



## FOUNDATION DIRECT - OUR WEBSITE TERMS OF USE

*Updated: September 1, 2021*

### ABOUT US

We serve the automotive and related industries by providing digital technology and consulting solutions for business clients, primarily dealerships, dealership groups, manufacturers (our [Clients](#)), to assist them in selling and servicing more vehicles.

### OUR TERMS OF USE

These [Terms of Use](#) (or [Terms](#)) apply to this website or mobile application and the websites and mobile applications of [Foundation Direct, LLC](#) and its subsidiaries and affiliates ([Affiliates](#)) (collectively [we, us](#) or [our](#)) that display these Terms (collectively, [Sites](#)).

### ACCEPTANCE OF TERMS

These Terms govern your use of our Sites and the services we provide through them ([Services](#)), whether you access the Services directly from the Sites or through a third party application or website. Please read these Terms carefully – by accessing or using any part of our Sites or Services, you agree to be bound by them. If you do not accept all of these Terms, you may not access or use our Sites or Services.

### OUR APPROACH TO PRIVACY

We are committed to protecting the privacy of personal information and the responsible use of that information to deliver personalized, relevant content to consumers on behalf of our Clients. The types of information we collect and how we use them are set forth in our [Privacy Policy](#), which is available through a link on this Site and is incorporated into these Terms by reference. By using the Sites or Services, you consent to the collection and use of personal information in accordance with our Privacy Policy.

### USER ACCOUNTS

In order to access certain features of our Site or Services, you may be required to register by creating a user account. By registering, you agree to: (a) provide and maintain accurate, current, and complete information, (b) maintain the security of your username and password, (c) assume full responsibility for any uses of and actions that take place through your account, and (d) provide us with immediate notice of any breach of security or unauthorized use of your account. Your account may be terminated and your profile and any information you have provided through these Sites or Services may be deleted, and/or you may be prohibited from using or accessing the Sites or Services, or any portion thereof, at any time, with or without notice, and for any or no reason.

### LIMITED LICENSE

Subject to your complying with these Terms, we grant you a limited, revocable, nontransferable license to access and use the Sites and Services to which you have properly gained access, and, in the case of a customer, solely for your information and personal, non-commercial use. Any use of the Sites or Services other than as specifically

authorized by these Terms is strictly prohibited and will automatically and immediately terminate the rights and licenses granted herein. Such unauthorized use may also violate applicable laws.

Unless explicitly stated herein, nothing in these Terms shall be construed as conferring any license to intellectual property (IP) rights, whether by estoppel, implication or otherwise. Except for content you provide, all content on the Sites and available through the Services is owned by or licensed to us, with all rights reserved, and is subject to and protected by copyright and other IP rights and laws.

### **USER CONDUCT**

In using the Sites or Services, you may not: (a) register an account on behalf of an individual other than yourself, impersonate any person or entity, create a false identity, falsely state or otherwise misrepresent yourself, your age or your affiliation with any person or entity, or attempt to use another person's account; (b) copy, transmit, display, distribute, download, modify, publish, post, reproduce, or otherwise use the Sites or Services for commercial or public purposes without our prior written consent; (c) use data mining, automated scripts, robots or similar data gathering or extraction tools or processes; (d) use the Sites of Services in any unlawful manner or in any other manner that could damage, disable, overburden or impair the Sites or Services; or (e) upload, post, transmit, share, store or otherwise make available any material that (i) contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software, hardware or equipment or that would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party, or otherwise create liability or violate any law; or (ii) may, in our sole judgment, be harmful, threatening, unlawful, defamatory, infringing, abusive, inflammatory, vulgar, obscene, racist, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically or otherwise objectionable.

### **EXTERNAL LINKS**

The Sites or Services may include links to third party sites. Any such third party sites, and any information provided therein, is made available to you by our Sites "AS IS", and solely for your information. Some third party services may be provided through third party sites that require you to register on those sites. Any such registration is separate from registration on our Sites, and will be governed by the terms of the third party site. You acknowledge and agree that you are responsible for evaluating the risks associated with using any third party sites, content, or services and that we have no liability for any services provided on or through such third party sites and make no representations or warranties concerning the accuracy, integrity or quality of any third party sites or content. With respect to third party content or links posted on our Sites, we may receive payment or other consideration, which such content may, but is not required to be, identified as "sponsored content."

### **DISCLAIMERS**

We are not a vehicle dealership or manufacturer nor a seller or broker for any dealership. Nor are we a financial institution or seller or broker of any auto financing or insurance services. Information about specific dealerships and their vehicles and services are provided by those dealerships and, in the case of ancillary services, by the entities providing them. While we strive to keep our Sites current, we cannot guarantee the accuracy of information provided through the Sites or Services, including, without limitation, the availability or price of any vehicles or auto services or the terms or your eligibility for any promotions or offers, including any financing or leasing terms or offers, and are not responsible for any errors or omissions with respect to the information made available on the Sites or through the Services.

The Sites and Services, and all content contained therein are provided "AS IS", without warranties of any kind, express or implied, including, without limitation, implied warranties of merchantability, fitness for a particular purpose, or non-infringement. We do not warrant that the Sites or Services will be uninterrupted or error free, that any specific information requested will be provided or that the Sites or Services will be free of computer viruses or other harmful elements. You expressly agree that the entire risk as to the quality and performance of our Sites, and the accuracy, timeliness or completeness of the content and Services, is assumed solely by you. Some states do not allow limitations on implied warranties, so the above limitations, in full or in part, may not apply to you.

Your use of or access to the Sites or Services may be denied at any time, without or without notice, and for any or no reason. Any of the Services may be modified or discontinued at any time, without or without notice, and for any or no reason. You agree that we will not be liable to you or any third party for any denial of access to, or modification or discontinuation of, any Services.

### **TRADEMARKS**

All of the trademarks, trade names, service marks, logos, graphics, designs, brands, and service names (**Marks**) appearing on our Sites are either our registered trademarks, trademarks or trade dress, or are licensed to us for our use. None of the Marks may be used, including as part of trademarks and/or as part of domain names, in connection with any product or service in any manner that is likely to cause confusion, and may not be copied, imitated, or used, in whole or in part, without our prior written permission. Nothing on the Sites should be construed as granting, by implication or otherwise, any license or right to use any of the Marks.

### **COPYRIGHT**

It is our policy to respond to clear notices of alleged copyright infringement, in accordance with the Digital Millennium Copyright Act and other applicable laws. If you believe that your work has been copied in a way that constitutes copyright infringement, or that your IP rights have been otherwise violated, you may file a written notice of infringement with our copyright agent containing the following information: (a) electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other IP rights; (b) description of the copyrighted work or other IP that you claim has been infringed; (c) description of where the material that you claim is infringing is located on the Sites; (d) your name, physical address, telephone number, and email address; (e) a statement that you have a good faith belief that the disputed use is not authorized by the copyright or IP owner, its agent, or the law; and (f) a statement by you affirming that the information provided in your notice is accurate and that you are the copyright or IP owner or authorized to act on the copyright or IP owner's behalf. Please send the foregoing information to us as provided in the "**How to Contact Us**" section below.

### **JURISDICTIONS**

Our Sites are controlled and operated from within the United States. We make no representation that the Sites or Services, including the information we collect, complies with the laws of any foreign jurisdictions. If you choose to access the Sites or use the Services from outside the United States, you do so at your own risk and are responsible for compliance with any applicable foreign laws.

### **COMPLIANCE WITH LAW ENFORCEMENT**

We cooperate with government and law enforcement officials, as well as private parties, to enforce and comply with the law. We may disclose any information about you to government or law enforcement officials or private parties that, in our sole discretion, we believe necessary or appropriate to respond to claims and legal process

including, but not limited to, subpoenas, to protect our property and rights or that of a third party, to protect the safety of the public or any person, or to prevent or stop activity we may consider to be, or to pose a risk of being, illegal, unethical or subject to legal action.

### **OUR POLICY TOWARDS CHILDREN**

Our Sites and Services are not targeted to or intended for use by children. Any use of or access to the Sites or Services by anyone under 13 is not permitted and violates these Terms. By using or accessing our Sites or Services, you represent and warrant that you are 13 years of age or older and fully able to agree to and abide by all of our Terms. We may suspend or terminate your user account and delete any profiles, content, or data you may have created or posted if we believe, in our sole discretion, that you are less than 13 years old.

### **INDEMNIFICATION**

You agree to indemnify and hold us, our affiliates, our partners and our clients, and each of our and their owners, directors, officers, employees and agents (the **Indemnified Parties**) harmless from and against any and all losses, liabilities, claims, demands, damages, costs and expenses, including reasonable attorney's fees, arising out of or in connection with your use of the Sites or Services, or any violation of these Terms or of any law or the rights of any user or other third party.

### **LIMITATION OF LIABILITY**

In no event will any of the Indemnified Parties be liable to you or any third party for any indirect, consequential, exemplary, incidental, special or punitive damages, including for any lost profits or lost data arising from your use of the Sites or Services, or any of the content accessed through or downloaded from the Sites, even if they are aware or have been advised of the possibility of such damages. In no case shall the Indemnified Parties' cumulative liability to you for any cause whatsoever, and regardless of the form of the action, exceed US\$10.00. Because certain state laws do not allow the exclusion or limitation of certain damages, these limitations, in full or in part, may not apply to you.

### **DISPUTE RESOLUTION/GOVERNING LAW**

With respect to any dispute, you agree to first contact us as indicated under the "**How to Contact Us**" section below and work with us in good faith to attempt to resolve the dispute. In the event we are not able to resolve the dispute, we each agree to resolve any claim, dispute, or controversy arising out of or in connection with or relating to these Terms, or the breach or alleged breach thereof, through binding arbitration by the American Arbitration Association (**AAA**) under the Commercial Arbitration Rules and Supplementary Procedures for Consumer Related Disputes then in effect for the AAA. The arbitration shall take place in Fairfax County, Virginia. By visiting or using the Sites or Services, you agree that the laws of the Commonwealth of Virginia, without regard to its choice of law principles, will govern these Terms and any dispute of any sort that might arise between us. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. For any such actions, we each agree to submit to the personal jurisdiction of the state and federal courts for Fairfax County, Virginia and waive any and all defenses of lack of personal jurisdiction and forum non conveniens. Notwithstanding the foregoing, either party may seek injunctive or other equitable relief from the courts for matters related to data security, IP, or unauthorized access to the Sites or Services. We each agree to waive any and all rights we may have to trial by jury.

### **CORPORATE TRANSFERS**

In connection with a corporate merger, acquisition, divestiture, asset sale, joint venture, bankruptcy, dissolution, reorganization, or any other similar transaction or proceeding, we may sell, divest, transfer, assign, share or otherwise engage in a transaction that involves some or all of our assets, including your user account information and content.

### **GENERAL PROVISIONS**

In the event any portion of these Terms is held to be invalid or unenforceable, then such portion shall be construed in accordance with the applicable law as nearly as possible to reflect our original intentions; the remainder of these Terms shall remain in full force and effect. All provisions of these Terms that, by their terms, are reasonably expected to survive their termination shall survive such termination. These Terms contain the entire agreement concerning your use of the Sites and the Services and supersede all existing agreements and all other oral, written or other communication between us concerning its subject matter. No waiver of these Terms shall be effective unless in writing. Except as otherwise expressly stated in these Terms, there shall be no third-party beneficiaries.

### **CHANGES TO OUR TERMS**

We may modify these Terms, at any time and for any reason, by posting the revised Terms on our primary Site. Your use of the Sites after any such posting indicates your acceptance of the modified Terms.

### **HOW TO CONTACT US**

For any questions or concerns regarding your use of the Sites or Services, please click here to email us: [Legal@FoundtionDirect.com](mailto:Legal@FoundtionDirect.com). We will make every effort to respond promptly and address your concerns.