



## TDC Terms and Conditions

### **\*Before Getting Started with The Dealer's Concierge (TDC)\***

**YOU ARE AUTHORIZING OUR SERVICE TO TEXT MESSAGE YOUR PERSONAL CELL PHONE NUMBER, as follows.**

#### **WHY?**

- 1. To make sure that only YOU may access (login) your account each and every time you access the service – *this will ensure that the identity of a user is confirmed every time.***
- 2. To Protect information provided from misuse or theft.**
- 3. To Prevent unauthorized access to our service.**

**These text messages will only be used by TDC for the above reasons.**

**Please read these terms and conditions carefully before using Our Service.**

The words of which the initial letter is capitalized have meanings defined under the following conditions.

The following definitions shall have the same meaning regardless of whether they appear in singular or in plural.

For the purposes of these Terms and Conditions:

- **Application** means the software program provided by the Company downloaded by You on any electronic device, named The Dealer's Concierge
- **Application Store** means the digital distribution service operated and developed by Apple Inc. (Apple App Store) or Google Inc. (Google Play Store) in which the Application has been downloaded.
- **Affiliate** means an entity that controls, is controlled by or is under common control with a party, where "control" means ownership of 50% or more of the shares, equity interest or other securities entitled to vote for election of directors or other managing authority.
- **Account** means a unique account created for You to access our Service or parts of our Service.
- **Company** (referred to as either "the Company", "We", "Us" or "Our" in this Agreement) refers to Digital Dealer Solutions, Inc., 14-02 150th Street, Unit 2F, Whitestone, NY 11357.
- **Content** refers to content such as text, images, or other information that can be posted, uploaded, linked to or otherwise made available by You, regardless of the form of that content.
- **Country** refers to: New York, United States
- **Device** means any device that can access the Service such as a computer, a cellphone or a digital tablet.
- **Service** refers to the Application or the Website or both.
- **Terms and Conditions** (also referred as "Terms") mean these Terms and Conditions that form the entire agreement between You and the Company regarding the use of the Service.

- **Third-party Social Media Service** means any services or content (including data, information, products or services) provided by a third-party that may be displayed, included or made available by the Service.
- **Website** refers to The Dealer's Concierge, accessible from [Www.thedealersconcierge.com](http://Www.thedealersconcierge.com)
- **You** means the individual accessing or using the Service, or the company, or other legal entity on behalf of which such individual is accessing or using the Service, as applicable.
- **Your Consent** I (i) agree that any of the Communications we provide to you, or that you sign or agree to at our request, may be in electronic form; and (ii) consent to receiving any of the Communications we provide to you via email, text message, or other electronic medium. We may also use electronic signatures and obtain them from you on any Communication, even if we provide you the Communications in paper form\*

The Communications may be presented, executed, and delivered at the DEALERSHIP, or, via electronic means, with information to be delivered to your phone or e-mail address.

\*You must have an active email address and SMS-enabled mobile/cellular telephone to use this Service.

**These are the Terms and Conditions governing the use of this Service and the agreement that operates between You and the Company:** These Terms and Conditions set out the rights and obligations of all users regarding the use of the Service.

Your access to and use of the Service is conditioned on Your acceptance of and compliance with these Terms and Conditions. These Terms and Conditions apply to all visitors, users and others who access or use the Service.

By accessing or using the Service You agree to be bound by these Terms and Conditions. If You disagree with any part of these Terms and Conditions then You may **not** access the Service.

You represent that you are over the age of 18. The Company does not permit those under 18 to use the Service.

Your access to and use of the Service is also conditioned on Your acceptance of and compliance with the Privacy Policy of the Company. Our Privacy Policy describes Our policies and procedures on the collection, use and disclosure of Your personal information when You use the Application or the Website and tells You about Your privacy rights and how the law protects You. Please read Our Privacy Policy carefully before using Our Service.

**When You create an account with Us:** You must provide Us information that is accurate, complete, and current at all times. Failure to do so constitutes a breach of the Terms, which may result in immediate termination of Your account on Our Service.

You are responsible for safeguarding the password that You use to access the Service and for any activities or actions under Your password, whether Your password is with Our Service or a Third-Party Social Media Service.

You agree not to disclose Your password to any third party. You must notify Us immediately upon becoming aware of any breach of security or unauthorized use of Your account.

You may not use as a username the name of another person or entity or that is not lawfully available for use, a name or trademark that is subject to any rights of another person or entity other than You without appropriate authorization, or a name that is otherwise offensive, vulgar or obscene.

**Content Transmitted Through the Web Site.** With respect to the content or other materials you upload through the Web Site (collectively, 'Content'), you represent and warrant that you own all right, title, and interest in and to such Content. You acknowledge and agree that any questions, comments, suggestions, ideas, feedback, or other information about the Service ('Submissions'), provided by you to Company are non-confidential and Company will be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

You acknowledge and agree that Company may preserve content and may also disclose content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process, applicable laws or government requests; (b) enforce these Terms; (c) respond to claims that content violates another 3<sup>rd</sup> party's rights, or (d) protect the rights of others.

**The Company has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party web sites or services.** You further acknowledge and agree that the Company shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such content, goods or services available on or through any such web sites or services.

We strongly advise You to read the terms and conditions and privacy policies of any third-party web sites or services that You visit.

**We may terminate or suspend Your Account immediately, without prior notice or liability, for any reason whatsoever, including without limitation if You breach these Terms and Conditions.**

Upon termination, Your right to use the Service will cease immediately. If You wish to terminate Your Account, You may simply discontinue using the Service.

**Notwithstanding any damages that You might incur, the entire liability of the Company and any of its suppliers under any provision of this Terms and Your exclusive remedy for all of the foregoing shall be limited to the amount actually paid by You through the Service or \$100 USD if You haven't purchased anything through the Service.**

To the maximum extent permitted by applicable law, in no event shall the Company or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever (including, but not limited to, damages for loss of profits, loss of data or other information, for business interruption, for personal injury, loss of privacy arising out of or in any way related to the use of or inability to use the Service, third-party software and/or third-party hardware used with the Service, or otherwise in

connection with any provision of this Terms), even if the Company or any supplier has been advised of the possibility of such damages and even if the remedy fails of its essential purpose.

Some states do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply. In these states, each party's liability will be limited to the greatest extent permitted by law.

**The Service is provided to You "AS IS" and "AS AVAILABLE" and with all faults and defects without warranty of any kind.** To the maximum extent permitted under applicable law, the Company, on its own behalf and on behalf of its Affiliates and its and their respective licensors and service providers, expressly disclaims all warranties, whether express, implied, statutory or otherwise, with respect to the Service, including all implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and warranties that may arise out of course of dealing, course of performance, usage or trade practice. Without limitation to the foregoing, the Company provides no warranty or undertaking, and makes no representation of any kind that the Service will meet Your requirements, achieve any intended results, be compatible or work with any other software, applications, systems or services, operate without interruption, meet any performance or reliability standards or be error free or that any errors or defects can or will be corrected.

Without limiting the foregoing, neither the Company nor any of the company's provider makes any representation or warranty of any kind, express or implied: (i) as to the operation or availability of the Service, or the information, content, and materials or products included thereon; (ii) that the Service will be uninterrupted or error-free; (iii) as to the accuracy, reliability, or currency of any information or content provided through the Service; or (iv) that the Service, its servers, the content, or e-mails sent from or on behalf of the Company are free of viruses, scripts, trojan horses, worms, malware, timebombs or other harmful components.

Some jurisdictions do not allow the exclusion of certain types of warranties or limitations on applicable statutory rights of a consumer, so some or all of the above exclusions and limitations may not apply to You. But in such a case the exclusions and limitations set forth in this section shall be applied to the greatest extent enforceable under applicable law.

The laws of the USA, excluding its conflicts of law rules, shall govern this Terms and Your use of the Service. Your use of the Application may also be subject to other local, state, national, or international laws.

**If You have any concern or dispute about the Service, You agree to first try to resolve the dispute informally by contacting the Company.**

You represent and warrant that (i) You are not located in a country that is subject to the United States government embargo, or that has been designated by the United States government as a "terrorist supporting" country, and (ii) You are not listed on any United States government list of prohibited or restricted parties.

If any provision of these Terms is held to be unenforceable or invalid, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

Except as provided herein, the failure to exercise a right or to require performance of an obligation under this Terms shall not effect a party's ability to exercise such right or require such performance at any time thereafter nor shall be the waiver of a breach constitute a waiver of any subsequent breach.

**Retaining Copies of Electronic Communications.** We encourage you to print or download, for your records, a copy of all electronic Communications. This E-SIGN Consent disclosure will be a part of the information available to you on the TDC application

**These Terms and Conditions may have been translated if We have made them available to You on our Service.** Translations of any materials into languages other than English are intended solely as a convenience to the non-English-reading public and are not legally binding. We have attempted to provide an accurate translation of the original material in English, but due to the nuances in translating to a foreign language, slight differences may exist. References identifying the original document in English are available in most non-English documents.

You agree that the original English text shall prevail in the case of a dispute.

**We reserve the right, at Our sole discretion, to modify or replace these Terms at any time.** If a revision is material We will make reasonable efforts to provide at least 30 days' notice prior to any new terms taking effect. What constitutes a material change will be determined at Our sole discretion.

By continuing to access or use Our Service after those revisions become effective, You agree to be bound by the revised terms. If You do not agree to the new terms, in whole or in part, please stop using the website and the Service.

**Binding Arbitration and Exclusions from Class Action Lawsuits.** Except as provided below OR UNLESS YOU SUBMIT A VALID ARBITRATION/CLASS ACTION WAIVER OPT-OUT NOTICE (in writing sent to address(es) below) any and all claims between you and Company will be resolved in binding arbitration rather than in court. You and VII agree to submit to individual arbitration the resolution of any and all Claims by or between you and/or Company (A) any Claim filed by you with respect to any violation, enforcement or validity of patent, trademark, trade dress, service mark, copyright and/or trade secret rights of you, or any third party, including, but not limited to, Claims related to content that you upload to or share on the Site and/or (B) you may seek a preliminary injunction, restraining order or other provisional equitable relief in any court as provided in connection with any Claim whereby you as applicable, may suffer immediate and irreparable harm for which money damages may be inadequate and impossible to calculate, where such Claim under this will not be subject to the informal dispute resolution procedures described below; provided, however, that, subsequent to obtaining such preliminary injunction, restraining order or other provisional equitable relief, the Claim will then be submitted to arbitration. You and Company agree that this Agreement affects interstate commerce, and that the enforceability of this clause will be governed by, construed, and enforced, both procedurally and substantively, by the Federal Arbitration Act, 9 U.S.C. sections 1–9 ("FAA"). Arbitration is the referral

of a dispute to one or more impartial persons for a final and binding determination. There is no judge or jury in arbitration, discovery is more limited than in court, there are no class or representative proceedings, and court review of an arbitration decision is limited. An arbitrator must follow this Agreement and can award on an individual basis the same damages and relief as a court (including, but not limited to, injunctive and declaratory relief, statutory damages, and attorneys' fees). "Claim(s)" means any dispute, claim or controversy by or between you and/or Company relating to the Site and/or this Agreement (including, but not limited to, this Site's Privacy Policy and all Additional Terms, Rules, regulations, procedures and policies which we refer to in this Agreement), as may be modified from time-to-time, and the subject matter hereof, including, but not limited to, any contract, tort, statutory, or equity claims.

**Electronic Signatures.** All participating parties agree that the electronic signatures, whether digital or encrypted, of the parties using this Product, if any, are intended to authenticate terms in writing and to have the same force and effect as manual signatures.

### **Contact Us**

If you have any questions about these Terms and Conditions;

Email: [Compliance@tdcHELP.com](mailto:Compliance@tdcHELP.com)

### **Mailing Address:**

1100 Ave Port Imperial

Unit # 1034

Weehawken, NJ 07086