

# DYNAMO

## TERMS OF USE

Terms of Use adopted from CarMax for demonstration purposes

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PLEASE READ THE FOLLOWING CAREFULLY AS IT AFFECTS YOUR LEGAL RIGHTS.  
THESE TERMS OF USE CONTAIN AN AGREEMENT TO ARBITRATE THAT MAY

REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES RATHER THAN IN A JURY TRIAL OR ANY OTHER COURT PROCEEDINGS. IT ALSO REQUIRES YOU TO GIVE UP YOUR RIGHT TO PARTICIPATION IN CLASS ACTIONS OF ANY KIND. THE ARBITRATION AGREEMENT IS FOUND IN THE ["DISPUTES" SECTION](#) BELOW

## **I. Introduction**

BY USING DYNAMO'S SERVICES, YOU AGREE TO THESE TERMS OF USE, AS UPDATED FROM TIME-TO-TIME. The date of the most recent revisions will appear at the top of this page, so check back often.

These Terms of Use are binding on all individuals and entities who access, visit, and use the Services, including all persons, entities, and digital engines of any kind that harvest, crawl, index, scrape, spider, or mine digital content by an automated or manual process (collectively, "you" and "your"). Your use of the Services constitutes your acceptance of any changes and/or revisions to these Terms of Use. If you disagree with these Terms of Use, or if you violate, breach, fail to follow, or act inconsistently with these Terms of Use or any other terms and conditions that apply to the Services, then your access to and use of the Services is unauthorized, and Dynamo reserves the right to terminate, suspend, and/or restrict your ability to access, visit and/or use the Services and to refuse to honor any of our purported obligations under these Terms of Use, with or without notice. In addition, we may restrict or refuse to provide you with future access, visitation, and/or use of the Services. We reserve the right, in addition to other remedies, to take any technical, legal or other actions we deem necessary, with or without notice, to prevent violations and to enforce these Terms of Use. As part of this, we reserve the right to involve and cooperate

with law enforcement agencies, and to pursue a civil lawsuit or criminal prosecution for any and all alleged or actual illegal activities involving the Services.

Dynamo may modify, suspend, discontinue, or terminate your right to use part or all of the Services at any time without notice to you, and in that event, we may modify the Services to make them inoperable. Dynamo will not be liable to you should it exercise those rights.

Additional terms and conditions apply to some Services (for example, Dynamo Auto Finance Online Account Services Agreement, E-Sign Consent and Agreement, [Text Message Terms and Conditions](#)), and these terms can be found where the relevant Service is offered and are incorporated into these Terms of Use by reference. If we provide specific terms of use for a particular Service and there is a conflict between the specific terms of use for the particular Service and these Terms of Use, the specific terms of use for the particular Service will govern.

## **II. Eligibility & Jurisdiction; Content; License and Access**

### **Eligibility & Jurisdiction**

The Services are controlled and operated by Dynamo from the United States and are not intended to subject Dynamo to the laws or jurisdiction of any state, country, or territory other than the United States (excluding unincorporated territories, Puerto Rico, and Guam). Dynamo does not represent or warrant that the Services or any part thereof is appropriate or available for use in any particular jurisdiction other than the United States.

We may limit the Services' availability, in whole or in part, to any person, geographic area or jurisdiction we choose, at any time and in our sole discretion.

The Services are intended only for use in the United States by individuals who are 18 years of age or older and who have the capacity to enter into a valid contract. By accessing the Services you represent and affirm that you meet these requirements. If you choose to access this site from a location outside the United States, you are responsible for compliance with local laws.

Dynamo does not knowingly or intentionally solicit or collect information from minors, and our marketing is not directed at minors.

## **Content**

These Terms of Use govern all content on the Services, including text, articles, photographs, images, graphics, illustrations, creative, copy, artwork, video, audio, music, podcasts, trademarks, trade names, service marks, games, and other brand identifiers, designs, plans, software, source and object code, data, algorithms, analysis, statistics, indexes, registries, repositories, and all other content, information, and materials available on or through the Services, whether provided by Dynamo, our licensors, partners vendors, and/or other service providers ("Content").

## **License and Access**

Subject to your compliance with these Terms of Use, Dynamo grants you a non-exclusive, limited, revocable, personal, non-transferrable license to use the Services and to download and use any Dynamo mobile application (“Mobile Application”) on your mobile device, for your personal, NONCOMMERCIAL use only. As part of this, you may print, save, download, and share vehicle information, saved searches, your Dynamo Auto Finance account information (subject to the below requirements), any paperwork or other information relating to your transaction, and the online credit application for your non-commercial, personal use only. This license does not include any resale or commercial use of any Services or its Content, any collection or use of any product listings, descriptions, or prices, any derivative use of any Services or its contents, any downloading, copying, or other use of account information for the benefit of any third party, or any use of data mining, robots, or similar data gathering and extraction tools.

### **III. Prohibited Uses**

You may only use these Services for lawful purposes and in accordance with these Terms of Use. As a condition of your use of these Services, you warrant to Dynamo that you will not use the Services for any purpose that is unlawful or prohibited by these Terms of Use. Whether on behalf of yourself or on behalf of a third party, you may NOT do the following in connection with the Services and Content:

- Access and/or use any other person’s User Information (defined below) or account, unless you have their express permission to do so.
- Impersonate, imitate, or pretend to be someone else, by setting up different accounts or otherwise, or falsely state, represent, or imply any affiliation, association, or connection with a person or entity when using the Services.

- Reproduce, duplicate, adapt, translate, copy, sell, resell, rent, visit, create derivative works of, timeshare, loan, distribute, otherwise exploit, or otherwise utilize any Services or Content (including product listings, descriptions, or prices), or any part thereof, for commercial purposes or for any purpose except those expressly authorized by these Terms of Use, without Dynamo's express written consent;
- Except as provided in these Terms of Use, download, copy or transmit any Content for the benefit of any third party or for use with another service without Dynamo's express written consent.
- Make available any User Materials (defined below) through or in connection with the Services that is or may be in violation of the User Material Guidelines (set out below).
- Make available through or in connection with the Services any virus, worm, Trojan horse, Easter egg, time bomb, spyware, or other computer code, file or program that is or is potentially harmful or invasive or intended to damage or hijack the operation of, or to monitor the use of, any hardware, software, or equipment.
- Interfere with or disrupt the operation of the Services or the systems, networks, or servers used to make the Services available, including by hacking or defacing any portion of the Services; or violate any procedure, policy, or requirements of such servers or networks.
- Restrict or inhibit another person from using the Services.
- Reverse engineer, decompile, or disassemble any portion of the Services, except where such restriction is expressly prohibited by applicable law.
- Remove or modify any copyright or other intellectual property notices that appear in the Services.
- Frame or mirror any portions of the Services, or otherwise incorporate or compile any portion of the Services into any product or service, unless you obtain Dynamo's express written consent.

- Systematically download or store any materials except as expressly authorized by these Terms of Use.
- Use any robot, spider, site search/retrieval application or other manual or automatic devices to retrieve, index, “scrape,” “data mine” or otherwise gather any Content, or reproduce or circumvent the navigational structure or presentation of the Services, without Dynamo’s express prior written consent.
- Cause injury to any person or entity.
- Violate any law, rule, or regulation, or these Terms of Use.
- Make any commercial, advertising, promotional, or marketing use of the Services and/or Content, except as permitted by law or as expressly permitted in writing by Dynamo.
- Use the Services or Dynamo’s name, logo, or brand to send any unsolicited or unauthorized materials, including advertising, promotional materials, email, or other form of solicitation.
- Use any meta tags or other hidden text or metadata utilizing a Dynamo trademark, logo, URL, or product name without Dynamo’s express written consent.
- Harvest or collect personally identifiable information about other users of the Services.
- Attempt to do anything or permit, encourage, assist, or allow any third party to do anything prohibited by these Terms of Use.

## **IV. Account Creation; User Material Guidelines**

### **Account Creation**

We may at times require you to register and/or set up an account or profile to access, visit, or use certain Services or components of the Services, in which case you may be required to create, or you will be provided with, a password and User ID, and you may be required to provide your name, telephone number(s), email address, street address, and other personally identifiable information ("User Information"). In addition, we may ask you to send us similar information via email, SMS, chat, and other technologies. All User Information submitted to Dynamo through whatever channel becomes and remains the property of Dynamo subject to applicable law. Consequently, we may use any User Information you submit for any purpose we deem appropriate in accordance with these Terms of Use and our [Privacy Policy](#). We maintain strict physical, technical, and administrative safeguards to protect your User Information from unauthorized or inappropriate access.

You agree, warrant, represent, and guarantee that all User Information you submit to Dynamo is true, accurate, complete, and up to date. You may not impersonate or pretend to be someone else when registering and/or setting up an account/profile on the Services and/or conducting transactions. If any of your User Information changes, you must update it via the mechanisms provided.

DYNAMO SHALL HAVE NO LIABILITY ASSOCIATED WITH OR ARISING FROM YOUR FAILURE TO MAINTAIN ACCURATE, COMPLETE, AND UP-TO-DATE USER INFORMATION, INCLUDING YOUR FAILURE TO RECEIVE CRITICAL INFORMATION FROM DYNAMO. DYNAMO SHALL NOT BE RESPONSIBLE FOR VERIFYING YOUR USER INFORMATION. DYNAMO SHALL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE YOU MAY SUFFER AS A RESULT OF YOUR SHARING YOUR USERNAME, PASSWORD, AND/OR ONLINE ACCOUNT SERVICES WITH SOMEONE ELSE. IF YOU PROVIDE YOUR ACCOUNT INFORMATION TO SOMEONE ELSE OR ALLOW



SOMEONE ELSE TO ACCESS AND USE YOUR ONLINE ACCOUNT SERVICES, YOU WILL BE RESPONSIBLE FOR ALL ACTIONS TAKEN BY THAT PERSON.

Dynamo reserves the right at any time, without notice, to remove or require a change to any password or User ID that has been provided to you or otherwise to change the access means or methods for portions of the Services.

You are solely responsible for the following:

- Maintaining the confidentiality of your User ID, password, and User Information and
- All access, visitation, use of, and activity on your account/profile. You agree that we may, and you expressly authorize us to, process transactions and registrations for additional services initiated using your User Information.

You may not sublicense, transfer, sell, rent, or assign your User ID, account/profile, or password to any third party without Dynamo's written approval.

If you suspect that your account/profile is no longer secure, you must immediately change your User ID and/or password, if available, and/or close the account/profile.

Dynamo is not responsible for errors or negligent use of your account/profiles, including input errors, negligent handling or sharing of usernames or passwords, and leaving a computer unattended while accessing online account services.

### **User Material Guidelines**

You are welcome to submit reviews, comments, and other communications, videos, photos, or other content via the Services or via any Dynamo-managed social media channels (e.g., Twitter, Facebook, Instagram, etc.) (“User Materials”). You acknowledge and agree that you are responsible for all User Materials you make available on any Services and/or in any Dynamo-managed social media channels. You represent and warrant that (1) you have the authority to grant the rights in such User Materials as set forth below and (2) such User Materials, and the use of such User Materials, shall not violate these Terms of Use.

By submitting User Materials via the Services or via any Dynamo-managed social media channels, you grant to Dynamo a royalty-free, perpetual, irrevocable, worldwide, unlimited, nonexclusive license to use, reproduce, create derivative works from, modify, edit, translate, distribute, publish, perform, sublicense, distribute, sell, and display, in public or otherwise, any User Materials you make available, in any media or medium, in any form, format, or forum, and for any purpose, without compensation to you. For this reason, do not send any User Materials to us that you do not wish to license to us, including any confidential information. You also grant to Dynamo a nonexclusive, worldwide, royalty-free license to use all trademarks, trade names, and the names and likenesses of any individuals that appear in the User Materials. In addition, you grant Dynamo the right to include the name or other identifying label (e.g., handle) you provide along with the User Materials, with the understanding that Dynamo is under no obligation

to attribute such User Materials to you. You waive any “moral rights” or other rights with respect to authorship or attribution or integrity of materials regarding User Materials that you may have under any applicable law or theory. You agree you will indemnify Dynamo for all claims relating from any User Materials you supply. Dynamo takes no responsibility and assumes no liability for any User Materials posted by you or a third party.

You agree that you will not make User Materials available on the Services that:

- Are false or misleading;
- Violate any applicable laws;
- Would infringe upon any third party’s intellectual property rights or other rights (without the owner’s written consent);
- Are obscene, indecent, pornographic, violent, or otherwise objectionable;
- Are derogatory, defamatory, threatening, harassing, abusive, slanderous, hateful, or embarrassing to any other person or entity (as determined by Dynamo, in its sole discretion);
- Harass, degrade, or intimidate an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, disability, or any other basis or characteristic recognized by applicable law;
- Contain advertisements, solicitations, or SPAM links to other websites or individuals, without Dynamo’s prior written permission;
- Contain or relate to chain letters or pyramid schemes;
- Impersonate another business, person or entity, including Dynamo, its related entities, employees, and agents;
- Violate any policy posted on the Services or on any third-party platform (e.g., social media platforms); or

- Are intended to cause harm, damage, disable, or otherwise interfere with the Services.

## **V. Monitoring**

To provide all users of our Services with a positive experience, we may monitor activities on the Services to ensure compliance with these Terms of Use. By utilizing the Services, you agree to such monitoring. Dynamo shall have the right (but not the obligation) in our sole discretion to edit, move, delete, or refuse to make any User Materials available through the Services for any reason, including violations of these Terms of Use. Nonetheless, Dynamo does not represent, warrant or guarantee that it will monitor the Services for accuracy or unacceptable use or that it will take any specific action – or any action at all – in the event of a challenge or dispute regarding compliance or non-compliance with these Terms of Use.

## **VI. Accuracy of Information; Corrections**

### **Accuracy of Website Information**

Dynamo designed its Services to meet your car-shopping needs by providing you with accurate and up-to-date information about Dynamo's inventory and offerings across the country. Despite our best efforts, however, it is inevitable that some inaccuracies may occasionally be present, including, without limitation, incorrect information or statements relating to prices for or features/accessories on particular vehicles, the availability of

credit, the terms of any such credit, and any features that may estimate credit terms. Additionally, the color and general appearance of vehicles in photographs may appear differently in person depending on your device settings. Dynamo does not guarantee the accuracy of such information. All vehicles are subject to prior sale and may not be available when you are ready for purchase. Further, Dynamo reserves the right to change product or credit pricing and specifications, as well as the terms of our guarantees and warranties, without notice. You agree that reliance on the vehicle listings and descriptions on the Services is at your own risk. For this reason, please contact the store location where a vehicle is located to confirm the accuracy of the contents of our Services before you visit that store location.

### **Corrections**

If any information contained in this Terms of Use is inaccurate, we will gladly correct it. Simply [Email us](#), noting the incorrect information and the correction. We reserve the right to verify the correctness of any information provided.

## **VII. Third-Party Content, Sites, and Services**

Unless otherwise stated or clear from context, references on the Services to any names, marks, products, or services of third parties, or links to third-party sites or information, are not any endorsement, sponsorship, or recommendation of the third party or its information, product or services. Dynamo assumes no responsibility for the content of these third-party websites, or any links on those third-party sites, including any third-party social media or mobile application platform with which the Services operate or otherwise interact, and Dynamo has no control over the contents found there. For this

reason, we do not represent or warrant that the contents of any third-party website are accurate or compliant with state or federal law, or compliant with copyright or other intellectual property laws. Also, Dynamo assumes no responsibility for webcasting or any other form of transmission received from any linked website. You rely on the contents of a third-party website at your own risk and you assume all responsibilities and consequences resulting from such reliance. Other terms may apply to certain, software files contained within or distributed with the Services that are specifically identified in related documentation ("Third-Party Software"). Such Third-Party Software license terms shall apply to the corresponding Third-Party Software file in lieu of these Terms of Use.

When you use the Services, you may also be using the services of one or more third parties, such as a wireless carrier or a mobile platform provider, (collectively and individually, "Third-Party Services"), and you acknowledge that your use of those Third-Party Services may be subject to the separate policies and terms of use, including fees, of one or more third parties. Third-Party Services may display, include or make available content, data, information, applications or materials from third parties ("Third-Party Materials") or provide links to certain third-party websites. By using the Third-Party Services, you acknowledge and agree that we are not responsible for examining or evaluating the content, accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect of the Third-Party Materials or websites. We do not warrant or endorse and do not assume and will not have any liability or responsibility to you or any other person for any Third-Party Services, Third-Party Materials or third-party websites, or for any other materials, products, or services of third parties. Third-Party Materials and links to other websites are provided solely as a convenience to you. Location data provided by any Third-Party Services is for basic navigational purposes only, may not be accurate, and is not intended to be relied upon in situations where precise location information is needed or where erroneous, inaccurate or incomplete location data may lead to death, personal injury, property or

environmental damage. Use of real time route guidance is at your sole risk. You agree that any Third-Party Services may contain proprietary content, information and material that is protected by applicable intellectual property and other laws, including but not limited to copyright, and that you will not use the proprietary content, information or materials in any way whatsoever except for permitted use of the Third-Party Services.

## **VIII. Ownership and Proprietary Rights; Intellectual Property**

### **Ownership and Proprietary Rights**

You acknowledge and agree that the Services and all Content are protected by copyrights, trademarks, service marks, patents, trade secrets, and/or other proprietary or intellectual property rights and laws and are the property of Dynamo or Dynamo's third-party licensors. Except as expressly authorized by these Terms of Use, you may not make use of the Content and Services, and Dynamo reserves all rights to the Content and Services not granted expressly in these Terms of Use.

NOTICE: The following sentence applies to certain images owned by EVOX Productions LLC: The automotive images or video contained herein are owned by EVOX Productions LLC ("EVOX") and are protected under United States and international copyright law. EVOX reserves the right to pursue unauthorized users of its individual copyrighted images contained on the Services. These and other violations of EVOX intellectual property rights may result in your liability for actual damages and loss of income to EVOX and profits you derive from this appropriation, or alternatively, for statutory damages per infringed work, plus all costs and attorneys' fees. Access to and use of these images or video is restricted by the terms and conditions of a license agreement. Unauthorized use, reproduction,

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## **Intellectual Property**

Dynamo is the owner of a number of registered trademarks and service marks, including, but not limited to, CA (stylized design), Dynamo, Dynamo (with dashes), Dynamo (stylized design-Color), DYNAMO AUCTIONS (design), DYNAMO AUCTION PERKS, DYNAMO AUTO FINANCE, DYNAMO CARES (design), DYNAMO CARES (words only), DYNAMO CERTIFIED QUALITY INSPECTION, DYNAMO FOUNDATION (with dotted line above foundation), DYNAMO SERVICE CENTER (design), DYNAMO THE AUTO SUPERSTORE, DYNAMO THE AUTO SUPERSTORE (design & letters), DYNAMO.PULKITH.COM, CM (stylized design), MAXCARE, THE AUTO SUPERSTORE, THE DYNAMO FOUNDATION, THE GLOVEBOX, THE WAY CAR BUYING SHOULD BE., and WE'LL BUY YOUR CAR EVEN IF YOU DON'T BUY OURS!. Any unauthorized use, replication, or other violations of trademark law will be prosecuted. All other trademarks not owned by Dynamo or its subsidiaries that appear on this site are property of their respective owners, who may or may not be affiliated with, connected to, or sponsored by Dynamo.

## **IX. Digital Millenium Copyright Act — Notice and Counter-Notifications**



## **DMCA Notice**

Dynamo will respond appropriately to notices of alleged copyright infringement that comply with the U.S. Digital Millennium Copyright Act (“DMCA”), as set forth below.

If you believe that your work has been reproduced or used on, or distributed via, the Services in a way that constitutes copyright infringement, you may notify Dynamo’s copyright agent in writing via fax, email, or first class U.S. mail that includes all of the below content (as required by 17 U.S.C. § 512). The below procedure is exclusively for notifying Dynamo that your copyrighted material may have been infringed. We do not and will not make any legal decisions about the validity of your claim of infringement or the possible defenses to a claim. When a clear and valid notice is received pursuant to the guidelines set forth below, Dynamo will respond by either taking down the allegedly infringing content or blocking access to it. Dynamo may contact you to request additional information.

Notices and counter-notices are legal notices distinct from regular activities or communications on or via the Services. We may publish or share them with third parties in our sole discretion (in addition to producing them pursuant to a subpoena or other legal discovery request).

The DMCA notice must contain the following information:

- a legend or subject line that says: “DMCA Copyright Infringement Notice”;

- a description of the copyrighted work that you claim has been infringed or, if multiple copyrighted works are covered by a single notification, a representative list of such works;
- a description of where the material that you claim is infringing or is the subject of infringing activity is located that is reasonably sufficient to permit us to locate the material (please include the URL, if applicable, of the website on which the material appears);
- your full name, address, telephone number, and e-mail address;
- a statement by you that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law;
- a statement by you, made under penalty of perjury, that all the information in your notice is accurate, and that you are the copyright owner (or, if you are not the copyright owner, then your statement must indicate that you are authorized to act on the behalf of the owner of an exclusive right that is allegedly infringed); and
- your physical signature or, if sent within an email (rather than in a physical document or a digital document attached to an email), your name typed followed by “//s//”, which will serve as your electronic signature.

Dynamo will only respond to DMCA Notices that it receives by mail, e-mail or facsimile at the addresses below:

**By Mail:** Dynamo

12800 Tuckahoe Creek Parkway

Richmond, VA 23238

Attn: Legal Department/Infringement Notice

**By E-Mail:**

[copyrightnotice@Dynamo.com](mailto:copyrightnotice@Dynamo.com)

**By Fax:**

(804) 217-6819

It is often difficult to determine if your copyright has been infringed. Dynamo may elect to not respond to DMCA Notices that do not substantially comply with all of the foregoing requirements, and Dynamo may elect to remove allegedly infringing material that comes to its attention via notices that do not substantially comply with the DMCA.

Please note that the DMCA provides that any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability.

We may send the information that you provide in your notice to the person who provided the allegedly infringing work. That person may elect to send us a DMCA Counter-Notification.

Without limiting Dynamo's other rights, Dynamo may, in appropriate circumstances, terminate a repeat infringer's access to the Services.

### **DMCA Counter-Notification**

If access on the Services to a work that you submitted to Dynamo is disabled or the work is removed as a result of a DMCA Notice, and if you believe that the disabled access or removal is the result of mistake or misidentification, then you may send us a DMCA Counter-Notification to the addresses above. Your DMCA Counter-Notification should contain the following information:

- a legend or subject line that says: "DMCA Counter-Notification";
- a description of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled (please include the URL, if applicable, of the website from which the material was removed or access to it disabled);
- a statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled;
- your full name, address, telephone number, e-mail address, and the username of your account;

- a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located (or, if the address is located outside the U.S.A., to the jurisdiction of the United States District Court for the Eastern District of Virginia), and that you will accept service of process from the person who provided DMCA notification to us or an agent of such person; and
- your physical signature or, if sent within an email (rather than in a physical document or a digital document attached to an email), your name typed followed by “//s//”, which will serve as your electronic signature.

Please note that the DMCA provides that any person who knowingly materially misrepresents that material or activity was removed or disabled by mistake or misidentification may be subject to liability.

If we receive a DMCA Counter-Notification, then we may replace the material that we removed (or stop disabling access to it) in not less than 10 and not more than 14 business days following receipt of the DMCA Counter-Notification. However, we will not do this if we first receive notice at the addresses above that the party who sent us the DMCA Copyright Infringement Notice has filed a lawsuit asking a court for an order restraining the person who provided the material from engaging in infringing activity relating to the material on the Services. You should also be aware that we may forward the DMCA Counter-Notification to the party who sent us the DMCA Copyright Infringement Notice.

## **X. Disputes**

PLEASE READ THIS SECTION CAREFULLY. IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT. By using or accessing the Services, you agree to this Disputes Section. Arbitration is a way of resolving disputes before one or more neutral persons, instead of having a trial in court before a judge and/or jury.

YOU AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW:

(1) ANY AND ALL CLAIMS (DEFINED BELOW) WILL BE RESOLVED INDIVIDUALLY IN THE FORUM DESIGNATED IN THIS DISPUTES SECTION, WITHOUT RESORT TO ANY FORM OF CLASS ACTION. YOU GIVE UP YOUR RIGHT TO PARTICIPATE AS A REPRESENTATIVE OR MEMBER OF A CLASS IN A CLASS ACTION ("CLASS ACTION WAIVER") AND

(2) IF YOU OR WE CHOOSE ARBITRATION, THEN ARBITRATION SHALL BE MANDATORY AND:

(A) ANY CLAIM WILL BE DECIDED BY ARBITRATION AND NOT IN COURT OR BY A JURY TRIAL;

(B) DISCOVERY AND RIGHTS TO APPEAL ARE LIMITED BY THE ARBITRATION RULES OF THE ARBITRATION ADMINISTRATOR; AND

(C) OTHER RIGHTS THAT YOU OR WE WOULD HAVE IN COURT MAY NOT BE AVAILABLE IN ARBITRATION.

A “Claim” is any claim, dispute or controversy between you and us that in any way arises from or relates to the Services and/or these Terms of Use, including but not limited to:

- Initial claims, counterclaims, crossclaims and third-party claims;
- Disputes based on contract, tort, consumer rights, fraud and other intentional torts (at law or in equity, including any claim for injunctive or declaratory relief);
- Disputes based on constitutional grounds or on laws, regulations, ordinances or similar provisions; and
- Disputes about the validity, enforceability, arbitrability or scope of this Disputes Section or these Terms of Use, subject to paragraph (e) of this Disputes Section.

#### **Arbitration Details**

- a. **Commencing Arbitration.** Either you or we may require any Claim to be arbitrated by first sending to the other party, by certified mail, a written notice of dispute (“Notice”). This Notice shall (1) describe the nature and basis of the Claim and (2) set forth the specific relief sought. If we do not reach an agreement to resolve the Claim within 30 days after the Notice is received, you or we may commence an arbitration proceeding.

Arbitration of a Claim must comply with this Arbitration Provision and the applicable rules and procedures of the arbitration Administrator. Arbitration is not mandatory for an individual Claim that you or we may choose to bring in small claims court or the state's equivalent court, if any. If that Claim is transferred, removed or appealed to a different court, you or we then may choose arbitration.

For Non-California Residents: Arbitration is not mandatory for an individual Claim that you or we may choose to bring in small claims court or the state's equivalent court, if any. If that Claim is transferred, removed or appealed to a different court, you or we then may choose arbitration.

For California Residents Only: Arbitration is not mandatory for any Claim for which you may seek public injunctive relief expressly authorized by statute, or for an individual Claim that you or we may choose to bring in small claims court or the state's equivalent court, if any. If the individual Claim is transferred, removed or appealed to a different court, you or we then may choose arbitration.

- b. **Choosing the Administrator.** If you initiate the arbitration proceeding, you may choose either of the following arbitration Administrators: (1) American Arbitration Association, [www.adr.org](http://www.adr.org), (800) 778-7879 or (2) JAMS, [www.jamsadr.com](http://www.jamsadr.com), (800) 352-5267. The Administrator you choose will have rules that apply to the proceeding. Important information regarding the arbitration process and more complete information regarding arbitration procedures may be found at either Administrator's website. If the Administrator you choose is unable or unwilling or ceases to serve as the Administrator, you or we may choose the other Administrator. If both



Administrators are unable or unwilling or cease to serve as the Administrator, you or we may choose another Administrator, subject to the other's approval. In all cases, any arbitrator must be a lawyer or a retired judge with at least 10 years of legal experience. If we initiate the arbitration proceeding, we will give you 20 days to choose the Administrator. If you do not choose the Administrator within that time, we will choose one for you. No matter which Administrator is chosen, you shall have the right to be represented by an attorney of your own choosing, subject to any limitations in the Administrator's rules.

- c. **Choosing the Location.** Any arbitration hearing that you attend must take place at a location reasonably convenient to your residence.
- d. **Paying for Arbitration.** Each Administrator charges fees to administer an arbitration proceeding. This may include fees not charged by a court. When you choose an Administrator, you should carefully review the fees charged by the Administrator. The fees and costs of any arbitration, including any initial filing fees, shall be paid in accordance with the rules and procedures of the Administrator. Each party must pay the expense of that party's attorneys, experts, and witnesses, regardless of which party prevails in the arbitration, unless applicable law or the Administrator's rules, procedures or standards provide otherwise.
- e. **Class Action Waiver. YOU GIVE UP YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION. THIS MEANS THAT YOU MAY NOT BE A REPRESENTATIVE OR MEMBER OF ANY CLASS OF CLAIMANTS OR ACT AS A PRIVATE ATTORNEY GENERAL IN COURT OR IN ARBITRATION WITH RESPECT TO ANY CLAIM.**

NON-CALIFORNIA RESIDENTS: THIS MEANS THAT YOU MAY NOT BE A REPRESENTATIVE OR MEMBER OF ANY CLASS OF CLAIMANTS OR ACT AS A PRIVATE ATTORNEY GENERAL IN COURT OR IN ARBITRATION WITH RESPECT TO ANY CLAIM.

CALIFORNIA RESIDENTS ONLY: THIS MEANS THAT YOU MAY NOT (I) BE A REPRESENTATIVE OR MEMBER OF ANY CLASS OF CLAIMANTS OR (II) ACT AS A PRIVATE ATTORNEY GENERAL, EXCEPT TO SEEK PUBLIC INJUNCTIVE RELIEF EXPRESSLY AUTHORIZED BY STATUTE.

Further, unless both you and we agree otherwise, the arbitrator may not consolidate more than one person's Claim or Claims. Notwithstanding any other part of this Disputes Section, the validity and effect of the Class Action Waiver must be determined only by a court and not by an arbitrator. If a court limits or voids the Class Action Waiver, then this entire Disputes Section (except for this paragraph) will be null and void.

- f. **Right to Discovery.** The parties shall have the right to discovery of non-privileged information and documents relevant to the Claim, subject to the rules and procedures of the Administrator.
- g. **Arbitration Result and Right of Appeal.** Judgment upon the award given by the arbitrator may be entered in any court having jurisdiction. In response to a timely request from either party, the arbitrator must provide a brief written explanation of the basis for any award. The arbitrator's decision is final and binding, except for any right of appeal provided by the Federal Arbitration Act. Any party can appeal the award to a three-arbitrator panel administered by

the Administrator, which must reconsider any aspect of the initial award requested by the appealing party. Reference in this Disputes Section to the “arbitrator” means the panel of arbitrators if an appeal of the arbitrator’s decision has been taken. Subject to applicable law, costs of such an appeal will be borne by the appealing party regardless of the outcome of the appeal, unless applicable law or the Administrator’s rules provide otherwise. However, we will consider any good faith, reasonable request for us to pay all or any part of those fees if you are the appealing party.

- h. **Governing Law.** This Disputes Section is governed by the Federal Arbitration Act and not by any state arbitration law. The arbitrator must apply applicable statutes of limitations and claims of privilege recognized at law, and applicable substantive law consistent with the Federal Arbitration Act. The arbitrator is authorized to award all individual remedies permitted by the substantive law that would apply if the action were pending in court.
- i. **Rules of Interpretation.** Except as provided in paragraph (e), if any part of this Disputes Section is determined to be invalid or unenforceable, this Disputes Section and the Terms of Use will remain enforceable. In the event of a conflict or inconsistency between this Disputes Section and the applicable arbitration rules or the other provisions of these Terms of Use or any other contract between you and us, this Disputes Section will govern.

## **XI. Governing Law; Waiver of Jury Trial**

By using the Services, you agree that federal law (including federal arbitration law) and laws of the Commonwealth of Virginia, without regard to the principles of conflict of laws, will govern these Terms of Use. Any disputes, claims, and actions arising from or in

connection with these Terms of Use and Services that are not arbitrated or that otherwise result in court action will be resolved exclusively by a state or federal court in the Commonwealth of Virginia, and you specifically consent to the personal jurisdiction of such courts and waive any claim of forum non-conveniens. YOU AND Dynamo BOTH WAIVE YOUR RIGHT TO A JURY TRIAL, UNLESS SUCH WAIVER IS UNENFORCEABLE.

## **XII. Warranty and Limitation of Liability**

What follows applies only to your use of our Services and does not affect any rights you have under the Uniform Commercial Code, applicable laws addressing products liability or rights you have pursuant to our Limited Warranty or return policy.

### **Warranty**

THE SERVICES AND ALL CONTENT ARE PROVIDED ON AN “AS IS” “AS AVAILABLE” BASIS AND WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE SERVICES OR THE CONTENT. Dynamo DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE SERVICES OR CONTENT. SOME STATES AND JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS. THE FOREGOING SHALL BE ENFORCEABLE TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

### **Limitation of Liability**

YOU ACKNOWLEDGE AND AGREE THAT, TO THE FULLEST EXTENT PROVIDED BY APPLICABLE LAW, DYNAMO WILL NOT BE LIABLE TO YOU OR TO ANY OTHER PERSON UNDER ANY CIRCUMSTANCES OR UNDER ANY LEGAL OR EQUITABLE THEORY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY NATURE ARISING OUT OF OR IN CONNECTION WITH THE USE OF OR INABILITY TO USE THE SERVICES AND CONTENT. TO THE FULLEST EXTENT PROVIDED BY APPLICABLE LAW, THIS DISCLAIMER APPLIES TO ANY DAMAGES OR INJURY ARISING FROM ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECTS, DELAY IN OPERATION OR TRANSMISSION, LOST PROFITS, LOSS OF GOODWILL, LOSS OF DATA, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, COMPUTER VIRUSES, FILE CORRUPTION, COMMUNICATION FAILURE, NETWORK OR SYSTEM OUTAGE, THEFT, DESTRUCTION, UNAUTHORIZED ACCESS TO, ALTERATION OF, LOSS OF USE OF ANY RECORD OR DATA, AND ANY OTHER TANGIBLE OR INTANGIBLE LOSS. IF YOU ARE DISSATISFIED WITH THE SERVICES, ANY CONTENT, OR THESE TERMS OF USE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SERVICES. YOU ACKNOWLEDGE, BY YOUR USE OF THE SERVICES, THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OF LIABILITY SET FORTH ABOVE, SO THIS LIMITATION OF LIABILITY MAY NOT APPLY TO YOU, AND YOU MAY HAVE RIGHTS ADDITIONAL TO THOSE CONTAINED HEREIN.

### **XIII. Indemnification**

As a condition of use of the Services, you agree to indemnify Dynamo and its shareholders, officers, directors, employees, and agents against and from and against any and all claims, demands, judgments, costs, liabilities, expenses (including attorneys' fees), and damages

arising out of claims resulting from your use of the Services, including, without limitation, any claims alleging facts that if true would constitute a breach by you of these Terms of Use, any Content, or any User Materials submitted by you.

#### **XIV. Driver's License Information**

As part of Services, you may be required to provide Dynamo with a copy or image of your driver's license. By providing Dynamo with a copy or image of your driver's license, you agree that Dynamo may scan the license and use and retain the information contained therein in a manner permitted by applicable law.

#### **XV. Export Policy**

You acknowledge that any goods or services advertised on the Services and any software or technology purchased, downloaded, or used from the Services are subject to U.S. customs and export control laws and regulations, and you agree to comply with all applicable laws, including, but not limited to, the Export Administration Act of 1979 (50 U.S.C. app. §§ 2401 et seq.); the Export Administration Regulations (15 C.F.R. §§ 730 et seq.) enforced by the U.S. Department of Commerce's Bureau of Industry and Security; the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 et seq.); the economic sanctions regulations (31 C.F.R. Parts 501-598) enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control; the Foreign Corrupt Practices Act (15 U.S.C. § 78dd-1, et seq.); and the U.S. Anti-boycott laws and regulations (31 C.F.R. Part 760). You agree, represent, and warrant that no Services or Content will be accessed from, downloaded in, released in, carried to, transferred to, transshipped through, exported to, or re-exported to any territory (or resident of such territory),

person, entity, or organization to which such Services and Content could not be transferred directly from the United States or by a U.S. person without a license, including, without limitation, to any person, entity, or organization on (1) the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List as published by the U.S. Department of the Treasury; (2) the Denied Persons List, the Entity List and the Unverified List as published by the Bureau of Industry and Security at the U.S. Department of Commerce, as such lists may be amended from time to time.

## **XVI. Promotions**

Any sweepstakes, contests, raffles, surveys, games, or similar promotions (collectively, "Promotions") made available through the Services may be governed by rules that are separate from these Terms of Use. If you participate in any Promotions, please review the applicable rules as well as our [Privacy Policy](#). If the rules for a Promotion conflict with these Terms of Use, the Promotion rules will govern.

## **XVII. Communications**

You agree that by providing your phone number, Dynamo may call and/or send text messages (including through the use of equipment that automatically dials phone numbers) about your interest in a vehicle, financing for any vehicle, for marketing/sales purposes, for appointment information, or for any other servicing or informational purpose related to your account/profile. You do not have to consent to receiving calls or texts to purchase from or sell to Dynamo. The Dynamo [Text Message Terms and Conditions](#) provide additional terms that govern when receiving text messages from Dynamo.

## **XVIII. Mobile Application Users**

The following provisions apply to users of Dynamo's Mobile Applications:

### **Users of iOS Applications**

In addition to your agreement with these Terms of Use, the following provisions apply with respect to your use of any version of the Dynamo Mobile Application compatible with the iOS operating system of Apple Inc. ("Apple"):

- Dynamo is solely responsible for the Mobile Application on your Apple device, and you may use the Mobile Application on your Apple device only as permitted by these Terms of Use and the Usage Rules set forth in Apple's Media Store Terms and Conditions. Apple is not a party to these Terms of Use and does not own and is not responsible for any Mobile Application. Apple is not providing any warranty for the Mobile Application except, if applicable, to refund the purchase price for it. Apple is not responsible for maintenance or other support services for the Mobile Application and will not be responsible for any other claims, losses, liabilities, damages, costs, or expenses with respect to the Mobile Application, including any third-party product liability claims, claims that the Mobile Application fails to conform to any applicable legal or regulatory requirement, claims arising under consumer protection or similar legislation, and claims with respect to intellectual property infringement. As between Dynamo and Apple Inc., to the extent that: (a) we are required to address any claims related to your or a third party's use or possession of the Mobile Application on your Apple device, or any claims that



the Mobile Application infringes a third-party's intellectual property rights, Dynamo will be responsible for addressing, investigating, or defending the claim; and (b) we have not effectively disclaimed any warranties relating to the Mobile Application on your Apple device, we will be solely responsible for any product warranties or other claims, losses, liabilities, damages, costs or expenses if the Mobile Application fails to conform to any warranty. Any inquiries or complaints relating to the use of the Mobile Application, including those pertaining to intellectual property rights, must be directed to Dynamo in accordance with the "Contact Information" section.

- The license you have been granted in these Terms of Use is limited to a non-transferable license to use the Mobile Application on an Apple-branded product that runs Apple's iOS operating system and is owned or controlled by you, or as otherwise permitted by the Usage Rules set forth in Apple's Media Store Terms and Conditions . In addition, you must comply with the terms of any third-party agreement applicable to you when using the Mobile Application, such as your wireless data service agreement.
- You represent and warrant that (1) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (2) you are not listed on any U.S. Government list of prohibited or restricted parties.
- Apple and Apple's subsidiaries are third-party beneficiaries of these Terms of Use and, upon your acceptance of the terms and conditions of these Terms of Use, will have the right (and will be deemed to have accepted the right) to enforce these Terms of Use against you as a third-party beneficiary thereof; notwithstanding the foregoing, Dynamo's right to enter into, rescind or terminate any variation, waiver, or settlement under these Terms of Use is not subject to the consent of any third party.

## **Mobile Service, Internet, and Service Fees**

The use of the Mobile Application requires use of a mobile device and wireless mobile data service, which must be obtained from your wireless carrier, and may require Internet access, which must be obtained from your service provider. You are responsible for obtaining and paying for such additional services and obtaining a suitable device, including all usage charges related thereto. You may be required to send and receive, at your cost, electronic communications related to the Mobile Application, including administrative messages, service announcements, diagnostic data reports, and application updates, from Dynamo, your mobile carrier or third-party service providers. If you do not have an unlimited wireless mobile data plan, you may incur additional charges from your wireless service provider relating to your use of the Mobile Application. You are solely responsible for obtaining any additional subscription or connectivity services or equipment necessary to access the Mobile Application, including payment of all third-party fees associated therewith.

The Mobile Application may not work with all devices or all mobile carriers. Dynamo makes no representations that the Mobile Application will be compatible with or provided by all mobile carriers. If fees are charged for the Mobile Application, or other third-party service providers charge a fee for the products or services they provide, you agree to pay such fee to the respective party in exchange for your continued use of such products or services. Some services may be subject to different or additional terms (including fees), which you will be required to agree to prior to your use of such services.

## **Updates, Permissions, Notifications, and Information Received**

In order to keep the Mobile Application up to date, we may offer automatic or manual updates at any time and without notice to you. If we elect to provide maintenance or support of any kind, we may terminate that maintenance or support at any time without notice to you.

When you use the Mobile Application, you may grant certain permissions to us for your device, and you may select if and when you want to receive certain notifications through the Mobile Application. Most mobile devices provide you with information about those permissions and notifications.

The Mobile Application will provide us with data about it and its interaction with the content you access using the Mobile Application and your use of it. Any information provided to us may be stored on servers in the U.S. and is subject to these Terms of Use.

## **XIX. Contact Information**

If you have a question or complaint regarding the Services, please send an email to [dcrmtech@Dynamo.com](mailto:dcrmtech@Dynamo.com). You may also contact us by writing to Dynamo, 12800 Tuckahoe Creek Parkway, Richmond, VA 23238, ATTENTION: Customer Relations.

## **XX. Notice to California Residents**

Under California Civil Code Section 1789.3, California users are entitled to the following consumer rights notice: If you have a question or complaint regarding the Services, please

send an email to [dcrmtech@Dynamo.com](mailto:dcrmtech@Dynamo.com) or call us at (800) 519-1511. You may also contact us by writing to Dynamo, 12800 Tuckahoe Creek Parkway, Richmond, VA 23238, ATTENTION: Customer Relations. California residents may reach the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by mail at 1625 North Market Blvd., Sacramento, CA 95834, or by telephone at [\(916\) 445-1254](tel:9164451254) or [\(800\) 952-5210](tel:8009525210).

## **XXI. Miscellaneous**

You understand and agree that these Terms of Use represent the entire agreement governing your use of the Services and that they supersede all prior agreements and representations between the parties with respect to the subject matter of these Terms of Use. These Terms of Use do not, and shall not be construed to, create any partnership, joint venture, employer-employee, agency, or franchisor-franchisee relationship between you and Dynamo. Headings used in these Terms of Use are for reference purposes only and in no way define or limit the scope of the section. If any provision of these Terms of Use is held to be unenforceable for any reason, such provision will be reformed only to the extent necessary to make it enforceable and the other terms of these Terms of Use will remain in full force and effect. If your state of residence does not permit a limitation of liability for consequential or incidental damages or disclaimers of certain warranties as described in this agreement, then all or a portion of those sections may not apply to you. Dynamo's failure to act with respect to a breach of these Terms of Use by you or others does not constitute a waiver and will not limit Dynamo's rights with respect to such breach or any subsequent breaches. You may not assign, transfer, or sublicense any or all of your rights or obligations under these Terms of Use without our express prior written consent. We may assign, transfer, or sublicense any or all of our rights or obligations under these Terms of Use without restriction. Notices to you (including notices of changes to this

these Terms of Use) may be made via posting to Dynamo's websites, Mobile Application, or by e-mail (including in each case via links), or by regular mail. Without limitation, a printed version of these Terms of Use and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms of Use to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

### **Required California Disclosure: CA Supply Chain Transparency**

Dynamo recognizes the serious nature of the crimes of human trafficking and slavery. Dynamo has taken and will take every reasonable effort to ensure that its supply chain is free of products that are tainted by human trafficking. Because all of the vehicles sold by Dynamo in California are used vehicles, and all of the replacement parts Dynamo uses in its reconditioning process are purchased from other retailers, Dynamo believes that it has taken all necessary steps to audit and reasonably mitigate the risk that its products are tainted by the crimes of human trafficking and slavery.