

## **END-USER LICENSE AGREEMENT FOR INTERNET DEALER SERVICES SOFTWARE/WEB APPLICATION**

**IMPORTANT--READ CAREFULLY:** This End-User License Agreement ("EULA") is a legal contract between you (either an individual or a single business entity) and INTERNET DEALER SERVICES is located and operates product(s) that is located via internet URL: <http://internetdealerservices.com> which for the software application identified above (the "Software Application"). INTERNET DEALER SERVICES will also be referred to as IDS further within this document.

BY USING OUR WEB BASED PRODUCT YOU AGREE TO THE TERMS WITHIN THIS DOCUMENT. MAY ALSO BE SUBMITTED AND TRANSMITTED IN WRITING WHEN DOING BUSINESS IN PERSON. IDS ENCOURAGE ALL USERS OF OUR PRODUCT TO KEEP A PRINTED COPY OF THIS AGREEMENT AND ALL UPDATED VERSIONS ON HAND FILED. THIS AGREEMENT OR OTHERWISE USING THE SOFTWARE APPLICATION, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT, INCLUDING THE WARRANTY DISCLAIMERS, LIMITATIONS OF LIABILITY AND TERMINATION PROVISIONS BELOW. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT SIGN THIS AGREEMENT OR USE THE SOFTWARE APPLICATION, YOU ALSO REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO ENTER THIS AGREEMENT ON BEHALF OF THE PERSON OR ENTITY USING THE SOFTWARE APPLICATION. YOU ALSO AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF USE FOR THE INTERNET DEALER SERVICES WEB SITE LOCATED AT (<http://intnetdealerservices.com>).

### **LICENSE TERMS**

Subject to the terms and conditions of this Agreement, including, but not limited to, payment of the applicable fees described on the IDS website at (<http://internetdealerservices.com>), IDS hereby grants you a revocable, non-exclusive, non-transferable, non-sub licensable monthly license to use the Software Application strictly in accordance with the terms and conditions of this Agreement.

The Software Application provides you with certain inventory management capabilities. This information is proprietary to IDS and its data suppliers. This information is licensed for your internal personal or professional use and may not be resold or provided to others. You may not distribute, sell, rent, sublicense, or lease such information, in whole or in part to any third party; and you will not make such information available in whole or in part to any other user in any networked or time-sharing environment, or transfer the information in whole or in part to any computer other than the PC used to access this information.

### **LICENSE LIMITATIONS**

You may not rent, lease or lend the Software Application, use it in a service bureau arrangement or use it in a manner inconsistent with the related documentation.

You may not reverse engineer, decompile, or disassemble the Software Application, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.

Without prejudice to any other rights, IDS may terminate this Agreement if you fail to comply with the terms and conditions of this Agreement or if you violate Website Terms and Conditions of Use. In such event, you must destroy all copies of the Software Application and all of its component parts and related data and proprietary information, and IDS may suspend or deactivate your use of the Software Application with or without notice.

### **ON-THE LOT SERVICES**

Dealers using the Software Application may be eligible for on-the-lot services described on our Website or in a work order provided to you in connection with such services. On-the-lot services may include digital photography, sticker printing and affixation, data extraction services, and inventory broadcasting services. On-the-lot services are provided "as is" without any warranty whatsoever. IDS may use subcontractors to provide such services.

### **CONSENT TO MONITORING AND DISCLOSURE**

IDS is under no obligation and does not assume any obligation to monitor the information residing on or transmitted to this service. However, anyone using this service agrees that IDS may monitor the contents periodically to (1) comply with any necessary laws, regulations, or other governmental requests; (2) to operate the service properly or to protect itself and its users. IDS reserves the right to modify, reject or delete any information residing on or transmitted to its service that it, in its sole discretion, believes is unacceptable or in violation of these terms and conditions. Should any user of information on this service provide IDS information, including without limitation feedback, data, answers, questions, comments, suggestions, plans, ideas or the like to IDS such information shall be deemed to be non-confidential and IDS assumes no obligation to protect such information from disclosure. The submission of such information to IDS shall in no way prevent the purchase, manufacture or use of similar products, services, plans and ideas by IDS for any purpose whatsoever and IDS shall be free to reproduce, use, disclose and distribute the information to others without restriction.

### **GOVERNING LAW**

This Agreement shall be governed by the laws on a local state level and national level within the United States. All use of company operations relating to IDS aim to be in complying with all state and federal regulations of the U.S. and foreign territories. You hereby consent to exclusive jurisdiction and venue in the courts of the State of Georgia. You may not assign or otherwise transfer this Agreement or the rights and licensed granted hereunder.

## **PROPRIETARY RIGHTS**

All title, copyrights, patent rights or other proprietary or intellectual property rights in and to the Software Application (including, without limitation, any images, photographs, animations, video, audio, music, text, and "applets" incorporated into the Software Application), the accompanying media and printed materials, and any copies of the Software Application are owned by IDS or its suppliers.

The IDS name and logo, and all related products and service names, design marks, and slogans, without limitation, are property of HIGHEST ORDER MANAGEMENT, LLC dba INTERNET DEALER SERVICES (IDS) located via internet at <http://internetdealerservices.com>. All other product and service marks contained herein are the trademarks and/or property of their respective owners.

## **DISCLAIMERS OF WARRANTY, LIABILITY AND DAMAGES**

THIS SOFTWARE APPLICATION AND THE ACCOMPANYING FILES AND DATA AND ANY RELATED SERVICES, IS PROVIDED "AS IS." YOU ASSUME ALL RESPONSIBILITY AND RISK FOR THE USE OF THE SOFTWARE APPLICATION, RELATED DATA AND SUCH SERVICES AND YOUR USE OF THE INTERNET GENERALLY. IDS AND ITS PARENTS, SUBSIDIARIES, SUPPLIERS AND THEIR RESPECTIVE EMPLOYEES DO NOT AND CANNOT WARRANT THE PERFORMANCE OR RESULTS YOU MAY OBTAIN BY USING THE SOFTWARE APPLICATION, DATA OR SUCH SERVICES. IDS AND ITS PARENTS, SUBSIDIARIES, SUPPLIERS OR THEIR RESPECTIVE EMPLOYEES MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES AS TO TITLE OR INFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ACCURACY OF DATA, OR THAT THE SOFTWARE APPLICATION AND RELATED DATA AND SERVICES ARE VIRUS OR ERROR FREE.

Good data processing procedure dictates that any program be thoroughly tested with noncritical data before relying on it. The user must assume the entire risk of using the Software Application.

Any material contained on this service may include inaccuracies or errors. At <http://internetdealerservices.com> has the right to make changes and updates to any information contained within this service and any specifications, equipment data, VIN decode specifications, and prices without prior notice.

IN NO EVENT WILL IDS OR ITS PARENTS, SUBSIDIARIES, SUPPLIERS, SERVICE PROVIDERS OR THEIR RESPECTIVE EMPLOYEES BE LIABLE TO YOU FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, INCLUDING ANY LOST PROFITS, LOST DATA OR LOST SAVINGS, EVEN IF A IDS REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY. THE MAXIMUM LIABILITY OF IDS OR ITS PARENTS, SUBSIDIARIES, SUPPLIERS, SERVICE PROVIDERS OR THEIR RESPECTIVE EMPLOYEES HEREUNDER AND OTHERWISE WITH RESPECT TO THE SOFTWARE APPLICATION AND/OR RELATED SERVICES SHALL BE THE AMOUNTS PAID BY YOU HEREUNDER.

Some states or jurisdictions do not allow the exclusion or limitation of incidental, consequential or special damages, or the exclusion of implied warranties or limitations on how long a given warranty may last, so the above limitations may not apply to you.

## **Superseding Addendum to Services Agreement and End User Services Agreement**

THIS SUPERSEDING ADDENDUM (this "Addendum") is made to that certain IDS Services Agreement (the "Services Agreement") between IDS and the undersigned client ("Client") which Services Agreement incorporates the terms and conditions of the INTERNET DEALER SERVICES (IDS) End User Services Agreement (the "EULA") and is effective as of the Effective Date September 15th, 2007. In the event of any conflict or inconsistency between this Addendum and the Services Agreement, the terms and conditions of this Addendum shall control.

- 1. Software Application.** The term Software Application shall mean the Inventory module, the Website creation module and the eBay module, each as more particularly described in the Services Agreement.
- 2. Additional Development Services.** IDS shall also provide the additional services described in the cost summary attached to the Services Agreement.
- 3. Monthly Services.** Subject to payment of the ongoing monthly fees and/or per vehicle fees described in the Cost Summary, IDS shall provide: (i) access to the Software Applications, (ii) monthly hosting of the website designed using the Website creation module (the "Client Website"); (iii) display of up to 20 photos per vehicle on the Client Website, feeds to partnerships and any other periodic upgrades to the software that IDS may choose to implement.
- 4. Ownership of and license in the Client Data.** Client shall retain ownership in all data submitted by Client via the Software Application (the "Client Data"). Client hereby grants IDS a limited non-exclusive license in the Client Data for the term of the Agreement, solely for the purposes of performing the services described herein and in the Agreement.
- 5. Partnerships with IDS.** Client(s) may subscribe to use our service(s) that are integrated within our product communicating with other 3rd party websites and/or software applications to communicate data stored within the IDS system. This service is a convenience to subscribers and IDS holds no warranties or guarantees relating to the warranties and disclaimers within this document. Client(s) may incur extra fees relating to our partners separate from any fees owed or collected by IDS.
- 6. Use of Output of Application Services.** Client may use, copy, display any reports, and other such materials generated by the Application Services using Client Data, and may distribute such copies to its customers. Client agrees not to reproduce the look and feel of such generated materials in any materials produced by Client using other software or produced after the term of this Agreement.
- 7. Confidential Information.** Each party agrees that during the term of the Services Agreement and this Addendum, and for a period of five (5) years thereafter: (i) it shall not commercialize or disclose the other party's Confidential Information to any person or entity, except to its own employees, contractors, or agents, (collectively "Representatives") having a need to know; (ii) it will not use, nor will it permit its Representatives to use, the Confidential Information of the other for any purpose other than the performance of the Services Agreement; (iii) it will disclose the Confidential Information of the other only to those

Representatives who are contractually bound to maintain the confidentiality thereof; (iv) it shall be responsible for any disclosure or misuse of such Confidential Information by such Representatives; and (v) it shall use at least the same degree of care in safeguarding the other party's Confidential Information as it uses in safeguarding its own Confidential Information, but in no event shall it use less than reasonable diligence and care. "Confidential Information" shall mean, with respect to a party hereto, any information or material that (A) is marked "Confidential," "Restricted," or "Proprietary Information" or other similar marking, (B) is known by the parties to be considered confidential and proprietary, or (C) should be known or understood to be confidential or proprietary by an individual exercising reasonable commercial judgment. Confidential Information does not include information which: (i) is or becomes generally known to the public by means other than a breach of the obligations of a receiving party; (ii) was previously known to the receiving party; (iii) is rightly received by the receiving party from a third party who is not under an obligation of confidentiality; (iv) is independently developed by the receiving party without reference to the other party's Confidential Information; or (v) is subject to disclosure under court order or other lawful process, but only to the extent required to be disclosed by such order or process.

**8. Protection of Certain Client Data:** IDS represents and warrants to Client that our company presently maintains, and will continue to maintain and periodically test the efficacy of, appropriate information security programs and measures designed to ensure the security and confidentiality of "Customer Information". Such information security programs and measures shall include appropriate procedures designed to:

- Protect the security and confidentiality of such information;
- Protect against anticipated threats or hazards to the security or integrity of such information, and
- Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer of the Client.

Applicable governmental regulators may, from time to time, also audit the security programs and measures implemented by the Service Provider pursuant to this Section and the Service Provider shall not impose any fees or charges on the Dealer, its representatives or applicable governmental regulators in connection with such audit.

**9. Limited Warranty.** IDS, represents and warrants that the Software Application will perform substantially in accordance with the specifications set forth in the Services Agreement and the attachments thereto. Client's sole remedy and IDS sole obligation with respect to a breach of this warranty shall be for ([HTTP://INTERNETDEALERSERVICES.COM](http://INTERNETDEALERSERVICES.COM)). (IDS) to use commercially reasonable efforts to correct any reproducible errors in the Software Application. Subject to the foregoing, all warranty disclaimers in the EULA shall apply.

**10. Refunds - Set-up Fees are non-refundable. Month to Month Subscriptions:** clients that qualify for full refunds have to notify us within the first 15 days of purchase. Refunds will be fully refunded excluding set up fee during this time period. After 15 days, we will discontinue your service and prorate the current month of delivery (example price divided by days of the 16<sup>th</sup>-31<sup>st</sup> month). Please allow 5-7 business days to issue refunds.

**11. Exchanges - Lot Services Dollar value divided by days in month of purchase to next payment date will be refunded the unused difference for that given month.** For lot services way may exchange window sticker service items. Photography service is non refundable when service is rendered. For customer satisfaction we may offer an exchange or offer discounts in regards to our labor services.

12.Cancellations - This option mentioned is for month to month subscribers' services first month only. After 1<sup>st</sup> Month, for Month to Month Subscribers may cancel with a 30 day notice minimum including the desire date of service end date. After 30 notice of cancellation decision. Refunds are on cancellations prorated during calendar month.