

DNA TERMS AND CONDITIONS

1. Introduction

- 1.1 The Services (as defined below) are provided by Used Car Sites Limited (“UCSL”), registered in England & Wales under number 4546950 with its registered office at Millers House, The Maltings, Roydon Road, Stanstead Abbots, Hertfordshire, SG12 8HN.
- 1.2 The Services are supplied subject to these terms and conditions. Please read them carefully. They cancel and replace any previous versions. By registering for or using the Services, the Client agrees to be bound by these terms and conditions.

2. Definitions

- 2.1 The following terms shall have the following meanings:

Agreement	these terms and conditions
Applicable Laws	all applicable laws, regulations and codes of conduct
Client	the entity which applies to use the Services
Client Material	all Data provided by the Client to UCSL for use in connection with the Services including Client Vehicle Data and also information uploaded by the Client to the Website
Client Vehicle Data	vehicle information input by the Client into the system (eg vehicle registration, vehicle image, mileage, price, description)
Data	text, content, graphics, images, software, data and other materials in whatever format
Domain	the domain name at which the Website is to be located
Effective Date	the date when the Client signs the Order Form
Intellectual Property Rights	worldwide copyright, design rights, database right, patents and any rights to inventions, know-how, trade and business names, trade secrets, logos and devices, trade and service marks (whether registered or unregistered) and any applications therefor and all rights in confidential information
Minimum Term	the number of months specified under “Minimum Term” on the Order Form and which shall start on the Effective Date; if the Minimum Term is not specified on the Order Form, then the Minimum Term shall be 12 months from the Effective Date
Motor Website	any website to which the Client wishes to export the Vehicle Data including the Website, any other website operated by the Client and any third party motor listings website
Order Form	the order form to which these terms and conditions relate
Personal Data	as defined in the Data Protection Act 1998
Rollover Periods	consecutive 3-month periods following the Minimum Term
Services	the dealer management service known as “DNA” and all related services including hosting of the Website and support, design and development services (if applicable).
System	hardware, servers and software used by UCSL to supply the Services
the VCARS DNA Website	the website at www.vcarsdna.com and any related website
Vehicle	any vehicle entered by the Client onto the System

Vehicle Data	all Data on the System relating to each Vehicle including Client Vehicle Data and also vehicle information generated via the Services such as make, model, colour
Vehicle Listings	vehicle listings which are intended for use on the Website or on other websites and which are generated by means of the Vehicle Data
Website	a website of the Client hosted by UCSL and upon which it is intended to display Vehicle Listings
in Writing	all forms of visible reproduction in permanent form (including electronic messages unless otherwise stated)

2.2 Words in the singular include the plural and vice versa. References to a “person” shall include any individual, firm, unincorporated association or body corporate. Any reference in this Agreement to any provision of a statute shall be construed as a reference to that provision, as amended, re-enacted or extended at the relevant time. The word “including”, unless the context otherwise requires, shall mean “including without limitation”. The headings in this agreement are for convenience only and shall not affect its interpretation.

3. **Changes to Terms and Conditions**

3.1 UCSL may make changes to these terms and conditions by posting the revised version on the VCARS DNA Website for a reasonable period before they become effective. The Client agrees to check the VCARS DNA Website regularly. The Client will be bound by the revised agreement if it continues to use the Services following the effective date shown.

4. **The Services Generally**

4.1 UCSL will provide the Services with reasonable skill and care, subject to the terms of this Agreement.

4.2 The Client must provide the Client Material in the format specified by UCSL.

4.3 The Client is solely responsible for the Client Material. The Client agrees to ensure that the Client Material is accurate and remains up to date, that it is not misleading, that it complies with all Applicable Laws, that it does not infringe any third party intellectual property or other rights, and that it is not defamatory offensive, vulgar, racist, abusive, invasive of another’s privacy or otherwise inappropriate.

4.4 UCSL may, without notice, access, copy, preserve, disclose, remove, suspend or delete any Client Material if it breaches this agreement or if UCSL considers it necessary to protect UCSL or its other customers or the public or third parties or if UCSL has reasonable grounds for believing that a criminal act has been committed or if UCSL is required to do so by law or appropriate authority.

4.5 The Client is responsible for selecting which Vehicle Data is to be exported to which Motor Website. UCSL does not guarantee that the Vehicle Data or any other aspect of its Services will comply with the formatting or other requirements of any particular Motor Website (excluding www.vcars.co.uk).

4.6 UCSL has no responsibility to provide any form of support. UCSL may in its discretion decide to provide support and, if so, it is entitled to make such support conditional upon payment of its standard fees for such services. Support services are intended to address configuration and proper use of, or any errors or interruptions arising from, the Services. If applicable, telephone and email

support shall be available only during UCSL's standard business hours. UCSL does not guarantee that support will be delivered within any particular timeframe or that it will achieve any particular outcome. UCSL shall not in any event be obliged to supply support in respect of faults or problems directly or indirectly or indirectly arising from incorrect use of the Services or any cause external to the Services or if any fees due to it are unpaid

- 4.7 UCSL shall use reasonable endeavours to make at least a daily back-up of Client Materials and Vehicle Data. The Client acknowledges that Data may be irretrievably damaged or lost if a fault occurs between backups or if the backup fails to work. UCSL is not liable for any such losses. The Client is responsible for making its own backup of Client Materials in order to minimise the risk of loss.
- 4.8 UCSL has no responsibility to provide a copy of the Vehicle Data to the Client. UCSL may in its discretion do so on request and, if so, it is entitled to make such provision conditional upon payment of its standard fees for such services. UCSL is in any event entitled to delete Vehicle Data after 14 days following termination of this Agreement.
- 4.9 UCSL does not promise that the Services will be error-free or uninterrupted or that they will achieve any particular results. UCSL is not liable for any delays, delivery failures, or any other loss or damage resulting from the transfer of Data over communications networks and facilities, including the internet, or which are attributable to UCSL's hosting provider and the Client acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities
- 4.10 UCSL is entitled, without notice and without liability, to suspend the Services for repair, maintenance, improvement or other technical reason. If so, UCSL will use reasonable endeavours to ensure that the suspension takes place at a time when the Services is least likely to be used and that the suspension is for the shortest period possible.
- 4.11 UCSL does not promise that the Client will achieve any particular level of enquiries, customers or revenues arising from use of the Services.
- 4.12 The Client:
 - a) shall provide reasonable co-operation to UCSL in supplying the Services and shall comply with UCSL's reasonable requirements;
 - b) shall promptly provide UCSL with such information and documents as it may reasonably request for the proper performance of the Services; and
 - c) shall not take any step which may interfere with or obstruct the proper performance of the Services.
- 4.13 The Client shall not in connection with the Services breach any Applicable Laws or infringe any third party rights.
- 4.14 The Client's online account for use of the Services is for the Client's personal use only and is non-transferable. The Client must not authorise or permit any other person to use its account. The Client must take reasonable care to protect and keep confidential its password and other account or identity information. The Client must notify UCSL immediately of any apparent breach of security such as loss, theft, misuse or unauthorised disclosure or use of a password. The Client is responsible for third parties who use its account or identity (unless and to the extent that UCSL is at fault).

4.15 In relation to logo, rebrand or other development Services, UCSL will use its reasonable endeavours to meet any deadlines agreed but does not guarantee that they will be achieved.

5. **The Domain and Website**

5.1 This section of the terms and conditions applies where the Client elects to set up a Website.

5.2 The Client shall promptly inform UCSL in Writing which Domain it wishes to use for the Website. The Client must satisfy itself that the Domain does not infringe third party rights and is otherwise suitable for its purposes.

5.3 If the Domain is not already registered, UCSL shall use reasonable endeavours to apply to register the requested Domain at UCCL's expense. UCSL cannot guarantee that the Domain will be available or that the application will be granted. If the application is successful, UCSL shall be the owner and controller of the Domain. If the Domain is already registered, the Client shall promptly procure transfer of the Domain into the ownership and control of UCSL. The Domain shall remain in the ownership and control of UCSL unless and until the Client requests transfer of the Domain in Writing during the 14-day period following termination of the Services. If the Client makes such a request, then UCSL shall take reasonable steps to transfer the Domain to the Client provided that the Client has paid the applicable fee to UCSL as well as any other fees due to UCSL. If the Client makes no such request during the said 14-day period, UCSL shall be entitled to permanently delete the Domain.

5.4 UCSL reserves the right to set limits on bandwidth and disk space which may be utilised by the Website and/or to charge at its standard rates if specified limits are exceeded.

5.5 For the avoidance of doubt, the Client is entirely responsible for selection of content for the Website and for all aspects of operating the Website including compliance with Applicable Laws and for the creation of appropriate terms and conditions, privacy policies and other legal wording.

5.6 During the period of this Agreement, and for 12 months thereafter, the Client agrees to maintain on the Website a link consisting of a single logo or other image (maximum size 300x100 pixels) specified by UCSL and a text or other link to www.vcars.co.uk in the format and location specified by UCSL.

6. **Fees**

6.1 The Client shall pay the monthly subscription fees to UCSL monthly in advance with effect from the Effective Date. If the Client fails to pay any monthly subscription fee when it falls due, then all future monthly subscription fees that would otherwise be payable per month until the end of the Minimum Term or Rollover Period (as applicable depending on when the unpaid monthly subscription fee was due) shall immediately become due and payable.

6.2 The Client shall pay any other applicable fees specified on the VCARS DNA Website (as may be varied from time to time) within 14 days of invoice.

6.3 UCSL is entitled at any time to increase the monthly subscription fee by giving at least 30 days' notice in Writing to the Client. If so, the Client is entitled to terminate the Agreement by giving notice in Writing to UCSL, such notice to be given before, and to take effect on, the day before the new charge is to take effect. If the Client does not give such notice, then the new charge will take effect accordingly.

- 6.4 Fees are exclusive of any applicable VAT and other sales tax which shall be payable in addition by the Client.
- 6.5 The Client shall pay the fees to UCSL without any withholding, deduction, counterclaim or setoff.
- 6.6 If any fees due to UCSL are unpaid:
- a) UCSL may charge interest to the Client on overdue sums (both before and after judgment) at the rate that would be applicable for the time being if the amount due was a qualifying debt under the Late Payment of Commercial Debts (Interest) Act 1998;
 - b) UCSL may charge a reasonable administration fee; and
 - c) UCSL reserves the right to suspend all or any Services.

7. Termination

- 7.1 The Agreement shall be deemed to have come into force on the Effective Date and shall continue for the Minimum Term. This Agreement will roll over for subsequent Rollover Periods unless either party gives notice in Writing to terminate at least 28 days before the end of the Minimum Term or of any Rollover Period.
- 7.2 This Agreement may be terminated forthwith by either party if the other:
- a) is in material default of its obligations under this agreement and (where remediable) has failed to substantially remedy the default within 14 days after notice in writing (not email) is given to the defaulting party specifying the default; or
 - b) suffers, or threatens to suffer, any form of insolvency, receivership, administrative receivership, administration or ceases, or threatens to cease, to carry on business.
- 7.3 Upon termination of this Agreement for any reason:
- a) accrued rights and liabilities will be unaffected;
 - b) all licenses shall terminate;
 - c) UCSL shall cease supplying the Services; and
 - d) all clauses which are expressed or clearly intended to survive termination together with any other provision necessary for the interpretation or enforcement of this Agreement.

8. Intellectual Property Rights

- 8.1 All trade marks, logos, content, graphics, images, photographs, animation, videos, text and software used or developed by UCSL in connection with supply of the Services as well as the Domain ("UCSL Material") are the intellectual property of UCSL. UCSL grants to the Client a royalty-free worldwide license to use UCSL Material for the purposes of the Agreement. The Client may not otherwise use, sublicense, retrieve, display, modify, copy, print, sell, distribute, download, hire, reverse engineer (unless permitted by applicable law) or create extracts of, or derivative works from, such material without UCSL's specific prior consent in Writing.
- 8.2 For the avoidance of doubt, the Client is not entitled to possession of any software code relating to the Website (either during or after termination of this Agreement) and shall have no right after termination of this Agreement to use any logo or website branding developed by UCSL for the Client in connection with the Services.
- 8.3 The Client shall not access all or any part of the Services in connection with any service which competes with the Services.
- 8.4 The Client shall not reverse-engineer or decompile any of UCSL's software in any way (except to the

extent allowed by applicable law). The Client must not create or use a modified or derivative version of UCSL's software or distribute or sublicense such software to third parties.

- 8.5 UCSL acknowledges that all Intellectual Property Rights in the Client Materials are owned by the Client. The Client grants to UCSL a non-exclusive, royalty-free, transferable (with right to sub-license), worldwide license during the period of this Agreement to use, copy, alter, display, sublicense, and create extracts of, or derivative works from, the Client Materials in any media formats including for the purpose of redistribution of the Services or for UCSL's own marketing purposes. The Client waives all moral rights in relation to such material to the extent legally permitted.

9. **Liability and Indemnity**

- 9.1 Any provisions in this agreement excluding or limiting liability will apply regardless of the form of action, whether under statute, in contract or tort including negligence or otherwise. Such provisions apply to and may be enforced by the relevant party's directors, officers, employees, subcontractors, agents and affiliated companies as well as to the party itself and those parties will have the benefit of such provisions in terms of the Contracts (Rights of Third Parties) Act 1999. Nothing in this agreement in any way excludes or restricts either party's liability for negligence causing death or personal injury or for fraudulent misrepresentation or for any liability which may not legally be excluded or limited.
- 9.2 UCSL shall not be liable for breach of this Agreement unless the Client has given UCSL prompt notice of the breach in Writing and a reasonable opportunity thereafter to rectify the breach at UCSL's expense.
- 9.3 The liability of UCSL of any kind (including negligence) in relation to the Services for any act or omission or any series of connected acts or omissions shall be limited to amount of fees paid by the Client to UCSL in respect of this Agreement in the 12 month period before the act or omission (or first act or omission if applicable) complained of. .
- 9.4 In no circumstances shall UCSL be liable for any consequential, indirect or special damages or for economic losses (including without limit, loss of revenues, profits, contracts, business or anticipated savings) or for damage to or loss of Data or for damage for loss of reputation.
- 9.5 The Client agrees to indemnify UCSL against all claims and liabilities directly or indirectly related to the Client's use of the Services or to the Client's breach of this Agreement (except to the extent that UCSL is at fault).
- 9.6 Both parties exclude all terms that are not expressly stated herein, including but not limited to any implied warranties as to quality, fitness for purpose or ability to achieve a particular result.

10. **Personal Data**

- 10.1 If UCSL processes any Personal Data on behalf of the Client:
- a) UCSL shall do so only in accordance with this agreement or the Client's written instructions, and
 - b) UCSL will at all times have appropriate technical and organizational measures in place to protect all such Personal Data against unauthorised or unlawful processing, accidental loss, destruction or damage and that, having regard to the state of technological development and the cost of implementing any measures, the measures shall ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage and to the nature of the data to be protected.

11. **Mutual Warranties**

- 11.1 Each party represents and warrants to the other party that:
- a) it has authority to enter into and be bound by this Agreement; and
 - b) the execution of this Agreement and the performance of its obligations hereunder do not and will not violate any other agreement by which the party is bound.

12. Confidentiality

12.1 Both parties shall keep in confidence any information in any form (including oral) of a confidential nature obtained in connection with this Agreement (including the terms of this Agreement) and shall not without the prior consent in Writing of the other party use that information other than for the purposes of this Agreement or disclose it to any person other than its personnel who need to know the information for the purposes of this Agreement.

12.2 This clause shall not apply to:

- a) information which becomes public knowledge has been published other than through a breach of this Agreement;
- b) information lawfully in the possession of the recipient before the disclosure took place;
- c) information obtained from a third party who is free to disclose it; and
- d) information which a party is requested to disclose and if it did not could be required by law or regulation or competent authority to do so.

12.3 This clause will remain in effect for three years from the date of this Agreement.

13. Notices and Service

13.1 Any notice or other information required or authorised by this agreement to be given by any party may be given by hand or sent (by special delivery within the UK or by international signed for post outside the UK) to another party at its registered office or such other address as that party may notify to the other party for this purpose from time to time or, unless stated otherwise, by email (provided that the email has not been returned).

13.2 Any notice or other information given by post which is not returned to the sender as undelivered shall be deemed to have been given on the second day after the envelope containing the same was so posted and proof that the envelope containing any such notice or information was properly addressed pre-paid, registered and posted, and that it has not been so returned to the sender, shall be sufficient evidence that such notice or information has been duly given.

14. General

14.1 This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supercedes any previous communications or agreements between the parties. Both parties acknowledge that there have been no misrepresentations and that neither party has relied on any pre-contractual statements. Liability for misrepresentation (excluding fraudulent misrepresentation) relating to the terms of this Agreement is excluded.

14.2 Neither party is liable for breach of this Agreement (excluding non-payment) if the failure or delay is caused by any circumstances beyond the party's reasonable control including third party telecommunication failures.

14.3 The Client may not assign the whole or any part of its rights or obligations under this Agreement without the prior consent in Writing of UCSSL, not to be unreasonably withheld or delayed.

14.4 The failure of a party to exercise or enforce any right under this Agreement shall not be deemed to

be a waiver of that right nor operate to bar the exercise or enforcement of it at any time or times thereafter.

- 14.5 If any provision of this Agreement is held to be unlawful, void or unenforceable in whole or in part, this Agreement shall continue in force in relation to the unaffected provisions and the remainder of the provision in question, and the parties will renegotiate the offending provision in good faith to achieve the same objects.
- 14.6 Save insofar as expressly provided otherwise in this agreement, no third party may enforce any clause in this Agreement under the Contracts (Rights of Third parties) Act 1999.
- 14.7 The relationship of the parties is that of independent contractors. Except as otherwise stated in this Agreement, nothing in this Agreement shall constitute the parties as partners, joint venturers or co-owners, or constitute any party as the agent, employee or representative of the other(s), or empower any party to act for, bind or otherwise create or assume any obligation on behalf of the other(s), and no party shall hold itself out as having authority to do the same.
- 14.8 Each party agrees at any time upon the reasonable request of the other to do, execute, acknowledge and/or deliver all such further acts, deeds, documents and/or instruments as may be required to effect any of the transactions contemplated by this Agreement.
- 14.9 This Agreement shall be governed by the laws of England and each party hereby submits to the exclusive jurisdiction of the English Courts.

Version: 2

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