

## **Terms and Conditions**

By using and/or visiting the Red Mountain Technologies, LLC ("RMT") website (collectively, including all content and functionality available through the autocheckauctions.com domain name, the "RMT Website", or "Website"), the Customer ("You") signify its agreement to the terms and conditions set forth below in this Agreement. If You as the Customer do not agree to any of these terms and conditions, please do not use the RMT Website.

### **RMT Website at autocheckauctions.com**

These terms and conditions apply to all users of the RMT Website. The RMT Website includes all aspects of its content, including but not limited to all products and services offered via the website such as the AutoCheck Vehicle History Service and any AutoCheck Vehicle History Reports derived from AutoCheck Vehicle History Data.

### **General Use of the Website and AutoCheck Vehicle History Reports - Permissions and Restrictions**

RMT hereby grants you permission to access and use the Website provided that:

1. You as the Customer agree not to distribute in any medium any part of the Website, except where specifically authorized herein, without RMT's prior written authorization.
2. You as the Customer agree not to alter, interfere with, or modify any part of the Website and its operation.
3. You as the Customer acknowledge and agree that RMT owns all legal right, title and interest in and to all content available on the Website, including any intellectual property rights which subsist in the content provided on the website, whether those rights happen to be registered or not, and wherever in the world those rights may exist.

4. Unless you have agreed otherwise in writing with RMT, nothing in this agreement gives you a right to use any of RMT's patents, copyrights, trade names, trademarks, service marks, trade dress, logos, domain names, and other distinctive brand features.

5. You agree that you shall not remove, obscure, or alter any proprietary rights notices (including Patent, Copyright and Trademark notices) which may be affixed to or contained within any content available on the Website.

6. Unless you have been expressly authorized to do so in writing by RMT, you will not use any trademark, service mark, trade name, logo of any company or organization in association with such content in a way that is likely or intended to cause confusion as to the source, ownership or authorized use of such content.

### **Customer's Use of Content on the Site and Use of AutoCheck Vehicle History Reports and AutoCheck Vehicle History Data.**

In addition to the general restrictions above, the following restrictions and conditions apply specifically to Customer's use of content on the RMT Website and use of AutoCheck Vehicle History Data and/or AutoCheck Vehicle History Reports provided by RMT.

1. You as the Customer agree that you will not advertise, market, offer, sell or otherwise provide AutoCheck Vehicle History Reports or the Data contained therein and derived there from to members of the public and other businesses as further provided in this Agreement.

2. Red Mountain Technologies will provide a proprietary, nontransferable use code that you must use when requesting an AutoCheck Vehicle History Report. You shall keep such user code confidential and prevent unauthorized or fraudulent use thereof, and You shall report any such use immediately to Red Mountain Technologies. Any request for a Report using Customer's user code shall conclusively signify that Customer has authorized the Report request. Customer shall be responsible for payment of all requests for Reports until written notice is received by Red Mountain Technologies that any request is unauthorized or fraudulent.

3. Customer agrees that Reports are pulled via the Internet at [www.autocheckauctions.com](http://www.autocheckauctions.com) and are available through internet browsers or processes compatible to AutoCheck and RMT interfaces.

4. NEITHER RED MOUNTAIN TECHNOLOGIES NOR ITS LICENSORS OR DATA PROVIDERS MAKE ANY WARRANTY, WHETHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE SERVICES AND/OR REPORTS PROVIDED HEREUNDER, AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE ARE HEREBY EXPRESSLY EXCLUDED. RED MOUNTAIN TECHNOLOGIES SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT FOR CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE AND ANY AND ALL COMMERCIAL DAMAGES OR LOSSES. CUSTOMER AGREES THAT RED MOUNTAIN TECHNOLOGIES' LIABILITIES HEREUNDER, WHETHER ARISING OUT OF CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR WARRANTY SHALL NOT EXCEED ANY AMOUNTS PAID BY CUSTOMER FOR THE SERVICES AND/OR REPORTS RELATING TO THE EVENT GIVING RISE TO THE LIABILITY.

5. You as the Customer understand that Red Mountain Technologies is collecting data from public records and other sources for use in the AutoCheck Vehicle History Service and that data and the Reports and Data may contain errors and omissions. Red Mountain Technologies does not guarantee the correctness of any information furnished in the course of this Agreement and Red Mountain Technologies will not be liable for any loss or injury caused in whole or part, either by its negligence or circumstances beyond its control in procuring, compiling, collecting, interpreting or communicating such information. Red Mountain Technologies gathers information on an as-available basis. Customer understands that not all information is available for all states and that Red Mountain Technologies does not have access to some information that may be available to other entities. Customer also understands there may be a period of time between receipt of the information by Red Mountain Technologies and its inclusion into the AutoCheck Database.

Customer agrees to hold Red Mountain Technologies harmless for any information that is not available at the time of request by Customer or regarding information which is not in AutoCheck's Database for whatever reason. Customer recognizes that AUTOCHECK VEHICLE HISTORY SERVICE and Reports do not provide any conclusions regarding the condition or history of any vehicle. Customer recognizes that Red Mountain Technologies' sole responsibility in the case of erroneous Data is reasonable correction of the item in question. Customer recognizes that errors can occur in data transmission over telephone and network circuits and agrees to hold Red Mountain Technologies harmless for such errors and any resulting erroneous output thereof.

6. Red Mountain Technologies reserves the right to reject service to any customer in which it believes the Service will be used in a manner which adversely affects Red Mountain Technologies. Ownership of the AUTOCHECK VEHICLE HISTORY SERVICE and the Reports and Data shall at all times remain with Red Mountain Technologies and/or its Licensor. Customer will not sell, disclose or provide AUTOCHECK VEHICLE HISTORY Reports, or the Data contained in and derived there from, either directly or indirectly, to any third party without the expressed written consent of Red Mountain Technologies, which restriction includes, without limitation, that Customer will not: (1) Allow another party to obtain, review or gather from it AutoCheck Vehicle History Reports or Data for the purpose of creating a vehicle history database; (2) Transmit or provide, or knowingly allow a third party to transmit or provide, AutoCheck Vehicle History Reports or Data contained therein and derived there from directly, or indirectly via an auction management system or otherwise, to any third party for the purpose of, or with the known consequence of, such Data being used by a vehicle history service provider that competes with Red Mountain Technologies or Experian/AutoCheck (a "Competing Vehicle Service Provider") or (3) Collect Data for the purposes of providing such Data directly or indirectly to a Competing Vehicle Service Provider; provided, that, Customer may use the Report and Data as intended at Customer's place of business or website wherein Customer communicates to its buyers and/or sellers at its live or cyber auction the history/condition of a vehicle being sold then at the auction.

Violation of these terms may result in immediate cancellation of this Agreement, and/or the exercise of any of its other rights -- which are hereby expressly retained -- by Red Mountain Technologies.

7. Title to the Database shall remain with Red Mountain Technologies or its licensors and data providers including Experian. In no event shall title to the Database in whole or in part pass to Customer. Customer acknowledges that it does not take title to our own Database or any other data furnished to it by Red Mountain Technologies through this Agreement. The Database shall not be assigned, sub-leased, sublicensed, rented, sold or disposed of by Customer in whole or in part in any manner whatsoever, except as expressly provided herein.

8. The Database, Data, Reports, marketing programs, customers and other information pertaining to the identity and usage of persons and entities having access to the Database, Data, Reports or the services of Red Mountain Technologies, and other proprietary information disclosed to or otherwise obtained by Customer as a result of this Agreement, shall be deemed and treated by Customer as proprietary and confidential (the "Confidential Information"). Customer acknowledges that all Confidential Information is and shall continue to be the exclusive property of Red Mountain Technologies and its licensors and providers as indicated above. Customer agrees not to disclose Confidential Information, directly or indirectly, under any circumstances or by any means, to any third party other than as expressly authorized in this Agreement.

9. Customer certifies and warrants that it will not use, collect, permanently store or furnish the Data, nor will it permit any third party to use, collect, store or furnish the Data through it, either directly or indirectly, in whole or in part, in a way that would make the Data subject to the Fair Credit Reporting Act, 15 U.S.C. 1681 et. seq. as amended ("FCRA") or similar state statutes or regulations. Without limiting the foregoing, Customer warrants that it will not permit the Data to be used for (a) establishing an individual's eligibility for credit or insurance to be used primarily for personal, family or household purposes; (b) employment purposes; or (c) any other purpose covered by the FCRA. Customer warrants that the

Database shall not be used for purposes of direct marketing, warranty administration or recall. Nor will Customer make available to any third party any statistical extracts or aggregated data derived from or relating to the Database. Customer will take all reasonable measures to ensure that end users of vehicle history products utilize the Data in accordance with the applicable terms of the Agreement and all applicable local, state and federal laws.

10. You as the Customer may not (and you may not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of any element of the Website, unless you have been specifically told that you may do so by RMT, in writing.

11. The content on the RMT Website, including without limitation, the text, software, scripts, graphics, photos, sounds, music, videos, interactive features and the like ("Content") and the trademarks, service marks and logos contained therein ("Marks"), are owned by or licensed to RMT, and subject to copyright and other intellectual property rights under the law. Content on the Website is provided to you AS IS for your information and personal use only and may not be downloaded, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of RMT, except as noted in section 6 above. RMT reserves all rights not expressly granted in and to the Website and the Content.

12. You as the Customer agree not to circumvent, disable or otherwise interfere with security-related features of the RMT Website or features that prevent or restrict use or copying of any Content or enforce limitations on use of the RMT Website or the Content therein.

### **Limitation of Liability**

IN NO EVENT SHALL RMT, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER RESULTING FROM ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY

DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF OUR WEBSITE, (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM OUR WEBSITE, (IV) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH OUR WEBSITE BY ANY THIRD PARTY, AND/OR (V) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF YOUR USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE RMT WEBSITE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE COMPANY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

### **General**

1. You agree that the RMT Website shall be deemed solely based in Alabama, and that any claim or dispute between you and RMT that arises in whole or in part from the RMT Website shall be decided exclusively by a court of competent jurisdiction located in Alabama.
2. If any provision of this Agreement is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions, which shall remain in full force and effect. No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term, and RMT's failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision.
3. RMT reserves the right to amend this Agreement at any time and without notice, and it is your responsibility to review the terms and conditions therein for any changes. Your use of the RMT Website following any amendment of these terms and conditions will signify your recognition of and acceptance of the revised terms.