the term of this Agreement, (a) DealerBuilt is capable of implementing and maintaining, and shall user commercially reasonable efforts to implement and maintain compliance with, all local, state, and federal legal requirements regarding the required administrative, technical, and physical safeguards under those laws, and all applicable and appropriate industry standards with respect to the privacy and security of Your Data that it maintains, processes, obtains, or otherwise has access to, (b) DealerBuilt will not materially decrease the overall security of the Services, and (c) the Services will perform materially in accordance with the applicable User Documentation, (d) DealerBuilt will use commercially reasonable efforts to protect and secure your Data that it maintains, processes, obtains, or otherwise has access to as required under all applicable local, state, and federal privacy data and security laws and regulations..

8.3. **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED IN SECTION 8.1 AND SECTION 8.2, THE SERVICES AND CONTENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND AND AT YOUR OWN RISK. DEALERBUILT DOES NOT WARRANT THAT THE SERVICES WILL BE PERFORMED TIMELY, ERROR-FREE OR UNINTERRUPTED, THAT DEALERBUILT WILL CORRECT ALL SERVICES ERRORS, OR THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS. DEALERBUILT ALSO EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY FOR ANY ISSUES RELATED TO THE PERFORMANCE AND OPERATION OF THE SERVICES THAT ARISE FROM YOUR DATA OR THIRD PARTY CONTENT (INCLUDING THIRD PARTY FORMS) OR PRODUCTS OR SERVICES PROVIDED BY THIRD PARTIES.

8.4. **Exclusive Remedies.** FOR ANY BREACH OF THE SERVICES WARRANTY IN SECTIONS 8.2(a) AND (c), YOUR EXCLUSIVE REMEDY AND DEALERBUILT'S ENTIRE LIABILITY SHALL BE THE CORRECTION OF THE DEFICIENT SERVICES THAT CAUSED THE BREACH OF WARRANTY, OR, IF DEALERBUILT CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALLY REASONABLE MANNER, YOU MAY END THE DEFICIENT SERVICES AND DEALERBUILT WILL REFUND TO YOU UP TO THREE (3) MONTHS OF THE FEES FOR THE TERMINATED SERVICES THAT YOU PRE-PAID TO DEALERBUILT FOR THE PERIOD FOLLOWING THE EFFECTIVE DATE OF TERMINATION.

8.5. **No Other Warranties.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY, REPRESENTATION OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, ARISING FROM COURSE OF DEALING, USAGE, TRADE OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY, REPRESENTATION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

9. INDEMNIFICATION

9.1. **Indemnification by DealerBuilt.** DealerBuilt will indemnify and defend You against any claim, demand, suit or proceeding made or brought against You by a third party alleging that any Service infringes or misappropriates such third party's intellectual property rights (a "**Claim Against You**"),

and will indemnify You from any damages, including actual and statutory damages, fines, and penalties, reasonable attorney fees and costs finally awarded against You as a result of, or for amounts paid by You under a settlement approved by DealerBuilt in writing of, a Claim Against You, provided You (x) promptly give DealerBuilt written notice of the Claim Against You, (y) give DealerBuilt sole control of the defense and settlement of the Claim Against You (except that DealerBuilt may not settle any Claim Against You unless it unconditionally releases You of all liability), and (z) give DealerBuilt all reasonable assistance, at DealerBuilt's expense. If DealerBuilt receives information about an infringement or misappropriation claim related to a Service, DealerBuilt may in DealerBuilt's discretion and at no cost to You (i) modify the Services so that they are no longer claimed to infringe or misappropriate, (ii) obtain a license for Your continued use of that Service in accordance with this Agreement, or (iii) terminate Your subscriptions for that Service upon 30 days' written notice and refund You any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply: (I) to the extent a Claim Against You arises from a breach by You or Users of this Agreement; or (II) to the extent a Claim Against You arises from Your use of the Service in conjunction with any product or service not provided or authorized by DealerBuilt.

9.2. **Indemnification by You.** You will indemnify and defend DealerBuilt against any claim, demand, suit or proceeding made or brought against DealerBuilt by a third party arising out of Your violation of this Agreement (each a "**Claim Against DealerBuilt**"), and You will indemnify DealerBuilt from any damages, including actual and statutory damages, fines, and penalties, reasonable attorney fees and costs finally awarded against DealerBuilt as a result of, or for any amounts paid by DealerBuilt under a settlement approved by You in writing of, a Claim Against DealerBuilt, provided DealerBuilt (x) promptly gives You written notice of the Claim Against DealerBuilt, (y) give You sole control of the defense and settlement of the Claim Against DealerBuilt (except that You may not settle any Claim Against DealerBuilt unless it unconditionally releases DealerBuilt of all liability), and (z) give You all reasonable assistance, at Your expense.

9.3. **Exclusive Remedy.** This Section 9 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in Section 9.

10. LIMITATION OF LIABILITY

10.1. **Limitation of Liability.** SUBJECT TO SECTION 10.3 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL DEALERBUILT'S (OR DEALERBUILT'S AFFILIATES') AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE FEES ACTUALLY PAID BY YOU UNDER THIS AGREEMENT DURING THE IMMEDIATELY PRECEDING THREE (3) MONTH PERIOD FOR THE SERVICE FROM WHICH THE CLAIM AROSE (OR, FOR A CLAIM ARISING BEFORE THE FIRST ANNIVERSARY OF THE EFFECTIVE DATE, THE AMOUNT PAID OR PAYABLE FOR THE FIRST THREE (3) MONTH PERIOD).

10.2. **Exclusion of Consequential and Related Damages.** IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN

CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

10.3. **Exceptions.** SECTION 10.1 WILL NOT APPLY TO OR IN ANY WAY LIMIT: (i) A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 9, (ii) CLAIMS TO THE EXTENT BASED ON RECKLESS MISCONDUCT, GROSS NEGLIGENCE, WILLFUL MISCONDUCT AND/OR FRAUD OF A PARTY, or (iii) YOUR PAYMENT OBLIGATIONS.

11. MISCELLANEOUS PROVISIONS

11.1. **Entire Agreement and Order of Precedence**. This Agreement is the entire agreement between You and DealerBuilt regarding Your use of Services and Content and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Except as otherwise provided herein, no modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be (1) the applicable Order and (2) this Master Services Agreement.

11.2. **Notices.** Except as otherwise specified in this Agreement, all notices related to this Agreement, except for notices of termination ("Termination Notices" which shall be clearly identifiable as Termination Notices and sent to terminations@DealerBuilt.com) or an indemnifiable claim ("Legal Notices") which shall clearly be identifiable as Legal Notices and sent to legal@DealerBuilt.com, will be in writing and will be effective upon: (a) personal delivery, (b) the second business day after receipt of mailing, or (c) the day of sending by email. Billing related notices shall clearly be identifiable as Billing Questions and sent to AR@DealerBuilt.com.

11.3. **Modifications.** As DealerBuilt's business evolves, we may change the terms of this Agreement (except any Orders). If we make a material change to this Agreement, we will provide You with reasonable notice prior to the change taking effect, either by emailing the email address associated with Your account or notifying You through our billing invoice. The revised Agreement will become effective on the date set forth in our notice. Your access or use of the Service after the effective date of any modification will be deemed acceptance of the modified terms.

11.4. **Withdrawals.** DealerBuilt may withdraw a Service by posting a notice at least 6 (six) months prior to the effective date of the withdrawal. Upon withdrawal of a Service: (a) all support services relating to that Service will automatically stand withdrawn on the effective date of the withdrawal; and (b) DealerBuilt will continue to provide You with the Service until the effective date of the withdrawal.

11.5. **Governing Law.** This Agreement, and any disputes arising out of or related hereto, will be governed exclusively by the Laws of the State of Michigan, without regard to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods.

11.6. **Venue; Waiver of Jury Trial; Fees.** The state and federal courts located in Oakland County, Michigan will have exclusive jurisdiction to adjudicate any dispute arising out of or relating to the Agreement or its formation, interpretation or enforcement. Each party hereby consents and submits to the exclusive jurisdiction of such courts. Each party also hereby waives any right to jury trial in

connection with any action or litigation in any way arising out of or related to the Agreement. In any action or proceeding to enforce rights under the Agreement, the prevailing party will be entitled to recover its reasonable costs and attorney's fees.

11.7. **Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld) except that DealerBuilt may assign this Agreement (together with all Orders) without Your consent in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of DealerBuilt's assets. Any purported assignment in violation of this section is void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

11.8. **Relationships of the Parties; Third Party Beneficiaries.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. There are no third-party beneficiaries under this Agreement.

11.9. **Force Majeure.** Any delay in performance caused by a Force Majeure Event is not a breach of the Agreement, provided that (i) such delay could not have been reasonably prevented or circumvented by the party whose performance is delayed (the "Non-Performing Party") through the use of alternate sources, work-around plans or other means, (ii) the Non-Performing Party uses commercially reasonable efforts to minimize the duration and impact of such delayed performance, and (iii) the Non-Performing Party promptly notifies the other party of any Force Majeure Event. The time for performance will be extended for a period equal to the duration of the conditions preventing performance. Any amounts payable under this Agreement shall be equitably adjusted such that You are not required to pay any amounts for Services that You are not receiving.

11.10. **Subcontracting.** DealerBuilt may subcontract parts of the Services to third parties. DealerBuilt will remain directly and primarily liable to You for the performance of all DealerBuilt's obligations hereunder, including those assigned to or assumed by subcontractors, and for subcontractors' compliance with this Agreement. DealerBuilt shall ensure that each subcontractor complies, and that each subcontract includes provisions that require compliance by the applicable subcontractor with, the DealerBuilt's obligations under this Agreement. DealerBuilt shall not disclose to any subcontractor any of Your Confidential Information unless and until such Subcontractor has executed a nondisclosure agreement that is no less protective of Your rights than are the confidentiality provisions set forth in this Agreement.

11.11. **Anti-Corruption.** You agree that You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of DealerBuilt's employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify DealerBuilt's Legal Department at legal@DealerBuilt.com.

11.12. **Publicity.** You grant DealerBuilt the right to use Your company name and logo as a reference for marketing or promotional purposes on DealerBuilt's website and in other public or private communications with DealerBuilt's existing or potential customers subject to Your standard trademark usage guidelines as provided to DealerBuilt from time-to-time.

11.13. **Severability.** If any provision of the Agreement is held to be invalid or unenforceable, the invalidity or unenforceability will not affect the other provisions of the Agreement.

11.14. **No Waiver.** A waiver of any breach of the Agreement is not deemed a waiver of any other breach. No waiver under the Agreement will be effective unless made in writing and signed by an authorized representative of the party being deemed to have granted the waiver.

11.15. **Surviving Provisions.** Sections 1, 3, 4.4, 4.5. 4.6, 5, 6, 7, 8, 9, 10, 11, and 12 will survive any termination or expiration of this Agreement.

12. DEFINITIONS

12.1. "**Services**" means any distinct, subscription-based, on-demand products and services offered by DealerBuilt under the names or affiliates or successor branding that You order under a free trial or an Order and DealerBuilt make available to You via password-protected customer login, including any associated offline and mobile components.

12.2. "**Content**" means information obtained by DealerBuilt from publicly available sources or DealerBuilt's third-party content providers, including but not limited to Third Party Forms, and made available to You through the Services, or pursuant to an Order, as more fully described in the User Documentation.

12.3. **"Equipment"** means the hardware and other equipment (proprietary and/or third party) provided by DealerBuilt to You as listed in the Orders.

12.4. **"Force Majeure Event"** means circumstances beyond either party's reasonable control, including without limitation acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of this Agreement, national or regional emergency, passage of applicable law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation, or other similar cause beyond reasonable control of a party such that it could not have been prevented by reasonable precautions.

12.5. **"Cure Period"** means DealerBuilt has 90 days from notice date to remedy from a material breach

12.6. **"Order"** means an ordering document or online order specifying the Services to be provided hereunder that is entered into between You and DealerBuilt, including any addenda and supplements thereto. Order includes but is not limited to Order Form, Change Order, Termination Order, Statement of Work, Addendum, etc**.**

12.7. **"Termination Notice"** means any request in writing to terminate services from and Order.

12.8. "**Services**" means the services and products (including hardware) provided by DealerBuilt to You. "Services" exclude Content and Third Party Applications.

12.9. **"Go Live"** means the Services are generally available for use by You

12.10. "**Third Party Application**" means a web-based or offline software application that is provided by a third party and which may interoperate with the Services.

12.11. "**Third Party Forms**" means forms and marketing materials that are developed or licensed by a third party to You or to DealerBuilt and used by motor vehicle dealers to (i) sell, lease, or finance motor vehicles and (ii) sell insurance and warranty products.

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12.12. "**User**" means an individual who is authorized by You to use a Service, for whom You have purchased a subscription (or in the case of any Services provided by DealerBuilt without charge, for whom a Service has been provisioned), and to whom You (or, when applicable, DealerBuilt at Your request) have supplied a user identification and password. Users may include, for example, Your employees, consultants, contractors and agents, and third parties with whom You transact business.

12.13. "**User Documentation**" means the applicable Service's technical and functional documentation (including product guides in any form or medium, including training videos) and its usage guides and policies, as updated from time to time (subject to the terms of this Agreement).

12.14. "**Your Data**" means any data or information that is submitted by or for You or Your Users in relation to the Services, excluding (i) Content and (ii) Third Party Applications. For the avoidance of doubt, Your Data includes any Personal Data as defined in DealerBuilt's Data Processing Agreement.

12.15. **"Data Authorization Form"** means an agreement signed by you and DealerBuilt where You select the data that you are requested to be moved by DealerBuilt