

CARNOW, INC.
MASTER SUBSCRIPTION SERVICE AGREEMENT

This Master Subscription Service Agreement (the “Agreement”), is effective as of the date on the Sales Order (the “Effective Date”) signed by an authorized representative of your company (“Customer”) and constitutes the agreement by which Customer’s Sales Order and use of the Services (as defined below) of CarNow, Inc. shall be governed. CarNow and Customer shall herein be referred to each as a “Party” and collectively as the “Parties”. In consideration of the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

1.1 CarNow Content means all Content made available by CarNow to Customer in connection with Customer’s use of the Services.

1.2 Confidential Information has the meaning ascribed to it in Section 4.1.

1.3 Content means text, images, documents, materials, photos, audio, video, and all other forms of data or communication.

1.4 Customer Content means all Content made available by Customer or its Users to CarNow for use in connection with the Services or generated by Customer via use of the Services and includes, without limitation, all data specific to Customer’s live video chats and text chats with visitors via use of the Services and other visitor contact information.

1.5 Documentation means the documentation for the Subscription Service generally supplied by CarNow to assist its customers in the use of the Subscription Service, including user guides and manuals and other written materials.

1.6 Losses has the meaning ascribed to it in Section 9.1.

1.7 Professional Services means those set-up, integration, configuration, consulting, custom analytics and/or training services, if and as specified on a Sales Order to be provided by CarNow.

1.8 Representatives has the meaning ascribed to it in Section 4.1.

1.9 Sales Order means each CarNow ordering document signed by duly authorized representatives of both Parties which references this Agreement, identifies the specific Subscription Service and Professional Services ordered by Customer from CarNow, sets forth the prices for the Services and contains other applicable terms and conditions.

1.10 Services means the Subscription Service and any Professional Services provided by CarNow pursuant to Section 2.1 hereof.

1.11 Subscription Service means CarNow’s proprietary subscription-based live video and live chat and text solutions.

1.12 Users mean individual employees and contractors of Customer who are authorized by Customer to use the Services, and, with respect to the Subscription Service, who have been supplied passwords by Customer (or by CarNow at Customer’s request).

1.13 Work Product means any work product, deliverables, programs, interfaces, modifications, configurations, reports, analyses or documentation developed by CarNow on behalf of Customer and delivered to Customer in the performance of any Professional Services.

2. SERVICES

2.1 Services. CarNow shall provide Customer with the specific Services specified on a Sales Order. Customer further acknowledges that the

Services are provided in accordance with and are subject to the provisions set forth in this Agreement, the applicable Sales Order as well as the additional terms and conditions set forth on Exhibit A hereto relating to the Subscription Service.

2.2 Changes to Sales Order. Either Party may request a change to a Sales Order, and for such purpose shall submit to the other Party a written notice (“Change Request”) setting forth the requested change and the reason for such request. Within five (5) business days (or such other period of time as agreed by the Parties) after the receipt of such Change Request, the Parties shall discuss the necessity, desirability and/or acceptability of the Change Request. When and if both Parties have agreed in writing upon the changes, and any resulting change in the estimated (or fixed) fees for the Services, the Parties shall complete and execute a new or revised Sales Order or amendment thereto. In the event that Customer elects to upgrade to a new version of the Subscription Service or elects to license additional functionality and features offered by CarNow, the Parties will enter into a Change Request or additional Sales Order specifying such new version and/or such additional functionality and the additional fees to be paid by Customer.

3. FEES; PAYMENT TERMS

3.1 Fees. Customer agrees to pay CarNow for the Services provided and expenses incurred on the basis and at the rates specified in each Sales Order. Unless otherwise set forth on the Sales Order, payment shall be due within thirty (30) days after receipt of CarNow’s invoice and shall be made in US Dollars. Customer agrees to pay a late charge of one percent (1%) per month (or part of a month), or the maximum lawful rate permitted by applicable law, whichever is less, for all amounts, not subject to a good faith dispute, and not paid when due.

3.2 Disputed Charges. If Customer disputes any charge or amount on any invoice and such dispute cannot be resolved promptly through good faith discussions between the Parties, Customer shall pay the amounts due under this Agreement less the disputed amount, and the Parties shall diligently proceed to resolve such disputed amount. An amount will be considered disputed in good faith if (i) Customer delivers a written statement to CarNow on or before the due date of the invoice, describing in detail the basis of the dispute and the amount being withheld by Customer, (ii) such written statement represents that the amount in dispute has been determined after due investigation of the facts and that such disputed amount has been determined in good faith, and (iii) all other amounts due from Customer that are not in dispute have been paid as and when required under this Agreement.

3.3 Taxes. Fees are exclusive of taxes. Customer shall be responsible for the payment of all sales, use and similar taxes arising from or relating to the Services rendered, except for taxes related to the net income of CarNow and any taxes or obligations imposed upon CarNow under federal, state and local wage laws.

4. CONFIDENTIALITY

4.1 Confidential Information. During the term of this Agreement, each Party will regard any information provided to it by the other Party and designated in writing as proprietary or confidential to be confidential (“Confidential Information”). Confidential Information shall also include information which, to a reasonable person familiar with the disclosing Party’s business and the industry in which it operates, is of a confidential or proprietary nature. The receiving Party shall hold in confidence, and shall not disclose (or permit or suffer its personnel to

disclose) any Confidential Information to any person or entity *except* to a director, officer, employee, outside consultant, or advisor (collectively “Representatives”) who have a need to know such Confidential Information in the course of the performance of their duties for the receiving Party and who are bound by a duty of confidentiality no less protective of the disclosing Party’s Confidential Information than this Agreement. The receiving Party and its Representatives shall use such Confidential Information only for the purpose for which it was disclosed and shall not use or exploit such Confidential Information for its own benefit or the benefit of another without the prior written consent of the disclosing Party. Each Party accepts responsibility for the actions of its Representatives and shall protect the other Party’s Confidential Information in the same manner as it protects its own valuable confidential information, but in no event shall less than reasonable care be used. The Parties expressly agree that the terms and pricing of this Agreement are Confidential Information. A receiving Party shall promptly notify the disclosing Party upon becoming aware of a breach or threatened breach hereunder, and shall cooperate with any reasonable request of the disclosing Party in enforcing its rights.

4.2 Exclusions. Information will not be deemed Confidential Information hereunder if such information: (i) is known prior to receipt from the disclosing Party, without any obligation of confidentiality; (ii) becomes known to the receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (iii) becomes publicly known or otherwise publicly available, except through a breach of this Agreement; or (iv) is independently developed by the receiving Party without use of the disclosing Party’s Confidential Information. The receiving Party may disclose Confidential Information pursuant to the requirements of applicable law, legal process or government regulation, provided that it gives the disclosing Party reasonable prior written notice to permit the disclosing Party to contest such disclosure, and such disclosure is otherwise limited to the required disclosure.

4.3 Injunctive Relief. Notwithstanding any other provision of this Agreement, both Parties acknowledge that any use of the disclosing Party’s Confidential Information in a manner inconsistent with the provisions of this Agreement may cause the disclosing Party irreparable and immediate damage for which remedies other than injunctive relief may be inadequate. Therefore, both Parties agree that, in addition to any other remedy to which the disclosing Party may be entitled hereunder, at law or equity, the disclosing Party shall be entitled to an injunction or injunctions (without the posting of any bond and without proof of actual damages) to restrain such use in addition to other appropriate remedies available under applicable law.

5. LIMITED WARRANTY

5.1 Subscription Service Warranty. CarNow warrants that during the term of any Sales Order for the Subscription Service, the Subscription Service will conform, in all material respects, with its Documentation. CarNow does not warrant that it will be able to correct all reported defects or that use of the Subscription Service will be uninterrupted or error free. CarNow makes no warranty regarding features or services provided by third parties. For any breach of the above warranty, CarNow will, at no additional cost to Customer, provide remedial services necessary to enable the Subscription Service to conform to the warranty. Customer will provide CarNow with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects. The remedies set out in this subsection are Customer’s sole remedies for breach of the above warranty. Such warranty shall only apply if the Subscription Service has been utilized by Customer in accordance with the Sales Order and this Agreement.

5.2 Professional Services Warranty. CarNow warrants that any Professional Services provided hereunder shall be provided in a competent manner in accordance with any specifications set forth in the Sales Order, in all material respects. CarNow further warrants that any Work Product provided pursuant to any Professional Services engagement shall comply, in all material respects, with the specifications set forth in the applicable Sales Order. If the Services are not performed as warranted or the Work Product does not so comply, then, upon Customer’s written request, CarNow shall promptly re-perform, or cause to be re-performed, such Professional Services, at no additional charge to Customer. Such warranties and other obligations shall only survive for thirty (30) days following the completion of the Professional Services or the delivery of each applicable portion of the Work Product, as the case may be. Such re-performance shall be Customer’s exclusive remedy and CarNow’s sole liability for any such non-performance. If, however, after repeated efforts, CarNow is unable to remedy such defect in any Work Product, then Customer’s sole remedy and CarNow’s entire liability shall be to refund to Customer any amounts previously paid by Customer for the particular deficient Professional Services or Work Product.

5.3 No Other Warranty. CARNOW DOES NOT REPRESENT THAT THE SERVICES WILL BE ERROR-FREE OR THAT THE SERVICES WILL MEET CUSTOMER’S REQUIREMENTS OR THAT ALL ERRORS IN THE SERVICES WILL BE CORRECTED OR THAT THE OVERALL SYSTEM THAT MAKES THE SUBSCRIPTION SERVICE AVAILABLE (INCLUDING BUT NOT LIMITED TO THE INTERNET, OTHER TRANSMISSION NETWORKS, AND CUSTOMER’S LOCAL NETWORK AND EQUIPMENT) WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE WARRANTIES STATED IN SECTION 5 ABOVE ARE THE SOLE AND EXCLUSIVE WARRANTIES OFFERED BY CARNOW. THERE ARE NO OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

6. LIMITATION OF LIABILITY.

6.1 Consequential Damage Waiver. Except as may arise out of either Party’s breach of Section 4, neither Party will be liable to the other or any third party for loss of profits, or special, indirect, incidental, consequential or exemplary damages, including lost profits and costs, in connection with the performance of the Services, or the performance of any other obligations under this Agreement, even if it is aware of the possibility of the occurrence of such damages.

6.2 Limitation of Liability. Except as may arise out of CarNow’s breach of Section 4, the total cumulative liability of CarNow to Customer for any and all claims and damages under this Agreement, whether arising by statute, contract, tort or otherwise, will not exceed the fees paid by Customer to CarNow under the Sales Order for the Services which form the subject of the claim during the six (6) month period immediately preceding the event giving rise to the claim. The provisions of this Agreement allocate risks between the Parties. The pricing set forth in each Sales Order reflects this allocation of risk and the limitation of liability specified herein.

7. TERM

7.1 Term. This Agreement will commence on the Effective Date as set forth above and will continue in effect until otherwise terminated in accordance with Section 7.2 below. The term of each Sales Order for the Subscription Service shall be set forth on the Sales Order. Unless otherwise expressly provided in the applicable Sales Order, each Sales Order shall automatically renew for additional terms of one (1) month each unless either Party notifies the other Party in writing at least thirty (30) days prior to the then current expiration date that it has elected not

to renew such Sales Order. CarNow reserves the right to change the rates, applicable charges and usage policies and to introduce new charges, for such Sales Order upon providing Customer written notice thereof (which notice may be provided by e-mail) at least 30 days prior to the then current renewal date of the Sales Order.

7.2 Termination. Notwithstanding the foregoing, either Party may terminate this Agreement or any Sales Order (i) immediately in the event of a material breach of this Agreement or any such Sales Order by the other Party that is not cured within thirty (30) days of written notice thereof from the other Party, or (ii) immediately if the other Party ceases doing business or is the subject of a voluntary or involuntary bankruptcy, insolvency or similar proceeding, that is not dismissed within sixty (60) days of filing or (iii) at any time and for any reason upon no less than thirty (30) days prior written notice to the other Party. Termination of a Sales Order shall not be deemed a termination of this Agreement. Termination of this Agreement shall, however, terminate all outstanding Sales Orders. All rights and obligations of the Parties which by their nature are reasonably intended to survive such termination or expiration will survive termination or expiration of this Agreement and each Sales Order.

7.3 Effect of Termination. Upon any termination or expiration of this Agreement or any applicable Sales Order, CarNow shall no longer provide the applicable Services to Customer and Customer shall cease and cause its Users to cease using the Services. Except as expressly provided herein, termination of this Agreement by either Party will be a nonexclusive remedy for breach and will be without prejudice to any other right or remedy of such Party. Upon termination of this Agreement, each Party shall promptly return or destroy all Confidential Information of the other Party in its possession.

8. OWNERSHIP; USE OF CONTENT; OBLIGATIONS

8.1 Customer Content. Customer retains ownership of all right, title and interest in and to all Customer Content. During the term of this Agreement, Customer hereby grants to CarNow a limited, worldwide, non-exclusive, non-transferable (except as set forth in Section 10.2), royalty-free right to use, display, transmit, and distribute the Customer Content solely as necessary to provide the Subscription Service to Customer, which includes, without limitation, the right to use Customer Content to solicit feedback from visitors to Customer's site to assist CarNow in providing the Services. Notwithstanding the foregoing, Customer acknowledges and agrees that CarNow shall have the right to copy, use, distribute, and display any information, analysis, statistics and other data generated by the Subscription Service (or derived from Customer's use of the Subscription Service), including compilation of aggregated statistics about the Subscription Service (such as total number of live chats, texts, etc.); provided, however, that CarNow shall not publicly disclose or distribute any such data unless such data is in an aggregated form that would not permit a third party to identify the data as associated with Customer.

8.2 Customer Obligations. Customer is solely responsible for all Customer Content. CarNow does not guarantee the accuracy, integrity or quality of such Customer Content. Neither Customer nor its Users shall use the Subscription Service to: (a) send, upload or otherwise transmit any Customer Content that is unlawful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable; (b) upload or otherwise transmit, display or distribute any Customer Content that infringes any trademark, trade secret, copyright or other proprietary or intellectual property rights of any person; (c) upload or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software

or hardware or telecommunications equipment; (d) interfere with or disrupt the Subscription Service or networks connected to the Subscription Service; or (e) violate any applicable law or regulation.

8.3 CarNow Content. CarNow retains ownership of all right, title and interest in and to the CarNow Content. During the term of this Agreement, CarNow grants to Customer a limited, worldwide, non-exclusive, non-transferable (except as set forth in Section 10.2), royalty-free right to use, display, transmit, and distribute the CarNow Content solely in connection with Customer's permitted use of the Subscription Service.

8.4 Work Product/Professional Services. Customer will have a non-exclusive, non-transferable license to use any Work Product developed by CarNow in the performance of the Professional Services and delivered to Customer, upon Customer's payment in full of all amounts due hereunder, solely for Customer's internal use. CarNow retains ownership of all information, software and other property owned by it prior to this Agreement or which it develops independently of this Agreement and all Work Product compiled or developed by CarNow in the performance of this Agreement. CarNow may utilize any and all methods, computer software, know-how or techniques related to programming and processing of data, developed by it while providing the Services and may incorporate the Work Product in future releases of any of its products or services. Customer agrees to provide CarNow access to Customer's computer via remote data communications and by visits to Customer's site as reasonably required to perform any Professional Services under any Sales Order. Customer will cooperate with CarNow, will provide CarNow such assistance as CarNow may reasonably request, and will fulfill its responsibilities as set forth in this Agreement and the Sales Order, except as prevented by acts or occurrences beyond Customer's control. If CarNow personnel are required to be present on a Customer site, Customer will provide adequate workspace and may provide reasonable worksite safety and security rules to which such personnel are to conform. Customer shall be responsible for obtaining and paying for any releases, rights, licenses, clearances or permissions necessary to use any third party materials which are the responsibility of Customer to provide in connection with any Professional Services performed by CarNow. Customer will appoint a Customer contact to CarNow. This contact, or a designated alternate, must be reasonably available on site or by phone at all times that Professional Services are being provided.

9. INDEMNIFICATION

9.1 CarNow Indemnification. Subject to Section 9.3 below, CarNow will indemnify, defend and hold Customer harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Losses") incurred arising out of or in connection with a claim, suit, action, or proceeding brought by any third party against Customer alleging that the use of the Services or Work Product as permitted hereunder infringes any United States copyright or trademark, or constitutes a misappropriation of a trade secret of a third party. Excluded from the above indemnification obligations are claims to the extent arising from (a) use of the Services or Work Product in violation of this Agreement or applicable law, (b) use of the Services or Work Product after CarNow notifies Customer to discontinue use because of an infringement claim, (c) any claim relating to any third party products or services or Customer Content, (d) modifications to the Services or Work Product made other than by CarNow (where the claim would not have arisen but for such modification), (e) the combination, operation, or use of the Work Product with software or equipment which was not provided by CarNow, to the extent that Customer's liability for such claim would have been avoided in the absence of such combination, operation, or use; (f) the use of any third party content or materials or (g) compliance

by CarNow with Customer's custom requirements or specifications if and to the extent such compliance with Customer's custom requirements or specifications resulted in the infringement. If the Services or Work Product are held to infringe, CarNow will, at its own expense, in its sole discretion use commercially reasonable efforts either (a) to procure a license that will protect Customer against such claim without cost to Customer; (b) to replace the Services or Work Product with non-infringing Services or Work Product; or (c) if (a) and (b) are not commercially feasible, terminate the Agreement or the applicable Sales Order and refund to the Customer any prepaid unused fees paid to CarNow for the infringing Services or Work Product. The rights and remedies granted Customer under this Section 9.1 state CarNow's entire liability, and Customer's exclusive remedy, with respect to any claim of infringement of the intellectual property rights of a third party, whether arising under statutory or common law or otherwise.

9.2 Customer Indemnification. Subject to Section 9.3 below, Customer shall indemnify, defend, and hold CarNow harmless from and against any and all Losses resulting from a claim, suit, action, or proceeding brought by any third party against CarNow that arises out of or results from a claim (i) alleging that the Customer Content, or any use thereof, infringes the intellectual property rights or proprietary rights of others, or has caused harm to a third party, or (ii) arising out of Customer's use of the Subscription Service, any breach by Customer of Section 8.2 above or any violation by Customer of any applicable law.

9.3 Indemnification Procedure. The indemnified Party shall (i) promptly notify the indemnifying Party in writing of any claim, suit or proceeding for which indemnity is claimed, provided that failure to so notify will not remove the indemnifying Party's obligation except to the extent it is prejudiced thereby, and (ii) allow the indemnifying Party to solely control the defense of any claim, suit or proceeding and all negotiations for settlement; provided that the indemnifying Party shall not settle any claim without the indemnified Party's prior written consent (such consent not to be unreasonably withheld or delayed). The indemnified Party shall also provide the indemnifying Party with reasonable cooperation and assistance in defending such claim (at the indemnifying Party's cost).

10. GENERAL PROVISIONS

10.1 Entire Agreement and Controlling Documents. This Agreement, including all Exhibits hereto and all Sales Orders, contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous proposals, understandings, representations, warranties, covenants, and any other communications (whether written or oral) between the Parties relating thereto and is binding upon the Parties and their permitted successors and assigns. Only a written instrument that refers to this Agreement or the applicable Sales Order and that are duly signed by the authorized representatives of both Parties may amend this Agreement or such Sales Order. No terms and conditions of any Customer purchase order shall modify the terms and conditions of this Agreement, or add any additional or inconsistent terms for any reason or purpose whatsoever, regardless of any statement in a purchase order to the contrary. Any conflict between the terms and conditions set forth in this Agreement and any Sales Order shall be resolved in favor of the Sales Order. This Agreement shall be construed and interpreted fairly, in accordance with the plain meaning of its terms, and there shall be no presumption or inference against the Party drafting this Agreement in construing or interpreting the provisions hereof.

10.2 Assignment. This Agreement shall be binding upon and for the benefit of CarNow, Customer and their permitted successors and assigns. Either Party may assign this Agreement and all Sales Orders as

part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets. Except as expressly stated in this Agreement, neither Party may otherwise assign its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of the other Party, and any attempted assignment or delegation without such consent will be void. CarNow may use independent contractors or subcontractors to assist in the delivery of Services; provided, however, that CarNow shall remain liable for the actions or omissions of such independent contractors or subcontractors and for the payment of their compensation.

10.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, USA without regard to its conflict of law provisions.

10.4 Disputes. Any disputes between the Parties arising out of this Agreement or any Sales Order shall be resolved as follows: Members of the senior management of both Parties shall meet to attempt to resolve such disputes. If a dispute cannot be resolved within thirty (30) days, either Party may make a written demand for mediation. Within thirty (30) days after such written notification, the Parties shall meet for one day with an impartial mediator. The costs and expenses of the mediator shall be shared equally by the Parties. If the dispute is not resolved by mediation, the dispute shall be settled by binding arbitration conducted in accordance with the JAMS procedures pursuant to its Streamlined Arbitration Rules and Procedure, by a single arbitrator, in Boston, Massachusetts. The arbitrator shall be selected as provided in the Streamlined Arbitration Rules and Procedure. Unless provided otherwise herein, the arbitrator may not award non-monetary or equitable relief of any sort. The arbitrator shall have no power to award damages inconsistent with this Agreement. No discovery shall be permitted in connection with the arbitration unless it is expressly authorized by the arbitrator upon a showing of substantial need by the Party seeking discovery. All aspects of the arbitration shall be treated as confidential. Neither the Parties nor the arbitrator may disclose the existence, content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. Before making any such disclosure, a Party shall give written notice to all other Parties and shall afford such Parties a reasonable opportunity to protect their interests. The result of the arbitration shall bind the Parties, and judgment on the arbitrator's award may be entered in any court having jurisdiction. Each Party shall bear its own costs of the arbitration. The fees and expenses of the arbitrator shall be shared equally by the Parties. The parties agree that a party need not invoke the procedures set forth in this Section 10.4 in order to seek injunctive relief pursuant to Section 4.3.

10.5 Headings. The headings to the sections of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

10.6 Relationship of the Parties. CarNow and Customer are independent contractors, and nothing in this Agreement shall be construed as making them partners or creating the relationships of employer and employee, master and servant, or principal and agent between them, for any purpose whatsoever. Neither Party shall make any contracts, warranties or representations or assume or create any obligations, express or implied, in the other Party's name or on its behalf.

10.7 Force Majeure. Except for the obligation to make payments, nonperformance of either Party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing Party.

10.8 Notices. Any notice, approval, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes (i) on the delivery date if delivered personally to the Party to whom the same is directed; (ii) one (1) business day after deposit with a nationally recognized overnight carrier, with written verification of receipt, or (iii) five (5) business days after the mailing date whether or not actually received, if sent by U.S. certified mail, return receipt requested, postage and charges pre-paid or any other means of rapid mail delivery for which a receipt is available, to the address of the Party set forth on the applicable Sales Order. Either Party may change its address by giving written notice of such change to the other Party.

10.9 No Third Party Beneficiaries. Nothing contained in this Agreement is intended or shall be construed to confer upon any person any rights, benefits or remedies of any kind or character whatsoever, or to create any obligation of a Party to any such person.

10.10 Publicity. Customer hereby grants CarNow a non-exclusive license solely during the term of this Agreement to list Customer's name and display Customer's logo in the Customer section of CarNow's website and to use Customer's name and logo in CarNow's customer lists but only to the extent that other customers of CarNow are also listed on such list. Any other use by CarNow of Customer's name, logo or trademark requires Customer's prior written consent.

10.11 Waiver and Severability. Performance of any obligation required by a Party hereunder may be waived only by a written waiver signed by an authorized representative of the other Party, which waiver shall be effective only with respect to the specific obligation described therein. The failure of either Party to exercise any of its rights under this Agreement will not be deemed a waiver or forfeiture of such rights. The invalidity or unenforceability of one or more provisions of this Agreement will not affect the validity or enforceability of any of the other provisions hereof, and this Agreement will be construed in all respects as if such invalid or unenforceable provision(s) were omitted.

Exhibit A

SUBSCRIPTION SERVICE –TERMS OF USE

These Terms of Use for the Subscription Service (these “Terms of Use”) establishes the terms and conditions under which CarNow will provide the Subscription Service (as defined below) to Customer. These Terms of Use are an exhibit to the CarNow Master Subscription Service Agreement (the “Agreement”) and are incorporated by reference into and made a part of such Agreement. The Subscription Service shall constitute one of the Services provided by CarNow under the Agreement to the extent purchased by Customer. With respect to the provision of Subscription Service, any conflict between the terms and conditions set forth in these Terms of Use and the Agreement shall be controlled by the terms and conditions set forth in these Terms of Use.

A. Subscription Service.

1. Subscription Service. Subject to the terms and conditions of these Terms of Use and the Agreement, CarNow will provide Customer with access to the Subscription Service during the term set forth on the applicable Sales Order. A high speed Internet connection is required for proper access to the Subscription Service. Customer is responsible for procuring and maintaining the network connections that connect the Customer network to the Subscription Service. CarNow assumes no responsibility for the reliability or performance of any connections as described in this Section. Customer shall not attempt to access any other of CarNow’s systems, programs or data that are not made available for public use in connection with the Subscription Service. In connection with its use of the Subscription Service, Customer shall be entitled to access and use only those modules and software applications of the Subscription Service that are expressly listed on a Sales Order.
2. CarNow Technology. In connection with the performance of the Subscription Service, CarNow shall operate and support the Subscription environment, including, without limitation, the CarNow Technology (as defined below), all applicable server hardware, disk storage, firewall protection, server operating systems, management programs, Web server programs, documentation and all other information developed or provided by CarNow or its suppliers under the Agreement, as well as all other documents, software, products and services contained or made available to Customer in the course of using the Subscription Service (collectively, the “Subscription Materials”). For purposes of these Terms of Use “CarNow Technology” means all of CarNow’s proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to Customer by CarNow in providing the Subscription Service.
3. License Grant. Subject to the terms and conditions of these Terms of Use and the Agreement, and in consideration for the payment of fees set forth on each respective Sales Order for the Subscription Service, CarNow hereby grants to Customer a non-exclusive, non-transferable license to allow the number of Users (if applicable) set forth on the applicable Sales Order to access the Subscription Service solely for Customer’s internal business purposes and solely for the specific service offering (as indicated on the applicable Sales Order). This license is restricted to use by Customer and its Users and does not include the right to use CarNow Technology on behalf of any third party or the right to permit any non-User to access or use the Subscription Service. Customer also agrees to be bound by any further restrictions set forth on the Sales Order. All rights not expressly granted to Customer are reserved by CarNow and its licensors. There are no implied rights.
4. Affiliates. Customer’s Affiliates may acquire a license to the Subscription Service subject to the terms and conditions of this Agreement by executing a Sales Order hereunder directly with CarNow. Each Sales Order executed by an Affiliate hereunder shall incorporate the terms of this Agreement by reference and be deemed to be a two party agreement between CarNow and such Affiliate. Each Affiliate executing a Sales Order shall be solely responsible for its obligations pursuant to such Sales Order as well as for the obligations to be performed pursuant to this Agreement and the liabilities arising out of this Agreement as if it was the named party instead of Customer. Affiliates means any corporation, partnership or other entity now existing or hereafter organized that directly or indirectly controls, is controlled by or under common control with Customer. For purposes of this definition “control” means the direct possession of a majority of the outstanding voting securities of an entity.
5. Restrictions. Customer is responsible for all activities conducted under its User logins and for its Users’ compliance with these Terms of Use and the Agreement. Unauthorized use, resale or commercial exploitation of the Subscription Service and/or the Subscription Material in any way is expressly prohibited. Without CarNow’s express prior written consent in each instance, Customer shall not (and shall not allow any third party to): reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code form or structure of the Subscription Materials, including the CarNow Technology, or access the Subscription Service in order to build a competitive product or service or copy any ideas, features, functions or graphics of the Subscription Service. Except as expressly permitted in these Terms of Use, Customer shall not copy, license, sell, transfer, make available, lease, time-share, distribute, or assign this license, the Subscription Service or the Subscription Materials to any third-party. Customer shall not use or knowingly permit the use of any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of the Subscription Service. Customer shall take all measures necessary to ensure compliance by all of its Users authorized to access the Subscription Service pursuant to Section 3 above with all terms and conditions of these Terms of Use and the Agreement. Customer shall be liable for any breach of these Terms of Use or the Agreement by any of its Users. In addition to CarNow’s other remedies hereunder, CarNow reserves the right upon notice to Customer to terminate any User’s right to access the Subscription Service if such User has violated any of the restrictions contained in these Terms of Use or the Agreement.
6. Ownership. Customer acknowledges and agrees that (i) as between CarNow and Customer, all right, title and interest in and to the Subscription Service, the Subscription Materials, including the CarNow Technology and all derivatives thereof (including any and all patents, copyrights, trade

secret rights, trademarks, trade names and other proprietary rights embodied therein or associated therewith) are and shall remain CarNow's or its licensors', and CarNow in no way conveys any right or interest in the Subscription Materials, the CarNow Technology or the Subscription Service other than a limited license to use them in accordance herewith, and (ii) the Subscription Materials, the CarNow Technology and the Subscription Service are works protected by copyright, trade secret, and other proprietary rights and laws.

7. Handling of Customer Content Upon Termination. Customer agrees that following termination of Customer's account and/or use of the Subscription Service, CarNow may immediately deactivate Customer's account and that following a reasonable period of not less than 30 days shall be entitled to delete Customer's account from CarNow's "live" site. Customer further agrees that CarNow shall not be liable to Customer nor to any third party for any termination of Customer access to the Subscription Service or deletion of Customer Content, provided that CarNow is in compliance with the terms of this Section 7.

8. Users: Passwords, Access and Notification. Customer shall authorize access to and assign unique passwords to the number of Users (as applicable) purchased by Customer on the Sales Order. User logins are for designated Users and cannot be shared or used by more than one User, but any User login may be reassigned to another User as needed. Customer will be responsible for the confidentiality and use of User's passwords. Customer agrees to immediately notify CarNow if Customer becomes aware of any loss or theft or unauthorized use of any of Customer's passwords.

9. Modifications to Subscription Service. CarNow may make modifications to the Subscription Service or particular components of the Subscription Service from time to time provided that such modifications do not materially degrade any functionality or features of the Subscription Service and CarNow will use commercially reasonable efforts to notify Customer of any material modifications.

10. Downtime. CarNow shall use commercially reasonable efforts to provide the Subscription Service twenty-four (24) hours a day, seven (7) days a week throughout the term of the applicable Sales Order. Customer agrees that from time to time the Subscription Service may be inaccessible or inoperable for various reasons, including (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which CarNow may undertake from time to time; or (iii) causes beyond the control of CarNow or which are not reasonably foreseeable by CarNow, including interruption or failure of telecommunication or digital transmission links, hostile network attacks or network congestion or other failures (collectively "Downtime"). CarNow shall use commercially reasonable efforts to provide twenty-four (24) hour advance notice to Customer in the event of any scheduled Downtime.

11. Suspension for Ongoing Harm. Customer agrees that CarNow may with reasonably contemporaneous notice (which may be made by email or telephone) to Customer suspend Customer's access to the Subscription Service if CarNow reasonably concludes that Customer's Subscription Service is being used to engage in spamming, or illegal activity, and/or use of Customer's Subscription Service is causing immediate, material and ongoing harm to CarNow or others. In the extraordinary event that CarNow suspends Customer's access to the Subscription Service, CarNow will use commercially reasonable efforts to limit the suspension to the offending portion of the Subscription Service and resolve the issues causing the suspension of Subscription Service. Customer agrees that CarNow shall not be liable to Customer nor to any third party for any suspension of the Subscription Service under such circumstances as described in this Section 11.