



## Edmunds.com Advertising Agreement

**This Edmunds.com Advertising Agreement** (this "Agreement") is entered into between Edmunds.com, Inc. ("Edmunds") and the dealership identified below (referred to as "you", "your" or "Dealership") as of the "Date of this Agreement" set forth below.

1. **Order Forms:** The specific advertising services to be provided by Edmunds (the "Services"), and the fees for those services (the "Fees"), are set forth on one or more Edmunds.com Advertising Agreement Order Forms delivered by Dealership to Edmunds (which may be prior to, on or following the date of this Agreement). Those are referred to as the "Order Forms," and the Order Forms are incorporated herein and made a part of this Agreement. In the event of any conflict between the terms of this Agreement and the terms of any Order Form, the terms of this Agreement shall control.
2. **Fees:** Dealership shall pay the Fees to Edmunds on or before the date each Fee is due. For billing purposes only, Fees payable under each Order Form may be treated by Edmunds as independent of each other. Edmunds may change the Fees for any Service at any time on not less than 30 days' notice to Dealership. Edmunds may cease rendered any or all of the Services, without notice to you, in the event you are delinquent in the payment of any Fees or in breach of any provision of this Agreement, but no such action shall terminate the term of any Order Form unless such term is terminated in accordance with Section 4 hereof, and no such action shall terminate this Agreement.
3. **Leads:** Edmunds is not obligated to provide you with a minimum number of leads. Edmunds does not guarantee any sales as a result of your purchase of the Services and your obligation to pay the Fees is unconditional and not dependent on any such sales. You agree not to resell or otherwise transfer to another dealership any leads delivered to you by Edmunds.
4. **Term and Termination of Order Forms:** The term of each Order Form shall commence on actual launch date for the Services specified in that Order Form, and shall continue until terminated by one of the parties. Should either party choose to terminate the term of an Order Form or any Service designated in an Order Form, such party may do so by giving not less than 30 days' prior notice to the other party in the manner set forth in Section 10 hereof. Without limiting the generality of the foregoing, Edmunds shall have the right to terminate any Order Form immediately in the event: (i) you fail to pay any Fees when due, (ii) you otherwise breach this Agreement, or (iii) the services to be provided by Edmunds under this Agreement are deemed by Edmunds or alleged or determined an appropriate governmental authority to violate any local, state or federal law or regulation. In the event of termination by either party, all amounts owed by Dealership under this Agreement shall become immediately due and payable.

Since this Agreement covers all Order Forms, and has provisions that are intended by the parties to survive the termination of the term of all Order Forms, this Agreement shall continue in full force and effect and is not subject to termination by the parties unless mutually agreed to in writing.

5. **Marketing Materials/Trademarks:** Edmunds may provide you with certain marketing materials relating its services from time to time. All such marketing materials will be developed by Edmunds at its own expense. No marketing materials referencing Edmunds or any trademark owned by, or licensed to, Edmunds, shall be developed or used by you without its written approval. Edmunds hereby grants a limited license to use such marks and other intellectual property solely in connection with this Agreement and subject to the limitations set forth herein. Such limited license shall immediately terminate upon termination of all Order Forms.
6. **Consent to Recording of Calls:** Edmunds has entered into an arrangement with a service provider that provides the toll-free number that Edmunds may display on the Edmunds Website for purposes of inducing call to you (the "Toll-Free Number"). That arrangement also provides that its service provider may, at Edmunds' direction and for its benefit, track and make a recording of those calls. Those recordings will be used for quality

assurance and related purposes, and when recording of a call is activated each caller will be automatically notified of the fact that recording is occurring.

You expressly agree, acknowledge and warrant that (i) you will provide written notice to all “Call Handlers” (that is, all employees or agents who work for you and who might receive and answer such recorded calls) that the calls may be recorded and may be monitored, stored and disclosed to third parties, (ii) you will obtain the prior, express written consent of all Call Handlers to such recording before they are allowed to answer such recorded calls, and (iii) you will be solely responsible for providing and maintaining such notices and consents.

You agree, acknowledge, and warrant by using Toll-Free Number that you have reviewed the legality of recording, monitoring and divulging telephone calls and the legality of the notice of recording to Call Handlers, and that neither Edmunds nor its service provider makes any representation or accepts any responsibility regarding the legality of recording, monitoring, or divulging telephone calls as it pertains to federal, state, and local laws. You agree, acknowledge and warrant that you have established proper procedures to protect the privacy of the callers and the Call Handlers. You may not use or permit any of the Call Handlers to use any call recording to intimidate, harass, or otherwise violate the privacy or other rights of a caller or a Call Handler.

You agree to defend, indemnify and hold harmless Edmunds, its service provider and each of their respective agents, including their employees, from any and all claims, liabilities, and /or damages that arise from or relate to use of the call recording systems by you or any of your agents, employees or contractors, or any breach or alleged breach by you of your obligations or representations and warranties under this Agreement.

You hereby agree, acknowledge and warrant that Edmunds and its service provider are granted full access to administer, manage, use, and monitor the call tracking and recording systems, call activity, and call recordings in accordance with the arrangements between Edmunds and its service provider.

7. **Data Polling:** Dealership hereby grants to Edmunds a royalty-free, nonexclusive, non-transferable, perpetual license to use its sales data (to the extent available) obtained from the Dealer Management System of Dealership (the “Data”) for the following purposes: (i) consumer and industry research and reference, including (a) evaluation of lead performance, and (b) use as a data point, verification and adjustment of the Edmunds.com True Market Value<sup>®</sup> prices and True Cost of Incentives<sup>SM</sup> data, and (ii) use in market analysis and the generation of other “market intelligence” data. Under no circumstances will Edmunds (i) use the Data in a manner that would disclose to a viewer of any Edmunds’ web site, or any other third party on or off-line publisher, the name of Dealership or consumer, or (ii) sell or otherwise license the Data to any other person or entity. Dealership acknowledges that Edmunds intends to engage the services of DMi (or other polling service engaged by Edmunds) to poll and transmit the Data to Edmunds, at Edmunds’ sole cost and expense.
8. **Warranties/ Limitation of Liability/Indemnification:** You represent and warrant that you are a licensed automobile dealership, possessing the required franchises to represent the brands you sell, and that you are, and will remain, in compliance with all applicable laws and regulations.

EDMUNDS, ITS AFFILIATES AND/OR THIRD PARTY CONTRACTORS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE SERVICES AND LICENSES PROVIDED HEREUNDER AND ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXPRESSLY DISCLAIMED. IN NO EVENT SHALL EDMUNDS OR ITS SUBCONTRACTORS, EMPLOYEES, REPRESENTATIVES OR AFFILIATES BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, PUNITIVE, INCIDENTAL OR SPECIAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE (AND WHETHER OR NOT EDMUNDS OR ANYONE ELSE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), WHETHER BASED UPON LOST GOODWILL, LOST PROFITS, LOSS OF USE OF MONEY, LOSS OF DATA OR INTERRUPTION IN ITS USE OR AVAILABILITY, STOPPAGE OF WORK, IMPAIRMENT OF ASSETS OR OTHERWISE ARISING OUT OF BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, MISREPRESENTATION, STRICT LIABILITY IN TORT OR OTHERWISE, AND WHETHER BASED ON ANY PROVISION OF THIS AGREEMENT OR ANY OTHER AGREEMENT BETWEEN THE PARTIES RELATING TO THE SERVICES, OR ANY TRANSACTION PERFORMED OR UNDERTAKEN UNDER OR IN CONNECTION WITH THIS AGREEMENT. EDMUNDS’ AND ITS SUPPLIERS’ SUBCONTRACTORS’, EMPLOYEES’, REPRESENTATIVES’ AND AFFILIATES’ AGGREGATE LIABILITY

FOR ACTUAL DAMAGES, REGARDLESS OF THE FORM OF ACTION, SHALL BE LIMITED TO THE AMOUNT OF THE FEES PAID BY DEALERSHIP DURING THE PRECEDING SIX (6) MONTHS. You agree to indemnify Edmunds and its affiliates from and against any liability arising out of or relating to your performance under this Agreement, your breach of this Agreement or any claim by a customer relating to the purchase, lease or servicing of any vehicle or other product or service from you.

9. **Governing Law; Venue:** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to agreements made and to be performed in such state. Each party hereby consents and agrees that the state or federal courts located in the county of Los Angeles, state of California shall have exclusive jurisdiction to hear and determine any and all claims or disputes between or among the parties pertaining to this Agreement or to any matter arising out of or relating to this Agreement; *provided, however,* that nothing in this Agreement shall be deemed or operate to preclude Edmunds from bringing suit or taking other legal action in any other jurisdiction, or to enforce a judgment or other court order in favor of Edmunds. Each party expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and each party hereby waives any objection that such party may have based upon lack of personal jurisdiction, improper venue or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Each party hereby waives personal service of the summons, complaint and other process issued in any such action or suit and agrees that service of such summons, complaints and other process may be made by overnight courier or delivery service addressed to such party at the address set forth above for such party and that service so made shall be deemed completed upon such party's actual receipt thereof.
10. **Severability:** In the event any provision of this Agreement becomes or is determined by a court of competent jurisdiction to be illegal, invalid, unenforceable, or void, portions of such provision, or such provision in its entirety, to the extent necessary, shall be severed from this agreement, and such court will replace such illegal, invalid, unenforceable, or void provision with a valid and enforceable provision that will achieve, to the extent possible, the same economic, business, and other purposes of the illegal, invalid, unenforceable, or void provision. The balance of this Agreement shall be enforceable in accordance with its terms.
11. **Dealership License:** Dealership hereby grants to Edmunds a non-exclusive, worldwide, fully paid up license to use, copy, encode, store, archive, distribute, transmit and publicly display Dealership logos, marks, trademarks and/or other Dealership intellectual property (the "Marks") provided to and used by Edmunds in performing the Services. Edmunds is further granted the right to sub-license the Marks to its third party contractors, affiliates or other parties providing services under this Agreement. Such right to use said Marks shall be limited to those uses reasonably required to perform the services under this Agreement. Dealership further grants Edmunds all additional rights and licenses (and the right to sub-license such rights and licenses) reasonably required to perform the Services.
12. **Notices:** All notices and other communications called for or contemplated by this Agreement shall be in writing and shall be deemed given to Edmunds or Dealership (i) when delivered to such party by hand or by overnight courier or delivery service, or (ii) one business day after being sent to such party by facsimile transmission (when receipt is confirmed telephonically or by email). However, any notice of termination sent by Dealership pursuant to Section 4 hereof may only be in writing (not by email), must be signed by a general manager, owner or corporate officer of Dealership. Edmunds may also send notices and other communications called for or contemplated by this Agreement by email sent to the email address of Client set forth on any Order Form (or at such other email address as Dealership may designate by sending notice of such other email address to dealersupport@edmunds.com, with a copy to generalcounsel@edmunds.com), and shall be deemed given to Edmunds when so sent. Edmunds contact information for all notices is Edmunds.com, Inc., Attention: Dealer Customer Service, 1620 26<sup>th</sup> Street, Suite 400 South, Santa Monica, CA 90404; fax number 310-309-6400. Dealership's contact information for all notices is as set forth on the corresponding Order Form.
13. **Miscellaneous:** The individual who signs below on behalf of the Dealership represents to Edmunds that he/she is fully authorized to sign this Agreement and to bind the Dealership to the obligations described herein. This Agreement and the Order Forms constitute the entire agreement between the parties regarding the subject matter hereof, and shall supersede all prior understanding and documents in connection with such subject matter, and may not be amended except by an instrument in writing signed on behalf of both you and Edmunds. No delay by either party in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise

of that or any other right, power or remedy. No provision of this Agreement shall be construed in favor of or against either of the parties by reason of the extent to which either such party or its counsel participated in the drafting hereof. Section headings have been inserted for convenience of reference only, are not a part of this Agreement and shall not be used in construing this Agreement. You agree to pay any tax (other than income or any equivalent tax) imposed by any governmental taxing authority as a result of the rendering of the Services. Edmunds and Dealership are independent contractors in connection with this Agreement, and nothing shall be deemed to make them partners or joint ventures. This Agreement is non-transferable and is non-assignable by you without prior written approval by Edmunds. This Agreement and the rights and duties of hereunder may be assigned by Edmunds to any of its affiliates without notice to you. Edmunds may engage any of its affiliates and subcontractors selected by Edmunds in its sole discretion to assist in performing services under this Agreement.

Michael Darrow, Chief Sales Officer,  
on behalf of Edmunds.com, Inc.

**Agreed to and accepted by Dealership:**

Signature: \_\_\_\_\_

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Date of this Agreement: \_\_\_\_\_