

**Fill in this information to identify the case:**Debtor 1 Auto Masters, LLC

Debtor 2

(Spouse, if filing)

United States Bankruptcy Court MIDDLE DISTRICT OF TENNESSEECase number: 17-07036

FILED

U.S. Bankruptcy Court  
MIDDLE DISTRICT OF TENNESSEE

12/7/2017

MATTHEW T. LOUGHNEY, Clerk

**Official Form 410  
Proof of Claim**

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents**; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

<b>1. Who is the current creditor?</b>	<u>Dealersocket</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
<b>2. Has this claim been acquired from someone else?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
<b>3. Where should notices and payments to the creditor be sent?</b>  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b> <u>Dealersocket</u> Name 100 Avenida La Pata San Clemente, CA 92673  Contact phone <u>949-900-0300</u> Contact email <u>jkirkwood@dealersocket.com</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	<b>Where should payments to the creditor be sent? (if different)</b> _____ Name _____ Contact phone _____ Contact email _____
<b>4. Does this claim amend one already filed?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ <div style="text-align: right;">MM / DD / YYYY</div>	
<b>5. Do you know if anyone else has filed a proof of claim for this claim?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Official Form 410

Proof of Claim

page 1

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

<b>6. Do you have any number you use to identify the debtor?</b>	<div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor:</div><div style="border-bottom: 1px solid black; width: 150px; text-align: right;">9393</div></div>
<b>7. How much is the claim?</b>	<div style="display: flex; justify-content: space-between;"><div style="width: 40%;">\$ <u>5100.27</u></div><div><b>Does this amount include interest or other charges?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).</div></div>
<b>8. What is the basis of the claim?</b>	<p>Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as healthcare information.</p> <p style="text-align: center;"><u>Services Performed</u></p>
<b>9. Is all or part of the claim secured?</b>	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property.</div> <div><b>Nature of property:</b> <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>. <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____</div> <div><b>Basis for perfection:</b> _____</div> <p>Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</p> <div style="display: flex; justify-content: space-between;"><div><b>Value of property:</b></div><div>\$ _____</div></div> <div style="display: flex; justify-content: space-between;"><div><b>Amount of the claim that is secured:</b></div><div>\$ _____</div></div> <div style="display: flex; justify-content: space-between;"><div><b>Amount of the claim that is unsecured:</b></div><div>\$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)</div></div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div><b>Amount necessary to cure any default as of the date of the petition:</b></div><div>\$ _____</div></div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"><div><b>Annual Interest Rate</b> (when case was filed)</div><div>_____ %</div></div> <div style="margin-top: 10px;"><input type="checkbox"/> Fixed <input type="checkbox"/> Variable</div>
<b>10. Is this claim based on a lease?</b>	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____</div>
<b>11. Is this claim subject to a right of setoff?</b>	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____</div>

<b>12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <i>Check all that apply.</i>	<b>Amount entitled to priority</b>
A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.	<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)( <u>  </u> ) that applies	\$ _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.		

### Part 3: Sign Below

**The person completing this proof of claim must sign and date it. FRBP 9011(b).**

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

**A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.**

Check the appropriate box:

- ☒ I am the creditor.  
☐ I am the creditor's attorney or authorized agent.  
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.  
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this Proof of Claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 12/7/2017  
MM / DD / YYYY

/s/ Jessica Jackman  
Signature

Print the name of the person who is completing and signing this claim:

Name	<u>Jessica Jackman</u>		
	First name	Middle name	Last name
Title	<u>Case Administrator/Paralegal</u>		
Company	<u>DealerSocket Inc.</u>		
Address	Identify the corporate servicer as the company if the authorized agent is a servicer		
	<u>100 Avenida La Pata</u>		
	Number Street		
	<u>San Clemente, CA 92673</u>		
Contact phone	City State ZIP Code		Email
	<u>9499000300</u>		<u>jjackman@dealersocket.com</u>



## Order Form

Quote Number: 2016-23967  
 Quote Expiration Date: 5/26/2016  
 Contract Term (Months): 12

**Dealership:** Auto Masters Of Franklin  
**Group:**  
**Phone Number:** 6157917171  
**Salesperson:** Mit Ebeling  
**Average Cars Sold Per Month:** 0-75

**Physical Address:**  
 1900 Columbia Avenue  
 Franklin, Tennessee 37064  
 United States

**Billing Address:**

Products				
Product Name	Pricing Driver	Quantity	Monthly	Setup
Independent CRM Core - ILM, Showroom Tracking, Mobile Sales CRM-CRM <i>Pricing subject to the maximum Average Cars Sold Per Month referenced in this Order.</i>	Per Unit	1	\$500.00	\$0.00
WayneReaves Inventory	Per Unit	1	\$0.00	\$0.00
<b>Total (in USD)</b>			<b>\$ 500.00</b>	<b>\$ 0.00</b>

One Time Fees			
Product Name	Pricing Driver	Quantity	Fee
WayneReaves Inventory Setup Fee	Per Unit	1	\$0.00
<b>Total (in USD)</b>			<b>\$ 0.00</b>

Total Fees			
		Monthly	Setup/One-Time
Products		\$500.00	\$0.00
One Time Fees		\$0.00	\$0.00
<b>Total (in USD)</b>		<b>\$ 500.00</b>	<b>\$ 0.00</b>

### TERMS AND CONDITIONS

- Contracting Parties.** This Order is binding between the dealership identified above ("Customer"), and DealerSocket, Inc. ("DealerSocket") as of the date this Order is signed.
- Incorporation by Reference and Integration.** This Order is incorporated by reference into and governed by the terms and conditions of the most current, signed DealerSocket Master Services Agreement ("Master Agreement"), DealerSocket Agreement, or other terms and conditions governing the provision of Products and Services contained in this Order. The Products in this Order shall also be governed by the valid order form that licenses the Core Product(s) referenced in the Product name above. The provisions of this Order supersede any conflicting provisions contained in any other prior or concurrent written or oral agreements unless otherwise noted in this section.
- Products & Services.** Listed above are the Products and Services for which the Customer is agreeing to pay.
- Definitions.** Capitalized terms in this Order have the meaning ascribed to them in the Master Agreement unless defined herein.
- Services Term.**
  - Initial Term:** The initial term of this Order shall commence on the Start Date (as defined below) and shall continue for a period of 1 year (the "Initial Term"). This Order shall automatically renew for the same length of time as the Initial Term unless either party gives written notice 60 days prior to the end of the Initial Term or any renewal Term of its intention to terminate the Products described in this Order. The provisions of this section 5 shall supersede any conflicting provisions of the Master Agreement.
  - Start Date:** The "Start Date" means: (a) the first day that Products in this Order are scheduled to be turned on or implemented, which date shall be determined in DealerSocket's sole discretion, or (b) no more than three (3) months after this Order is signed by Customer, whichever comes first.
- Payment Terms.**
  - All amounts are stated in the primary national currency of the country specified in the Billing Address of this Order Form. If Customer is an independent dealership purchasing SaaS Services and whose Average Cars Sold Per Month is less than or equal to 150, Customer shall be required to submit all payments by credit card.

6.2. The Setup fees, One-Time fees, integration fees and last month's fees are due upon signing.

6.3. Monthly fees will commence on the Start Date.

6.4. **Out of pocket travel and lodging expenses for onsite implementation & training will be billed to Customer at cost.**

7. **SaaS Terms of Service.**

7.1. The Monthly fees referred to above are valid for the first 12 months and shall be subject to increase thereafter pursuant to the Master Agreement.

7.2. The Setup fees include the following: (a) conversion of all existing (non-archived) historical customer sales and service data from Customer's existing dealer management system, (b) setup and configuration of system, (c) initial literature, marketing campaign, initial business rule setup, and (d) site testing the DealerSocket system.

7.3. In order to complete the installation, you will need to complete a questionnaire referred to as the "Preparation Document." If we do not receive such completed document and desired system configurations within two (2) weeks after this Order is signed by Customer, Customer will be charged additional setup and configuration fees to complete the work. In no event shall Customer's failure to return the Preparation Document(s) affect or modify the Start Date.

7.4. Due to scheduling of resources and travel considerations, once an onsite implementation date has been set, you cannot change your onsite implementation date. A minimum onsite implementation change fee of \$1,500 plus applicable travel related change fees will be charged in the event that you request a change of the onsite implementation date.

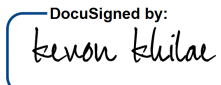
7.5. Monthly fees will commence on the Start Date.

7.6. CUSTOMER ACKNOWLEDGES THAT THE PRICING CONTAINED WITHIN THIS AGREEMENT IS UNIQUE AND BASED ON MATERIAL REPRESENTATIONS OF THE CUSTOMER. AS A RESULT, CUSTOMER WILL RECEIVE SLIGHTLY MODIFIED SERVICES AND WILL BE SUBJECT TO AN ONGOING AUDIT TO CONFIRM ELIGIBILITY FOR THIS UNIQUE OFFER.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

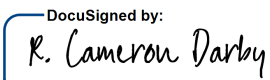
**Please sign below indicating your acceptance of the terms of this Order and Authority to enter into this Order.**

**Accepted: Auto Masters Of Franklin**

Signature:  DocuSigned by:  
89478E62405A45C... Title: Operations Manager

Name: Kevon Khilae Date: 4/29/2016

**Accepted: DealerSocket Inc.**

Signature:  DocuSigned by:  
2CD08ABCF2564AA... Title: Chief operating officer

Name: R. Cameron Darby Date: 5/9/2016

Upon execution of this Order by means other than electronic signature, please email a signed copy to [legal@dealersocket.com](mailto:legal@dealersocket.com) or fax to (888) 503-0705 and mail two original executed copies to (DealerSocket Inc./ PO Box 74866/ San Clemente, CA 92673).

**MASTER SERVICES AGREEMENT**

This Master Services Agreement ("**Master Agreement**") is entered into between DealerSocket, Inc. ("**DealerSocket**") and Auto Masters Of Franklin (hereinafter the "**Customer**"), effective as of the date the customer signs this Master Agreement indicated in the signature block below.

**1. AGREEMENT STRUCTURE AND DEFINITIONS**

- 1.1.** This Master Agreement establishes the general terms and conditions to which the parties have agreed with respect to the provision of Products and Services by DealerSocket to Customer. Additional terms for the purchase of a specific Product or Service are set forth in the Order(s). "**Order**" means the document(s), regardless of actual name, executed by the parties which incorporates by reference the terms of this Master Agreement, and describes order-specific information, such as description of Products and Services ordered, License Metrics, fees, and milestones. At any time after execution of the initial Order, Customer may purchase additional Products or otherwise expand the scope of Products granted under an Order, upon DealerSocket's receipt and acceptance of a new Order specifying the foregoing.
- 1.2.** This Master Agreement, along with Order(s) is referred to as the "**Agreement**". The parties acknowledge receipt of and agree to be bound by the terms and conditions of the Agreement. All pre-printed or standard terms of any Customer purchase order or other business processing document shall have no effect.
- 1.3.** To the extent any terms and conditions of this Master Agreement conflict with the terms and conditions of an Order, the terms and conditions of the Master Agreement shall control, except where the Order expressly states the intent to supersede a specific portion of the Master Agreement.
- 1.4.** Additional Definitions:
- "**Add-On Products**" means optional Products or Services which Customer may purchase in conjunction with a Core Product at any time during the Term.
- "**AS**" is a classification of Products whose Core Product is the AutoStar Dealer Management System tool and tool and that includes all AutoStar Dealer Management System Add-On Products whose functionality is dependent upon or related to the DealerSocket AutoStar Dealer Management System.
- "**Average Cars Sold Per Month**" means the average number of cars sold by Customer (not including cars sold at wholesale pricing) in the most recent consecutive three month prior to the date the applicable Order is signed or upon any inquiry by DealerSocket made subsequent to the Customer signs any applicable Order.
- "**CM/PPC**" is a Web Design and Content classification of Products whose Core Products include, but are not limited to, content marketing Products, pay-per-click Products and other Products not specifically related to Products classified under the Web classification.
- "**Core Product**" means the Products identified as "Core Product" in the Order or in this Master Agreement.
- "**CRM**" is a SaaS classification of Products whose Core Product is the DealerSocket Customer Relationship Management tool and that includes all CRM Add-On Products whose functionality is dependent upon or related to the DealerSocket Customer Relationship Management tool. The CRM classification does not include the Revenue Radar tool.
- "**Customer Data**" means any data, information, or material Customer or any authorized user provides or submits through the Products or Services.
- "**FEX**" is a classification of Products whose Core Product is the Finance Express Dealer Management System tool and that includes all FEX Dealer Management System Add-On Products whose functionality is

dependent upon or related to the DealerSocket FEX Dealer Management System.

"**iDMS**" is a classification of Products whose Core Product is the DealerSocket Dealer Management System tool and that includes all iDMS Add-On Products whose functionality is dependent upon or related to the DealerSocket Dealer Management System.

"**Intellectual Property Rights**" means patent rights (including patent applications and disclosures), copyrights, moral rights, trademarks, service marks, trade secrets, know-how and any other intellectual property rights recognized in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed, registered or recorded.

"**Intellectual Property**" means technology, inventions, know-how, show-how, designs, formulae, processes, techniques, methodologies, procedures, processes, tools, utilities, techniques, various concepts, ideas, methods, models, templates, content, photographs, audio and video clips, and other works of authorship, software, source code, algorithms, the generalized features of the structure, sequence and organization of software, user interfaces and screen designs, general purpose consulting and software tools, utilities and routines, and logic, coherence and methods of operation of systems, training methodology and materials, and any document or other materials embodying any of the foregoing, whether or not any of the same are patentable or copyrightable, and related documentation.

"**INV**" is a SaaS classification of Products whose Core Product is the applicable Inventory Management Product and all INV Add-On Products whose functionality is dependent upon or related to the applicable Inventory Management Product.

"**License Metrics**" means the limitation on the usage of Products or the financial metric(s) used to calculate applicable fees, and designated by a term such as the number of "users", "vehicle sold", and the like.

"**MA**" is a SaaS classification of Products referring specifically to the DealerSocket Revenue Radar tool. If sold jointly with CRM, the MA and CRM will be co-termed.

"**Products**" means collectively (i) software programs (including updates and documentation), (ii) content, templates, information, data, text, software, music, sound, photographs, graphics, video messages or other material that DealerSocket may deliver to Customer as part of the Services and (iii) all toolkits and any other programs provided by DealerSocket hereunder, training materials, tutorials and related documentation provided by DealerSocket in connection with the performance of Services.

"**Professional Services**" means training, implementation, data conversion, integrations and other consulting services.

"**SaaS Products**" means the provision of access to the Products identified in the Order from a server farm located at DealerSocket or its hosting provider's data center, including offline components.

"**Services**" means collectively the Professional Services and service based Web Design and Content Products.

"**Term**" is defined in section 9.2.

"**User**" means an individual identifiable by a name who is an employee or an individual contractor of Customer.

"**Web**" is a Web Design and Content classification of Products whose Core Product is the applicable DealerFire Website Product and includes applicable website development and the other DealerSocket Add-On

Products whose functionality is dependent upon or related to the applicable DealerFire Website Product.

“**Web Design and Content**” means the provision of website, website development, web design, content marketing, pay-per-click and all other Add-On Products that are classified as CM/PPC or Web herein or in the applicable Order.

## 2. **PRODUCTS AND SERVICES**

- 2.1. **Set-Up and Implementation.** DealerSocket shall provide set-up and implementation services and such additional Professional Services as described in the Order(s). Customer must adopt procedures to ensure the accuracy of input data; examine and confirm results prior to use; adopt procedures to identify and correct Customer or User errors and omissions; and provide an authorized primary and a backup point of contact who will coordinate communication and activities, make or facilitate making decisions during the implementation and post-implementation.
- 2.2. **Cooperation.** Customer shall provide DealerSocket with good faith cooperation and access to such information, facilities, personnel and equipment as may be reasonably required by DealerSocket in order to provide the Products and Services, including, but not limited to, providing security access, information, and software interfaces to Customer's applications, and Customer personnel, as may be reasonably requested by DealerSocket from time to time. Customer acknowledges and agrees that DealerSocket's performance is dependent upon the timely and effective satisfaction of Customer's responsibilities hereunder and timely decisions and approvals of Customer in connection with the Products and Services. DealerSocket shall be entitled to rely on all decisions and approvals of Customer.
- 2.3. **Services Generally.** Subject to Customer's and its Users compliance with the Agreement and timely payment of the applicable fees, DealerSocket shall make the Products and Services available to Customer and its Users in accordance with the terms of this Master Agreement and the applicable Order Form during the Term. Access to the Products is limited to the version of the Products in DealerSocket's production environment. DealerSocket regularly updates the Products and reserves the right to add and/or substitute functionally equivalent features in the event of product unavailability, end-of-life, or changes to software requirements.
- 2.4. **Environment.** DealerSocket will provide Customer online access to and use of the Products via the Internet by use of a DealerSocket -approved Customer-provided browser. The SaaS Products will be hosted on a server that is maintained by DealerSocket or its designated third party supplier or data center. Customer is solely responsible for obtaining and maintaining at its own expense, all equipment needed to access the Products, including but not limited to procuring, installing, and operating Customer's computers, hardware, communications lines, internet connectivity, bandwidth and any operating systems required for the Customer's use of the Products.
- 2.5. **Security.** DealerSocket will implement reasonable and appropriate measures designed to secure Customer Data against accidental or unlawful loss, access or disclosure. Customer will maintain commercially reasonable security procedures for the transmission of data to DealerSocket. Customer will notify DealerSocket immediately of any suspected security breach regarding transmissions to or from DealerSocket. Customer will not: (a) breach or attempt to breach the security of the Products or any network, servers, data, computers or other hardware relating to or used in connection with the Products, or any third party interfacing with any part of the Products; or (b) use or distribute through the Products any software, files or other tools or devices designed to interfere with or compromise the privacy, security or use of the Products or the operations or assets of any other customer of DealerSocket or any third party. Customer will comply with the user authentication requirements for use of the Products. Customer will specify, in writing, one or more individuals who will be authorized by Customer to administer Customer's access to and use of the Products and/or the Web Design and Content Products or Services on behalf of

Customer. Customer will only permit authorized Users to access and use the Products. DealerSocket has no obligation to verify the identity of any person who gains access to the Products by means of an access ID. DealerSocket may rely on the instructions and actions as being those authorized by Customer. Customer is solely responsible for monitoring its authorized Users' access to and use of the SaaS Products. Any failure by a User to comply with the Agreement shall be deemed to be a material breach by Customer, and DealerSocket shall not be liable for any damages incurred by Customer or any third party resulting from such breach. Customer must immediately take all necessary steps, including providing notice to DealerSocket, to effect the termination of an access ID for any User if there is any compromise in the security of that access ID or if unauthorized use is suspected or has occurred.

- 2.6. **Customer Data.** Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and ownership of all of the data it submits to the Products. All such data shall be provided to DealerSocket in a reasonable commercial format that is widely utilized within the industry. Customer acknowledges data not submitted in such format(s) may result in additional fees for conversion to the correct format and/or other actions provided by DealerSocket on Customer's behalf to allow for the use of data.
- 2.7. **Technology Support.** With regard to CRM SaaS Products, Customer shall have unlimited access to the DealerSocket University and Knowledgebase. With regard to the Products, Customer may call the DealerSocket Support Center during the following hours: Monday – Friday - 6 am PST – 7 pm PST and on Saturday from 8 am PST – 5 pm PST.
- 2.8. **Training.** DealerSocket will provide training for all specified users based on the modules purchased. It is the responsibility of the Customer to train new employees as they are hired after the initial training and implementation.

## 3. **USE RIGHTS AND RESTRICTIONS**

- 3.1. **Grant of Use.** Subject to the provisions contained in this Agreement, including without limitation the restrictions set forth in this section 3 and timely payment of the applicable fees, DealerSocket hereby grants Customer for the Term a non-transferable, non-exclusive license, without the right to grant sublicenses to access and use the Products identified in the Order solely for the internal business purposes of Customer. Customer acknowledges that DealerSocket has no delivery obligation and will not ship copies of the Products to Customer as part of the Products. Customer agrees that it does not acquire under the Agreement any license to use the Products in excess of the scope of the intended use or of Section 3.2, and/or duration of the Term.
- 3.2. **Restrictions.** Customer shall use the Products only for the internal business purposes of Customer. Customer shall not itself, or through any affiliate, employee, consultant, contractor, agent or other third party: (i) sell, resell, distribute, host, lease, rent, license or sublicense, in whole or in part, the Products or Services; (ii) decipher, decompile, disassemble, reverse assemble, modify, translate, reverse engineer or otherwise attempt to derive source code, algorithms, tags, specifications, architecture, structure or other elements of the Products or Services, in whole or in part, for competitive purposes or otherwise; (iii) allow access to, provide, divulge or make available the Products, Professional Services, Services and any applicable Web Design and Content Products to any user other than Customer's employees and individual contractors who have a need to such access and who shall be bound by nondisclosure obligations that are at least as restrictive as the terms of this Agreement; (iv) write or develop any derivative works based upon the Products or Services; (v) modify, adapt, translate or otherwise make any changes to the Products or Services or any part thereof; (vi) use the Products to provide processing services to third parties, or otherwise use the same on a 'service bureau' basis; (vii) disclose or publish, without DealerSocket's prior written consent, performance or capacity statistics or the results of any benchmark test performed on the Products or Services; or (viii) otherwise use or copy the same except as expressly permitted herein.



- 3.3. Authorized Users.** Customer shall cause all Users obtaining access to the Products, to access the Products solely in accordance with the terms hereof and the terms of DealerSocket's click-through end-user license agreement which each such User must agree to prior to using the Products. DealerSocket authorizes one individual per User. Individuals MAY NOT share user identifications to access the Products at any time. Sharing of such identifications may result in immediate termination of the Agreement and Customer will be responsible for payment of the remaining balance of the then-current Term.
- 3.4. Mobile Products.** Mobile Product(s) designed to be used on the iPhone/iPad or Android Platforms may be used solely on devices owned or controlled by Customer and may not be distributed or made available over a network where it could be used by multiple devices at the same time.
- 3.5. License Metrics.** Customer understands that its right to use the Products is limited by the number of License Metrics purchased as stated in the applicable Order. All fees are based on the License Metrics purchased. The quantity(ies) of License Metrics provided in the initial Order represent minimum amounts that Customer has committed to for the Term. There shall be no fee adjustments or refunds for any decreases in usage or License Metrics during the Term. Additional License Metrics must be purchased in the event usage exceeds the licensed quantity. Additional License Metrics, if any, are prorated for the remainder of the then-current Term of the applicable Order.
- 3.6. Acceptable Use Policy and Compliance with Applicable Laws.** Customer acknowledges and agrees that DealerSocket does not monitor or police the content of communications or data of Customer or its Users uploaded in or transmitted through the Products, and that DealerSocket shall not be responsible for the content of any such communications or transmissions. Customer shall use the Products and Services exclusively for authorized and legal purposes, consistent with all applicable laws and regulations, including without limitation the US CAN-SPAM Act of 2003, 15 U.S.C. 7701, and any other national, state or local restrictions on the use of email and the Telephone Consumer Protection Act of 1991 as well as all other local, state, federal or national law which govern the use of, sending or receiving text messages. Further, Customer shall at all times comply with the terms of 18 U.S.C. § 2721, as may be amended from time to time, regarding the authorized use and disclosure of "personal information" and "highly restricted personal information" (as those terms are defined in 18 U.S.C § 2725). Customer agrees not to post on the Web site any content or data which (a) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening; (b) contains viruses or other contaminating or destructive features; (c) violates the rights of others, such as data which infringes on any Intellectual Property Rights or violates any right of privacy or publicity; or (d) otherwise violates any applicable law (including, without limitation, the laws and regulations governing export control, unfair competition, or false advertising). Customer further agrees not to use the Web site to solicit users to join or to procure products or services competitive to the Products or Services. DealerSocket reserves the right to delete, move or edit any Customer content that it may determine, in its sole discretion, violates this Agreement or is otherwise inappropriate for posting. By signing the Agreement, Customer agrees to indemnify DealerSocket or any of its subsidiaries, affiliates, suppliers, and their directors, officers, agents or employees against any and all liability associated with Customer or its Users breach of this section. The references above that specify U.S. laws and regulations are intended to govern U.S. Customers only, however, this does not exclude non-U.S. Customers from obligations under their own national, provincial, state or local law.
- 3.7. Texting.** The texting features of applicable DealerSocket Products may only be used based on a valid opt-in protocol.
- 3.8. Do Not Call List.** The Customer may elect to use the Do Not Call List feature of DealerSocket. It is the sole responsibility of the Customer to purchase the list applicable to its marketing activities and business and

to upload the Do Not Call List into the Products using the Do Not Call List import utility. Customer acknowledges that it assumes full responsibility for Do Not Call List compliance and Customer understands that the DealerSocket Product is simply a tool to assist in maintaining compliance and should be accompanied with proper people, process and accuracy audits.

#### **4. FINANCIAL TERMS**

- 4.1. General.** Fees and payment terms are specified in the applicable Order. Except as otherwise expressly specified in the Order, all recurring fees payment obligations start from the execution of the Order. DealerSocket may increase recurring fees at any time upon 60 days written notice, provided however that any increase shall occur no more than once per twelve month period and shall not exceed 5% per twelve month period except that this provision shall be superseded by an conflicting language in Section 4.6. Unless otherwise specified in the Order, payment of all fees is due 30 days after the invoice date. Interest accrues on past due balances at the lesser of 1½% per month or the highest rate allowed by law. Failure to make timely payments shall be a material breach of the Agreement and DealerSocket will be entitled to suspend any or all of its performance obligations hereunder in accordance with the provisions of Section 9.4 and/or to modify the payment terms, and to request full payment before any additional performance is rendered by DealerSocket. Customer shall reimburse DealerSocket for any expenses incurred, including interest and reasonable attorneys' fees, in collecting amounts due DealerSocket hereunder that are not under good faith dispute by Customer. Amounts paid or payable for Products or Services are not contingent upon the performance of any Professional Services.
- 4.2. Taxes.** Customer shall be responsible for payment of all taxes (excluding those on DealerSocket's net income) relating to the provision of the Products and Services, except to the extent a valid tax exemption certificate or other written documentation acceptable to DealerSocket to evidence Customer's tax exemption status is provided by Customer to DealerSocket prior to the delivery of Products or Services.
- 4.3. Travel and Lodging Expenses.** Reasonable travel and lodging expenses incurred by DealerSocket in the performance of Services on Customer's site will be billed separately at actual cost.
- 4.4. Credit Card Payments.** All Dollar amounts referenced herein reflect the cash price for the stated use of the Products and Services. If Customer elects to pay via credit card, Customer will pay the non-cash price and will need to complete a separate form with DealerSocket authorizing the use of Customer's credit card to pay the agreed non-cash amounts.
- 4.5. Data/Message Costs.** Standard data (and text, if applicable) rates apply for data (and messages, if applicable) sent from and received by mobile devices as determined by Customer wireless provider and Customer is solely responsible for such charges and any other charges from its wireless provider.

#### **5. CONFIDENTIALITY.**

Confidential Information means nonpublic information that the disclosing party designates as being confidential or which under the circumstances surrounding disclosure should be treated as confidential ("Confidential Information"). Confidential Information includes, without limitation: information relating to the disclosing party's software or hardware products which may include source code, API data files, documentation, specifications, databases, networks, system design, file layouts, tool combinations and development methods as well as information relating to the disclosing party's business or financial affairs, which may include business methods, marketing strategies, pricing, competitor information, product development strategies and methods, customer lists and financial results. Confidential Information also includes information received from third parties that the disclosing party is obligated to treat as confidential and oral information that is identified by the disclosing party as confidential. Confidential

Information disclosed by a subsidiary of the disclosing party and/or its agents is covered by this Agreement. Confidential Information includes all tangible materials which contain Confidential Information whether written or printed documents, computer disks or tapes whether user or machine-readable.

Confidential Information shall not include any information that: (1) is already known to the receiving party prior to disclosure pursuant to this Master Agreement; (2) is or becomes publicly known through no wrongful act of the receiving party; (3) is received by the receiving party from a third party without any restriction on confidentiality; or (4) is approved for release by prior written authorization of the disclosing party.

DealerSocket reserves the right to use customer database information in de-identified form for summary and statistical reporting and purposes outside of this Agreement.

The parties agree to maintain the confidentiality of the Confidential Information and to protect as a trade secret any portion of the other party's Confidential Information by preventing any unauthorized copying, use, distribution, installation or transfer of possession of such information. Without limiting the generality of the foregoing, neither party shall permit any of its personnel to remove any proprietary or other legend or restrictive notice contained or included in any material provided by the disclosing party and the receiving party shall not permit its personnel to reproduce or copy any such material except as expressly authorized hereunder. Either party may only use Confidential Information in order to fulfill its obligations under this Agreement.

The parties agree that the unauthorized disclosure of Confidential Information may cause irreparable harm to the party whose information is disclosed and that such party shall be entitled to request injunctive or other equitable relief seeking to restrain such use or disclosure without the necessity of posting any bond.

## 6. OWNERSHIP - INTELLECTUAL PROPERTY RIGHTS.

The Products and all equipment, infrastructure, websites and other materials or deliverables provided by DealerSocket in the performance of all Services will at all times remain the exclusive, sole and absolute property of DealerSocket or its licensors. Customer does not acquire any right, title, or interest in or to such Products and equipment, materials and deliverables except the limited and temporary right to use them as necessary for Customer's use of the Services. All rights, title and interest in or to any Intellectual Property Rights relating to the Products and Services and the related logos, product names, etc. are reserved and all rights not expressly granted are reserved by DealerSocket and its licensors. Customer may not obscure, alter or remove any copyright, patent, trademark, service mark or proprietary rights notices on any Products or other materials. In the course of this Agreement, DealerSocket may create or use Intellectual Property which DealerSocket conceived independently or while working with Customer. The parties mutually acknowledge that DealerSocket shall own all right, title and interest in and to such Intellectual Property including without limitation the intellectual property rights relating thereto, and may use such Intellectual Property in its business operations with other customers, without limitation.

Customer retains sole and exclusive ownership to the Customer Data.

## 7. DISCLAIMERS.

- 7.1. General Warranty Disclaimer.** DealerSocket makes and the Customer receives no warranties, express, implied, or statutory with respect to the Products and Services provided under this Agreement. EXCEPT AS EXPRESSLY SET FORTH IN THIS MASTER AGREEMENT, THE PRODUCTS AND ALL SERVICES ARE PROVIDED "AS IS," AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES CONCERNING THE AVAILABILITY, ACCURACY, USEFULNESS, SECURITY OR CONTENT OF INFORMATION, PRODUCTS OR SERVICES, ANY WARRANTIES WITH RESPECT TO TRAINING SERVICES, OR ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-

INFRINGEMENT. CUSTOMER ASSUMES ALL RESPONSIBILITY FOR THE USE AND RESULTS OBTAINED FROM THE PRODUCTS AND SERVICES INCLUDING THE ACCOMPANYING DOCUMENTATION, TECHNOLOGY, DATA CONVERSION, FORMS OR ANY OTHER INTELLECTUAL PROPERTY, SPECIFICALLY FORMS PRINTING, FORMS FORMULA(S) OR CALCULATIONS, MODIFIED PAYMENT CALCULATIONS, INTEREST DISCLOSURES, MODIFIED PAYOFF CALCULATIONS, FEE ASSESSMENTS, USE OF APPLICABLE LEGAL INTEREST RATES, ADD-ON RATES, OR ANNUAL PERCENTAGE RATES. DEALERSOCKET DOES NOT WARRANT THAT THE SERVICES WILL BE FREE OF ERROR, VIRUSES OR OTHER MALICIOUS CODE, WILL BE UNINTERRUPTED OR THAT ALL ERRORS WILL BE CORRECTED OR THAT THE SERVICES WILL OPERATE IN COMBINATION WITH CUSTOMER'S CONTENT OR APPLICATIONS, OR WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEMS, SERVICES OR DATA NOT PROVIDED BY DEALERSOCKET. CUSTOMER ACKNOWLEDGES THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. DEALERSOCKET DOES NOT THEREFORE GUARANTEE THAT PRODUCTS AND SERVICES WILL BE AVAILABLE AT ALL TIMES. FURTHER, CUSTOMER ACKNOWLEDGES THAT MOBILE PRODUCTS ARE AVAILABLE THROUGH MOBILE DEVICES USED WITHIN THE OPERATING RANGE OF A WIRELESS CARRIER OR WIFI PROVIDER, AS APPLICABLE, AND AS SUCH IS SUBJECT TO TRANSMISSION LIMITATION, INTERRUPTION AND MOBILE DEVICES PERFORMANCE. DEALERSOCKET IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. FURTHER, THE PRODUCTS MAY PROVIDE, OR THIRD PARTIES MAY PROVIDE, LINKS TO OTHER WORLD WIDE WEB SITES OR RESOURCES. DEALERSOCKET SHALL NOT BE RESPONSIBLE FOR THE AVAILABILITY OR ACCURACY OF SUCH EXTERNAL RESOURCES. DEALERSOCKET DOES NOT ENDORSE AND IS NOT RESPONSIBLE OR LIABLE FOR ANY CONTENT, ADVERTISING, PRODUCTS OR OTHER MATERIALS ON OR AVAILABLE FROM SUCH SITES OR RESOURCES. DEALERSOCKET AND ITS LICENSORS FURTHER DISCLAIM ANY WARRANTY THAT THE RESULTS OBTAINED THROUGH THE USE OF THE PRODUCTS OR SERVICES, OR ANY CUSTOM PROGRAMS CREATED BY DEALERSOCKET OR ANY THIRD-PARTY SOFTWARE DELIVERED BY DEALERSOCKET WILL MEET CUSTOMER'S NEEDS. THIRD PARTY SOFTWARE IS MADE AVAILABLE BY DEALERSOCKET ON AN "AS IS, AS AVAILABLE" BASIS". DEALERSOCKET DOES NOT PROVIDE ANY WARRANTY OR SUPPORT FOR CUSTOMER'S SYSTEM DEPLOYMENT OR SYSTEMS ADMINISTRATION, OR CUSTOMER'S MODIFICATIONS TO ITS SYSTEM DEPLOYMENT AND SYSTEMS CONFIGURATION.

- 7.2. No Tax or Legal Advice.** DealerSocket does not, and shall not be deemed to provide tax or legal advice in providing the Products and Services. DealerSocket will use reasonable efforts to ensure that the Products and Services are current and accurate, but due to rapidly changing tax rates and financial regulations which require interpretation by Customer's qualified tax and legal professionals, Customer bears full responsibility to determine the applicability of the output generated by the Products and Services and confirm its accuracy. Customer is solely responsible for any liabilities, penalties, or interest related, but not limited, (i) to the proper application of sales contracts in any form, whether provided by DealerSocket or not, for the sale, lease or other form of sale of a vehicle to a customer, use tax and value-added tax, (ii) the proper determination of Customer's nexus to any jurisdiction, (iii) the applicability of taxes for Customer's products and services, (iv) Customer's failure to perform any obligation or responsibility under the Agreement or any other act or omission by Customer.
- 7.3. Connections over the Internet.** CUSTOMER ACKNOWLEDGES THAT USE OF OR CONNECTION TO THE INTERNET PROVIDES THE OPPORTUNITY FOR UNAUTHORIZED THIRD PARTIES TO CIRCUMVENT SECURITY PRECAUTIONS AND ILLEGALLY GAIN ACCESS TO THE SERVICES AND CUSTOMER DATA. ACCORDINGLY, DEALERSOCKET CANNOT AND DOES NOT GUARANTEE THE PRIVACY, SECURITY OR AUTHENTICITY OF ANY INFORMATION SO TRANSMITTED OVER OR STORED IN ANY SYSTEM CONNECTED TO THE INTERNET.
- 7.4. Legal Compliance.** WITHOUT LIMITING THE GENERALITY OF THE DISCLAIMERS IN THE AGREEMENT, DEALERSOCKET, ITS AFFILIATES AND

SUPPLIERS: (I) MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY THAT THE LICENSED PRODUCTS ARE COMPLIANT WITH ANY LAW, RULE, REGULATION, STATUTE OR OTHER LEGAL REQUIREMENT; AND (II) SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY REGARDING ANY BENEFIT CUSTOMER MIGHT OBTAIN FROM THE SYSTEM OR THE LICENSED PRODUCTS. THE CUSTOMER BEARS THE SOLE RESPONSIBILITY FOR LEGAL COMPLIANCE RELATING TO THE USE OF THE LICENSED PRODUCTS.

**7.5. Third Party Content and Equipment.** Certain licensed Products may include software, information or equipment provided by third parties ("Third Party Products"). The Third Party Products are licensed to Customer, not sold, and Customer agrees that Customer and its users' use of such Third Party Products is subject to, and it and its users shall abide by, any end user license agreement related to such Third Party Products as well as the terms of the Agreement. DealerSocket may immediately terminate Customer's subscription in whole or in part to any Third Party Product if DealerSocket no longer has the right to provide the related Third Party Product under an applicable third party license. Any subscription that Customer may have to other licensed products will remain in effect. All Third Party Products are provided "as is". Customer will have no remedy against DealerSocket with respect to Third Party Products, and Customer's sole remedy for failure of a Third Party Product will be against the third party manufacturer or developer.

**7.6. Disclaimer for Third Party Content.** DealerSocket is not a publisher of the information supplied to licensed products by third parties. Any information that is part of a licensed Product that is expressed or made available by third parties, including Customers, valuation services, and/or users, are those of the respective authors or distributors and not of DealerSocket. DEALEROCKET ASSUMES NO RESPONSIBILITY AND MAKES NO REPRESENTATIONS, WARRANTIES, RECOMMENDATIONS, ENDORSEMENTS OR APPROVALS WITH REGARD TO SUCH THIRD PARTY INFORMATION.

**7.7. Disclaimer for Forms Accessible in CRM/DMS Forms Library.** DealerSocket, through the CRM/DMS Forms Library, makes certain documents and forms available for use by Customer. CUSTOMER ACKNOWLEDGES THAT DOCUMENTS AND FORMS ACCESSIBLE IN THE CRM/DMS FORMS LIBRARY ARE MADE AVAILABLE TO CUSTOMER SOLELY AS A CONVENIENCE TO CUSTOMER. DEALEROCKET MAKES NO REPRESENTATIONS OR WARRANTIES THAT ANY DOCUMENT OR FORM CUSTOMER OBTAINS FROM THE CRM/DMS FORMS LIBRARY IS SUITABLE FOR ANY PARTICULAR USE IN CONNECTION WITH CUSTOMER'S BUSINESS. CUSTOMER ACKNOWLEDGES AND AGREES THAT IT HAS THE SOLE RESPONSIBILITY TO DETERMINE THE SUITABILITY, ACCURACY, AND COMPLETENESS OF ANY SUCH DOCUMENT OR FORM FOR ANY USE, AND THAT CUSTOMER HAS THE SOLE RESPONSIBILITY TO DETERMINE AND ENSURE THAT ANY DOCUMENT OR FORM CUSTOMER USES COMPLIES WITH ALL APPLICABLE LAWS AND REGULATIONS. CUSTOMER AGREES TO INDEMNIFY AND HOLD HARMLESS DEALEROCKET AND ITS AFFILIATES FROM ANY AND ALL CLAIMS RELATING TO THE USE BY CUSTOMER OF THE DOCUMENTS AND FORMS ACCESSIBLE IN THE CRM/DMS FORMS LIBRARY.

## **8. LIMITATION OF LIABILITY.**

NEITHER DEALEROCKET NOR ANY OF ITS EMPLOYEES, AGENTS, SUCCESSORS, ASSIGNS, AFFILIATES, CONSULTANTS OR SERVICE PROVIDERS, SHALL BE LIABLE TO THE CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, STATUTORY OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE DELIVERY, PERFORMANCE OR USE OF THE PRODUCTS OR SERVICES OR MATERIALS PROVIDED BY DEALEROCKET, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF USE OR DATA, DAMAGE TO SYSTEMS OR EQUIPMENT, COST OF COVER OR OTHER PECUNIARY LOSS), EVEN IF

DEALEROCKET OR CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE CUMULATIVE LIABILITY OF DEALEROCKET TO THE CUSTOMER FOR ANY CLAIMS, WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT IN ANY EVENT EXCEED THE AMOUNT OF SERVICES FEES PAID HEREUNDER IN THE SIX (6) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING ALLOCATION OF RISK AND LIMITATION OF LIABILITY HAS BEEN NEGOTIATED AND AGREED BY THE PARTIES AND FORMS THE BASIS OF THEIR WILLINGNESS TO ENTER INTO THIS AGREEMENT.

In no event shall DealerSocket be responsible for insufficient taxes collected from Customer's customers as a result of Customer's use of the Products and Services. In no event shall DealerSocket be liable for claims, losses and damages, including penalties and/or interest, due to the actions of third parties not under DealerSocket's control.

## **9. TERM AND TERMINATION.**

**9.1. Master Agreement Term.** This Master Agreement shall be binding upon signature by both parties and shall continue in full force and effect until the expiration or termination of all Orders, unless otherwise terminated earlier as provided hereunder.

**9.2. License Term.** The initial term of each of the Products and Services is specified in the Order ("**Initial Term**") and shall automatically renew for the same length of time as the Initial Term unless either party gives written notice prior to the end of the Initial Term or any renewal Term of its intention to terminate the Products and Services described in the applicable Order. The Initial Term and renewal terms are referred to as the "**Term**". Where Add-On Products are purchased in the course of the Initial Term or a renewal term, the term of the Services for such Add-On Products shall be co-terminus with the Initial Term (or renewal term) of the applicable Core Product or, if a stand-alone Product is sold prior to a Core Product, of similar classification as indicated in the Product name on the Order Form. Classifications are defined in this Master Agreement.

**9.3. Termination.** Either party may terminate the Agreement immediately upon written notice at any time if: (i) the other party commits a non-remediable material breach of the Agreement, or if the other party fails to cure any remediable material breach or provide a written plan of cure acceptable to the non-breaching party within 30 days of being notified in writing of such breach, except for breach of payment obligations which shall have a ten (10) day cure period; (ii) the other party ceases business operations; or (iii) the other party becomes insolvent, generally stops paying its debts as they become due or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other (and not dismissed within 90 days after commencement of one of the foregoing events). If DealerSocket terminates this Agreement for Customer's breach, Customer agrees to pay to DealerSocket the remaining value of the then-current Initial Term or renewal term (that Customer acknowledges as liquidated damages reflecting a reasonable measure of actual damages and not a penalty) equal to the aggregate recurring fees (as set forth in the Order) that will become due during the canceled portion of such Initial Term or renewal term. Where a party has rights to terminate, the non-breaching party may at its discretion either terminate the entire Agreement or the applicable Order. Orders that are not terminated shall continue in full force and effect under the terms of this Agreement. Upon termination or expiration of the Products or Services within the same Product classification of a Core Product or stand-alone Product, the applicable Add-On Products shall automatically terminate.

**9.4. Suspension.** DealerSocket will be entitled to suspend any or all Services upon 10 days written notice to Customer in the event Customer is in breach of this Agreement. Further, DealerSocket may suspend Customer's access and use of the Products and Services if, and so long as, in DealerSocket's sole judgment, there is a security risk created by Customer that may interfere with the proper continued provision of the

Products, Services or the operation of DealerSocket's network or systems. DealerSocket may impose an additional charge to reinstate service following such suspension.

**9.5.** Upon Customer's request made within 30 days after the effective date of termination, DealerSocket will, provided Customer is not in breach of any of its obligations under the Agreement and upon Customer's payment of the applicable fees, make available to Customer for download a file of Customer data in comma separated value (.csv) format or in backup file (.bak) format along with attachments in their native format. After such 30-day period, DealerSocket shall have no obligation to maintain or provide any Customer data and shall thereafter, unless legally prohibited, delete all Customer data in its systems or otherwise in its possession or under its control.

**9.6. Survival.** Sections 1, 4, 5, 6, 7, 8, 9 and 10 shall survive termination of this Agreement.

## **10. MISCELLANEOUS PROVISIONS**

**10.1. No Hire.** During the term of this Master Agreement and for the twelve (12) months thereafter, neither Customer nor DealerSocket shall knowingly solicit or hire for employment or as a consultant, any employee or former employee of the other party who has been actively involved in the subject matter of this Agreement.

**10.2. Compliance.** Without prejudice to DealerSocket audit rights pursuant to this section, upon DealerSocket's request Customer will document and certify that use of the Products and Services is in full conformity with the use rights granted under this Agreement and the applicable Order. During the term of this Agreement and for a period of one year following its termination, Customer will maintain and make available to DealerSocket records sufficient to permit DealerSocket or DealerSocket's independent auditor to verify, upon ten days' written notice, Customer's compliance with this Agreement. Customer will provide assistance, personnel, systems access, and information in an expeditious manner to facilitate the timely completion of DealerSocket's compliance verification. The audit will be performed during regular business hours. If Customer is not in compliance with the Agreement, Customer will reimburse DealerSocket's reasonable costs and expenses of such verification process (including, but not limited to the fees of an independent auditor), and Customer will promptly cure any noncompliance, including without limitation payment of any and all fees owed to DealerSocket during the period of noncompliance. The rights and remedies under this Section are in addition to any other rights DealerSocket may have under this Agreement. Customer acknowledges that the Products may include a license manager component to track usage of the Products and agrees not to impede, disable or otherwise undermine such license manager's operation.

**10.3. Independent Contractor.** DealerSocket and Customer are independent contractors. Neither DealerSocket nor Customer are, or shall be deemed for any purpose to be, employees or agents of the other and neither party shall have the power or authority to bind the other party to any contract or obligation.

**10.4. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. Except as provided in Section 10.9, Customer and DealerSocket consent to the jurisdiction of the state courts of the State of California located in Orange County and the U.S. District Court for the Central District of California.

**10.5. Entire Agreement and Modifications.** Each party acknowledges that it has read this Agreement and agrees that this Agreement is the complete and exclusive statement of the parties and supersedes and merges all prior proposals understandings and agreements, oral or written, between the parties relating to the subject matter hereof, including without limitation, the terms of any customer request for proposal or the standard printed terms on any Customer purchase order. No modification, amendment or supplement to this Agreement or an Order shall be binding upon the parties hereto unless made in writing and duly signed by the authorized representatives of both parties

**10.6. Severability.** In the event one or more of the provisions of this Agreement is held to be invalid or otherwise unenforceable by a Court of Law with jurisdiction for the matter in question, the enforceability of the remaining provisions shall be unimpaired.

**10.7. Waiver.** The failure of either party at any time to enforce any right or remedy available to it under this Agreement with respect to any breach or failure by the other party shall not be construed to be a waiver of such right or remedy with respect to any other breach or failure by the other party.

**10.8. Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns. No party shall assign this Agreement or any of its rights and obligations hereunder without the prior written consent of the other party; provided, however, that DealerSocket may assign this Agreement and all of its rights and obligations hereunder as part of a merger or sale of substantially all the assets or stock of DealerSocket.

**10.9. Arbitration.** Except for collection actions for payment of fees and for the right of either party to apply to a court of competent jurisdiction for a temporary restraining order, a preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm, any controversy or claim arising out of or relating to this Agreement or to its breach shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration proceedings shall be conducted before a single arbitrator from a panel of persons having experience with and knowledge of electronic computers and the computer business, and the arbitrator selected will be an attorney licensed to practice in the state of California. The place of arbitration shall be Irvine, California, and judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The prevailing party shall be entitled to receive from the other party its attorney's fees and costs incurred in connection with any action, proceeding or arbitration hereunder.

**10.10. Force Majeure.** Neither party shall incur any liability to the other party on account of any loss, claim, damage or liability to the extent resulting from any delay or failure to perform all or any part of this Agreement (except for payment obligations), if and to the extent such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without any negligence on the part of the Party seeking protection under this Section, including, without limitation, acts of God, strikes, lockouts, riots, acts of war, terrorism, earthquake, fire, explosions, any law or direction of any governmental entity; emergencies; civil unrest, viruses or denial of service attacks, telecommunications failure, or failure of the internet or internet service provider. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

**10.11. Notices.** Any notice required or permitted under this Agreement or required by law must be in writing and must be (i) delivered in person, (ii) sent by first class registered mail, or air mail, as appropriate, or (iii) sent by an internationally recognized overnight air courier, in each case properly posted and fully prepaid to the contact person and address set forth in the signature block of the Order Form. Notices shall be considered to have been given at the time of actual delivery in person, two (2) business days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service, provided in each case that delivery in fact is affected. Either party may change its contact person for notices and/or address for notice by means of notice to the other party given in accordance with this section.

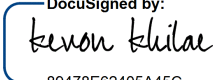
**10.12. Reference.** Customer agrees to be available for reference calls/site visits, publication interviews, marketing case studies and other potential activities that will assist DealerSocket in acquiring new customers.

**10.13. Construction.** Unless the context of this Master Agreement clearly requires otherwise, references to the plural include the singular, the singular the plural, and the part the whole.

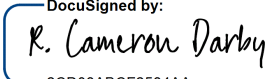
**10.14. Language.** It is the express wish of the parties that the provisions of the Agreement and all related documents be drawn up in English. C'est la volonté expresse des parties que la présente convention ainsi que tous les documents qui s'y rattachent soient rédigés en anglais.

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**Accepted by Auto Masters Of Franklin**

Signature:	<div>DocuSigned by:  89478E62405A45C...</div>	Title:	Operations Manager
Name:	Kevon khilae	Date:	4/29/2016

**Accepted: DealerSocket, Inc.**

Signature:	<div>DocuSigned by:  2CD08ABCF2584AA...</div>	Title:	Chief Operating Officer
Name:	R. Cameron Darby	Date:	5/9/2016

Please sign electronically or email a signed copy of this Agreement and the Order to [legal@dealersocket.com](mailto:legal@dealersocket.com) or fax to (888) 503-0705 and mail two original executed copies to (DealerSocket Inc./ PO Box 74866/ San Clemente, CA 92673).

March 9, 2017

RE: Services Agreement

BY REGISTERED MAIL

Dear Valued Customer:

DealerSocket hereby notifies you that, pursuant to Section 4.1 of the Master Services Agreement between Auto Masters of Franklin and DealerSocket dated 4/29/2016, DealerSocket is implementing a 3% fee increase for its products and services. The fee increase will be effective May 1, 2017. All other terms of the Master Services Agreement remain unchanged and in effect.

Very truly yours,

Makelle Alldredge  
Maintenance and Renewal Manager  
DealerSocket, Inc.

949.900.0300 x757

# INVOICE

**Invoice Date:** 08/10/2017  
**Invoice Number:** SI-132698  
**Due Date:** 09/01/2017  
**Service Period:** SEPTEMBER 2017

Bill To:  
**AUTO MASTERS OF FRANKLIN**  
1900 COLUMBIA AVENUE  
FRANKLIN, TENNESSEE 37064

Customer Number: 1269393

Online Bill Pay: <https://ww2.e-billexpress.com/ebpp/DealerSocket/>

Check Remittance:

**DealerSocket, Inc.**

PO Box 843876

Los Angeles, CA 90084-3876

949-900-0300

[billing@dealersocket.com](mailto:billing@dealersocket.com)

AR AGING AS OF	CURRENT	0-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 91 DAYS PAST DUE	TOTAL DUE
11/22/2017	562.64	562.64	562.64	562.64	0.00	2,250.56

Note: If you have InventoryPlus or AAX along with other DealerSocket products, this Aging may not reflect everything that is outstanding

CUSTOMER	DESCRIPTION	TOTAL
Auto Masters Of Franklin	DealerSocket Monthly Service Fee	515.00
	TN City Tax 2.2500 %	11.59
	TN State Max 0.0 %	0.00
	TN State Tax 7.00 %	36.05
<b>COMMENTS/NOTES:</b>		<b>SUBTOTAL</b>
		\$515.00
		<b>SALES TAX</b>
		\$47.64
		<b>TOTAL</b>
		\$562.64
		<b>PAYMENTS &amp; CREDITS</b>
		\$0.00
		<b>BALANCE DUE (USD)</b>
		\$562.64

# INVOICE

**Invoice Date:** 09/10/2017  
**Invoice Number:** SI-137017  
**Due Date:** 10/01/2017  
**Service Period:** OCTOBER 2017

Bill To:  
**AUTO MASTERS OF FRANKLIN**  
1900 COLUMBIA AVENUE  
FRANKLIN, TENNESSEE 37064

Customer Number: 1269393

Online Bill Pay: <https://ww2.e-billexpress.com/ebpp/DealerSocket/>

Check Remittance:

**DealerSocket, Inc.**

PO Box 843876

Los Angeles, CA 90084-3876

949-900-0300

[billing@dealersocket.com](mailto:billing@dealersocket.com)

AR AGING AS OF	CURRENT	0-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 91 DAYS PAST DUE	TOTAL DUE
11/22/2017	562.64	562.64	562.64	562.64	0.00	2,250.56

Note: If you have InventoryPlus or AAX along with other DealerSocket products, this Aging may not reflect everything that is outstanding

CUSTOMER	DESCRIPTION	TOTAL
Auto Masters Of Franklin	DealerSocket Monthly Service Fee	515.00
	TN City Tax 2.2500 %	11.59
	TN State Max 0.0 %	0.00
	TN State Tax 7.00 %	36.05
<b>COMMENTS/NOTES:</b>		<b>SUBTOTAL</b>
		\$515.00
		<b>SALES TAX</b>
		\$47.64
		<b>TOTAL</b>
		\$562.64
		<b>PAYMENTS &amp; CREDITS</b>
		\$0.00
		<b>BALANCE DUE (USD)</b>
		\$562.64



# INVOICE

**Invoice Date:** 10/10/2017  
**Invoice Number:** SI-141253  
**Due Date:** 11/01/2017  
**Service Period:** NOVEMBER 2017

Bill To:  
**AUTO MASTERS OF FRANKLIN**  
1900 COLUMBIA AVENUE  
FRANKLIN, TENNESSEE 37064

Customer Number: 1269393

Online Bill Pay: <https://ww2.e-billexpress.com/ebpp/DealerSocket/>

Check Remittance:

**DealerSocket, Inc.**

PO Box 843876

Los Angeles, CA 90084-3876

949-900-0300

[billing@dealersocket.com](mailto:billing@dealersocket.com)

AR AGING AS OF	CURRENT	0-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 91 DAYS PAST DUE	TOTAL DUE
11/22/2017	562.64	562.64	562.64	562.64	0.00	2,250.56

Note: If you have InventoryPlus or AAX along with other DealerSocket products, this Aging may not reflect everything that is outstanding

CUSTOMER	DESCRIPTION	TOTAL
Auto Masters Of Franklin	DealerSocket Monthly Service Fee	515.00
	TN City Tax 2.2500 %	11.59
	TN State Max 0.0 %	0.00
	TN State Tax 7.00 %	36.05
COMMENTS/NOTES:		<b>SUBTOTAL</b>
		\$515.00
		<b>SALES TAX</b>
		\$47.64
		<b>TOTAL</b>
		\$562.64
		<b>PAYMENTS &amp; CREDITS</b>
		\$0.00
		<b>BALANCE DUE (USD)</b>
		\$562.64

# INVOICE

**Invoice Date:** 11/10/2017  
**Invoice Number:** SI-145311  
**Due Date:** 12/01/2017  
**Service Period:** DECEMBER 2017

Bill To:  
**AUTO MASTERS OF FRANKLIN**  
1900 COLUMBIA AVENUE  
FRANKLIN, TENNESSEE 37064

Customer Number: 1269393

Online Bill Pay: <https://ww2.e-billexpress.com/ebpp/DealerSocket/>

Check Remittance:

**DealerSocket, Inc.**

PO Box 843876

Los Angeles, CA 90084-3876

949-900-0300

[billing@dealersocket.com](mailto:billing@dealersocket.com)

AR AGING AS OF	CURRENT	0-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 91 DAYS PAST DUE	TOTAL DUE
11/22/2017	562.64	562.64	562.64	562.64	0.00	2,250.56

Note: If you have InventoryPlus or AAX along with other DealerSocket products, this Aging may not reflect everything that is outstanding

CUSTOMER	DESCRIPTION	TOTAL
Auto Masters Of Franklin	DealerSocket Monthly Service Fee	515.00
	TN City Tax 2.2500 %	11.59
	TN State Max 0.0 %	0.00
	TN State Tax 7.00 %	36.05
COMMENTS/NOTES:		<b>SUBTOTAL</b>
		\$515.00
		<b>SALES TAX</b>
		\$47.64
		<b>TOTAL</b>
		\$562.64
		<b>PAYMENTS &amp; CREDITS</b>
		\$0.00
		<b>BALANCE DUE (USD)</b>
		\$562.64



100 Avenida La Pata  
San Clemente CA 92673

# INVOICE

**Invoice Date:** 12/07/2017  
**Invoice Number:** SI-20105-ACC  
**Due Date:** 01/06/2018

Bill To:  
**AUTO MASTERS OF FRANKLIN**  
1900 COLUMBIA AVENUE  
FRANKLIN, TENNESSEE 37064

Customer Number: 1269393

Online Bill Pay: <https://ww2.e-billexpress.com/ebpp/DealerSocket/>

Check Remittance:

**DealerSocket, Inc.**  
PO Box 843876  
Los Angeles, CA 90084-3876  
949-900-0300  
billing@dealersocket.com

AR AGING AS OF	CURRENT	0-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 91 DAYS PAST DUE	TOTAL DUE
12/7/2017	0.00	562.64	562.64	562.64	562.64	2,250.56

Note: If you have InventoryPlus or AAX along with other DealerSocket products, this Aging may not reflect everything that is outstanding

CUSTOMER	DESCRIPTION	TOTAL	
Auto Masters Of Franklin	DealerSocket Monthly Service Fee - CRM - April 2018	515.00	
Auto Masters Of Franklin	DealerSocket Monthly Service Fee - CRM - February 2018	515.00	
Auto Masters Of Franklin	DealerSocket Monthly Service Fee - CRM - January 2018	515.00	
Auto Masters Of Franklin	DealerSocket Monthly Service Fee - CRM - March 2018	515.00	
Auto Masters Of Franklin	DealerSocket Monthly Service Fee - CRM - May 2018	515.00	
Auto Masters Of Franklin	DealerSocket Monthly Service Fee - CRM - Prorated June 2018	34.36	
	TN City Tax 2.2500 %	58.72	
	TN State Max 0.0 %	0.00	
	TN State Tax 7.00 %	182.65	
<b>COMMENTS/NOTES:</b> DealerSocket iDMS Monthly Service Fee from 1/1/18-6/3/18		<b>SUBTOTAL</b>	\$2,609.36
		<b>SALES TAX</b>	\$241.37
		<b>TOTAL</b>	\$2,850.73
		<b>PAYMENTS &amp; CREDITS</b>	\$0.00
		<b>BALANCE DUE (USD)</b>	\$2,850.73

# MIDDLE DISTRICT OF TENNESSEE

## Claims Register

### [3:17-bk-07036 Auto Masters, LLC](#)

**Judge:** Charles M Walker      **Chapter:** 11  
**Office:** Nashville      **Last Date to file claims:** 02/15/2018  
**Trustee:**      **Last Date to file (Govt):**  
*Creditor:* (6503592)      **Claim No:** 7      *Status:*  
*Dealersocket*      *Original Filed*      *Filed by:* CR  
*100 Avenida La Pata*      *Date:* 12/07/2017      *Entered by:* admin  
*San Clemente, CA 92673*      *Original Entered*      *Modified:*  
*Date:* 12/07/2017

Amount claimed: \$5100.27

#### *History:*

[Details](#)   [7-1](#)   12/07/2017 Claim #7 filed by Dealersocket, Amount claimed: \$5100.27 (admin)

#### *Description:*

*Remarks:* (7-1) Account Number (last 4 digits):9393

## Claims Register Summary

**Case Name:** Auto Masters, LLC  
**Case Number:** 3:17-bk-07036  
**Chapter:** 11  
**Date Filed:** 10/17/2017  
**Total Number Of Claims:** 1

<b>Total Amount Claimed*</b>	\$5100.27
<b>Total Amount Allowed*</b>	

\*Includes general unsecured claims

**The values are reflective of the data entered. Always refer to claim documents for actual amounts.**

	Claimed	Allowed
<b>Secured</b>		
<b>Priority</b>		
<b>Administrative</b>		