



Last updated: February 28, 2024

These Dealer Terms and Conditions (“**Terms**”) are incorporated by reference into any Polly-issued order form referencing these Terms (collectively, “**Order Form**”), executed between the Dealer identified on the applicable Order Form (“**Dealer**”) and Polly Insurance Agency, LLC (“**Polly**”) (the Order Form and these Terms, as each may be amended from time to time, is referred to as the “**Agreement**”). This Agreement replaces all previous agreements and understandings between Polly and Dealer with respect to the subject matter of the Agreement. Dealer and Polly are each referred to individually as a “**Party**” and, collectively, the “**Parties**.” The Parties agree as follows:

### 1. SERVICES

**1.1 Polly Obligations.** Subject to the terms and conditions of this Agreement, Polly grants to Dealer a limited, non-transferable, non-exclusive license to access and use, and to permit Affiliated Dealerships to access and use, the Services in the United States during the term of this Agreement. Polly shall not be responsible for monitoring or ensuring the accuracy, quality, and legality of any Data submitted through the Services. Polly may periodically, and without prior notice to Dealer, release Improvements to the Services and Software. Polly may also provide URL links or enable interconnectivity to or from certain Third-Party Applications. Notwithstanding the foregoing, any procurement or use of Third-Party Applications is solely between Dealer and the applicable third party and Polly will have no liability for such Third-Party Applications.

**1.2 Dealer Obligations.** Dealer may enable access of the Services for use only by Authorized Users solely for the internal business purpose of Dealer and its Affiliated Dealerships in accordance with the Documentation and not for the benefit of third parties. Dealer shall (i) individually credential each Authorized User for the Services and prohibit the sharing of credentials, (ii) add and credential new Authorized Users and immediately delete Authorized Users who are no longer authorized to access or use the Services, (iii) be responsible for all Authorized User and Affiliated Dealership use of the Services and their compliance with the Agreement; (v) use the Services solely in connection with its day-to-day operation of its business of selling, leasing, and servicing motor vehicles at its normal place of business; (vi) have sole responsibility for the accuracy, quality, and legality of all Data submitted through the Services; (vii) use the

Services in compliance with applicable Laws; (viii) not send or store infringing or otherwise unlawful Data or materials; (ix) not interfere with or disrupt performance of the Services, and (x) not attempt to gain access to the Services or its related system or networks in a manner not permitted in the Documentation.

### 2. PROHIBITED ACTIVITIES

**2.1 Insurance Activities.** Dealer acknowledges that the sale of insurance is a regulated business and that unlicensed individuals are prohibited by Law from selling, soliciting, or negotiating insurance. In no event will Dealer discuss, counsel, or otherwise advise any consumer on limits of liability, policy coverage, application questions, carrier choices, or any other issue involving insurance policies or coverage, including any actions that would require Dealer or an Authorized User to have any type of insurance license. The Services are designed to comply with all applicable Laws, including by prohibiting any unlicensed individuals from selling, soliciting, or negotiating insurance. Dealer shall, and shall cause its Authorized Users to, (i) strictly comply with Polly’s processes and procedures for the Services made available by Polly from time to time, including completing any required training and adhering to any scripts, and (ii) comply with all applicable laws, rules, and regulations. Dealer will immediately notify Polly of any violation of this Section and cooperate with Polly in the remedy of any violation.

**2.2 Marketing Activities.** Dealer will allow Polly to reasonably display Program Materials in connection with Polly’s promotion of the Services to customers. Dealer will not (i) modify, amend, or create derivative works from the Program Materials, (ii) provide any form of incentives or compensation to consumers or Authorized Users to encourage use of the Services, (iii) market or advertise the Services to consumers (except through display of Program Materials), or (iv) market, advertise, or otherwise intentionally make the Services available to consumers who are not engaged with Dealer in connection with the business of selling, leasing, and servicing motor vehicles.

### 3. FEES

**3.1 Referral Fees.** The Services may permit Dealer and Authorized Users to earn certain fees in connection with the Services (the “**Referral Fees**”). Referral Fees may not be available in all states or to all users of the Services. Polly will initiate payment of Referral Fees owed to Dealer within 45 days following the end of each month via a



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mutually agreeable method of payment. In the event Dealer has not accepted payment of owed Referral Fees for a period of 90 days following the initial attempt by Polly to initiate payment of such Referral Fees (including if payments are returned to Polly or checks remain uncashed), such Referral Fees will be forfeited by Dealer and Polly will have no obligation to pay such Referral Fees. Payment of Referral Fees owed to Authorized Users shall be made as set forth in Section 3.7.

**3.2 Referral Conditions.** Referral Fees may be conditioned on the achievement of certain milestones or activities in connection with the Services or satisfying certain requirements established by Polly from time to time (each, a “**Referral Condition**”). The then-applicable Referral Conditions will be set forth within the Software or otherwise communicated in accordance with Section 3.3 below. Satisfying any applicable Referral Condition is a prerequisite to earning the Referral Fee. Polly shall have no obligation to pay a Referral Fee if the Referral Condition is not satisfied. Referral Conditions for Dealers are calculated and measured on a per rooftop basis and not in the aggregate across multiple Dealer and Affiliated Dealership locations. In the event a Referral Condition associated with a Referral Fee is not achieved, such Referral Fee shall not be considered earned for the applicable period or activity and Polly shall not be required to pay the Referral Fee for that period or activity.

**3.3 Changes to Referral Fees and Referral Conditions.** Polly may, upon at least 10 days prior notice, add, change, or remove any or all Referral Fees and/or Referral Conditions. Notice of such changes may be delivered by posting notice in the Software, emailing notice to Dealer, amending these Terms, or such other reasonable manner of communication. Any such changes will take effect the later of 10 days following Polly’s delivery of notice of the change or the date specified in the notice and will apply only to amounts earned after the effective date of the notice.

**3.4 Referral Fee Requirements.** Referral Fees shall not be owed or paid if (i) the Dealer does not provide Polly with an accurate monthly report by the 10<sup>th</sup> day of each month showing its total motor vehicle sales and leases for the prior month by rooftop using the Services, (ii) Polly’s records do not clearly attribute the Referral Fee to Dealer and the Authorized User, (iii) the Dealer or Authorized User has engaged in Misconduct, (iv) Polly reasonably believes that payment of a Referral Fee would violate law, or (v) the consumer associated with the referral is a

current or former customer or prospect of Polly or was associated with a Referral Fee paid by Polly to a third party in the prior 24 months. In the event of any incorrect or erroneous payment by Polly, Polly may in its discretion offset any such amounts against future Referral Fees or other amounts owed to Dealer, its affiliates, and/or Authorized Users. For clarity, Polly may offset the Referral Fees owed to Dealer against any Referral Fees attributed to Misconduct that were previously paid to Authorized Users.

**3.5 Promotions.** Polly may, from time to time, conduct certain promotions that alter the Referral Fees or Referral Conditions, including by creating new Referral Conditions (collectively, “**Promotions**”). All Promotions are subject to this Agreement and any supplemental terms and conditions that are associated with the Promotion. Any fees earned in connection with the Promotion shall be considered Referral Fees. Promotions may not be available to all Dealers or Authorized Users and may be discontinued by Polly at any time without notice.

**3.6 Reporting.** Each month, Polly will make available to Dealer a standard report identifying key metrics related to the Services and the amount of Referral Fees payable to Dealer. Polly’s systems and records shall be the exclusive means of determining whether a Referral Fee is owed or a Referral Condition is achieved.

**3.7 Payments to Authorized Users.** Polly will pay Referral Fees earned by an Authorized User directly to the Authorized User. Authorized Users can view and track Referral Fees available to them in the Software. To receive payment, each Authorized User is required to initiate a payment request within the Software in the manner described within the Software. Referral Fees will not be owed or available to an Authorized User until a valid payment request is initiated. The form of payment will be a method determined by Polly from time to time and may include cash, pre-paid cards, gift cards, and other non-cash payments. Polly may use a third-party payment platform, such as Hyperwallet, to facilitate payment. Authorized Users may be required to establish an account with the third party payment platform and agree to the terms of service and privacy policy applicable to such platform. Polly is not responsible for any fees or transaction costs imposed by any payment platform or method of payment, including activation or transaction fees. In the event a payment request is not initiated within 90 days following the date such Referral Fee has been earned by an Authorized User, Polly may, without



notice, rescind and revoke the Referral Fee and remove it from the Software. The oldest accrued Referral Fees will be the first used to fulfill payment requests. Authorized Users forfeit, waive, and forever release all rights with respect to rescinded Referral Fees. Payment to Authorized User may constitute reportable income for the Authorized User.

**3.8 Taxes.** Dealer is responsible for paying all taxes imposed on the Services and any taxes on payments earned by Dealer. If Polly has a legal obligation to pay or collect taxes for which Dealer is responsible, Polly shall calculate the amount of such taxes, list it on the report, and, in Polly's discretion either deduct such taxes from the amounts payable to Dealer or invoice Dealer for such taxes. Dealer will pay all invoices within 30 days.

#### 4. PROPRIETARY RIGHTS

**4.1 Ownership.** Polly and its licensors own all right, title, and interest in and to the Services, including all Intellectual Property Rights, and, subject to the limited rights expressly granted hereunder, Polly reserves all rights, title, and interest in and to the Services, including all related Intellectual Property Rights. No rights are granted to Dealer other than as expressly set forth herein.

**4.2 Trademarks and Websites.** Polly shall not use Dealer's and its Authorized Dealerships' names, trade names, trademarks, and logos ("**Marks**") in any advertising, press release, marketing, and publicity, except as set forth herein or as separately approved by Dealer. Polly may use the Marks in connection with the Services and to identify Dealer as a client of Polly. Any use of the Marks, and all goodwill associated therewith, (i) shall be consistent with any Dealer usage guidelines provided by Dealer to Polly, and (ii) shall insure solely to the benefit of Dealer and its Authorized Dealerships, as applicable. During the term of this Agreement and solely in connection with the Services, Dealer authorizes Polly (x) to scrape or otherwise extract data, images, and other information from Dealer's and its Authorized Dealerships' websites and public facing resources via a manual or automated process (such as a bot or webcrawler) notwithstanding any terms or conditions that may apply to such website or resource and (y) to use the name, images, and likeness of Authorized Users and other Dealer personnel.

**4.3 Restrictions.** Dealer shall not (i) modify, copy, or create derivative works from or of the Services; (ii) license, sublicense, sell, resell, rent, lease, transfer, assign,

distribute, time share, offer in a service bureau, or otherwise make the Services available to any third party; (iii) reverse engineer or decompile any portion of the Services, except to the extent required by Law; (iv) alter, remove, or obscure any copyright, trademark or other proprietary notices appearing in the Services; (v) use the Services to build any commercially available product or service; or (vi) copy any features, functions, integrations, interfaces, or graphics of the Services.

**4.4 Data.** Dealer shall provide the Required Data and, at its option, may provide Optional Data. All Data must be provided in the format and delivery means specified by Polly. As between Polly and Dealer, Dealer shall own all right, title, and interest in and to any of its Data and other provided by Dealer to Polly, including any and all Intellectual Property Rights therein and thereto. Prior to providing any Data, Dealer shall obtain any necessary written or digital authorization, permission, or consent of Dealer's customers (or other applicable third party) as prescribed by Law required for Polly to use the Data in connection with the Services or as otherwise contemplated herein. Dealer hereby grants Polly a non-exclusive, royalty-free, worldwide, irrevocable, transferable, sub-licensable, perpetual license to access, store, and use the Data, including the right to make derivative data, in connection with (i) the Services, (ii) the sale and marketing of insurance products, and (iii) the ordinary course of Polly's business. To the extent Dealer authorizes, facilitates, permits, or otherwise enables Polly to access Data through any Data Sources, Dealer represents, warrants, and covenants that Dealer has all necessary rights and permissions from the Data Source to grant Polly such access.

**4.5 Feedback.** If Dealer or its Authorized Users provide Feedback to Polly, Dealer grants Polly a non-exclusive, royalty-free, worldwide, irrevocable, transferable, sub-licensable, perpetual license to use, or incorporate into the Services the Feedback. Polly shall have no obligation to use Feedback, and Dealer and Authorized Users shall have no obligation to provide Feedback.

#### 5. TERM AND TERMINATION

**5.1 Term and Termination.** The term of this Agreement shall commence on the Effective Date and continue until terminated. Either Party may terminate this Agreement (i) for convenience immediately or (ii) for breach in the event the other Party has failed to cure a breach of this Agreement within fifteen (15) days after receiving written notification thereof. Polly may terminate this Agreement



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for breach immediately in the event of Dealer's breach of Section 2.

**5.2 Suspension.** In addition to any of its other rights or remedies (including without limitation termination rights), Polly reserves the right to suspend its provision of, and Dealer's access to, the Services for any reason, including suspending any Authorized User. Polly will make reasonable efforts to notify the Dealer of any suspension, including the reason, and to promptly restore the Services upon correction of the deficiency, provided that Polly may permanently suspend any Authorized User for Misconduct.

**5.3 Effect of Termination.** Upon termination of this Agreement, Dealer and Authorized Users shall immediately cease accessing or otherwise utilizing the applicable Services and Polly Confidential Information and shall delete all copies thereof in its and their possession. Termination shall not relieve either party of the obligation to pay any amount accrued prior to the effective date of termination.

## 6. WARRANTY

**6.1 Due Authority.** Each Party represents, warrants, and covenants that (a) such Party's execution, delivery, and performance of this Agreement, and each agreement or instrument contemplated hereby, has been duly authorized by all necessary corporate action, and (b) this Agreement, and each agreement or instrument contemplated hereby, when executed and delivered by such Party in accordance with the terms hereof, is the legal, valid, and binding obligation of such party, in each case enforceable in accordance with its terms.

**6.2 Limited Warranty.** Each Party represents, warrants, and covenants that it has the full power, authority and right to grants the rights and licenses as set forth in this Agreement without the need for any licenses, releases, consents, approvals, or immunities not yet obtained. Dealer represents, warrants, and covenants that the Data, and Polly's use and receipt thereof as contemplated by this Agreement, does not and will not infringe or misappropriate any Intellectual Property Rights or other rights (including rights of privacy and publicity) of any third party. In the event of Polly's breach of the warranties in this Section, Polly will use commercially reasonable efforts to correct the reported non-conformity, at no charge to Dealer, or if Polly determines such remedy to be impracticable, terminate this Agreement. The foregoing shall be Dealer's sole and exclusive remedy for any breach

of the warranties set forth in this Section.

**6.3 DISCLAIMER.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS-IS" AND "AS AVAILABLE" AND POLLY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. ANY PROMISE, COMMITMENT, OR ASSURANCE OF ERROR FREE OR UNINTERRUPTED USE OF THE SERVICES OR SOFTWARE OR ASSURANCE AGAINST THE LOSS OF DATA IS ALSO HEREBY DISCLAIMED. POLLY DOES NOT WARRANT THAT IT WILL REVIEW DATA FOR ACCURACY OR THAT IT WILL PRESERVE OR MAINTAIN DATA WITHOUT LOSS.

## 7. INDEMNIFICATION AND LIMITATION OF LIABILITY

**7.1 Indemnification by Polly.** Polly shall indemnify, defend, and hold Dealer harmless from any and all third party claims alleging that (a) the Services infringe any third party Intellectual Property Rights, (b) an error or omission by Polly in the issuance of an insurance policy), or (c) Polly was responsible for a data security breach. In the event of a claim, Polly will, at its option, (i) obtain the right to use such patent, copyright, trademark, or trade secret, (ii) modify the affected Services to make it non-infringing, or if (i) and (ii) are not commercially reasonable in Polly's sole discretion, (iii) terminate the Agreement.

**7.2 Indemnification by Dealer.** Dealer shall indemnify, defend and hold Polly harmless from any and all claims arising from or relating to any (i) Data or Data Sources, (ii) Dealer's or its Affiliated Dealerships' actual or alleged violation of any Law, including laws and regulations related to insurance, (iii) third party claims that the Marks or Data infringe on any Intellectual Property Rights, and (iv) any and all claims associated in any way with the use or misuse of the Software.

**7.3 Indemnification Process.** A party seeking indemnification shall give the indemnifying party prompt written notice of any action for which the indemnified party seeks indemnification under this Agreement and give the indemnifying party authority, reasonable information and assistance (at the indemnifying party's expense) for the defense of the action. The indemnifying party shall have the right to conduct the defense of any action and, consistent with the indemnified party's rights hereunder, all negotiations for its settlement; provided, however, the indemnified party may participate in such



defense or negotiations to protect its interests, at its expense using counsel of its choice. The indemnifying party shall not, without the indemnified party's prior written consent, enter into any settlement agreement which (a) admits guilt, fraud, liability, or wrongdoing of the indemnified party; (b) requires the indemnified party to commit to action or to refrain from action; or (c) provides for any damages other than money damages for which the indemnified party is indemnified.

**7.4 LIMITATION OF LIABILITY.** NEITHER POLLY NOR ANY OF ITS THIRD-PARTY SUPPLIERS SHALL BE LIABLE TO DEALER OR TO ANY OTHER PERSON FOR INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR ANTICIPATED PROFITS, LOSS BY REASON OF SHUTDOWN IN OPERATION OR INCREASED EXPENSES OF OPERATION, OR OTHER INDIRECT LOSS OR DAMAGE) OF ANY NATURE ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF POLLY, OR ITS THIRD PARTY SUPPLIERS, HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL POLLY'S LIABILITY IN THE AGGREGATE EXCEED THE GREATER OF (I) ONE HUNDRED DOLLARS, OR (II) THE LICENSE FEES PAYABLE BY DEALER TO POLLY DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY.

**7.5 Materiality.** The foregoing indemnities and limitations of liability are material terms of this Agreement. Dealer acknowledges that but for the ability of these terms to be enforced as written, (a) the amounts payable to Polly under this Agreement would be substantially greater than any fees set forth herein, and the amounts payable to Dealer would be substantially smaller than those set forth herein, or (b) the Polly would have been unwilling to enter into this Agreement with Dealer.

**8. CONFIDENTIALITY.**

**8.1 Non-Disclosure.** The Recipient shall hold all Discloser's Confidential Information in confidence and protect the Discloser's Confidential Information against unauthorized access, use, disclosure, destruction, loss, or alteration using the same standard of care that the Recipient uses to protect its own highly sensitive and/or proprietary information, but in no event less than a reasonable degree of care that includes, at a minimum, those technical, physical, and administrative security and other safeguards and controls required by any applicable Laws. Except as authorized by the Discloser, the Recipient shall not disclose Confidential information to any person,

at any time, either during the Term or thereafter, other than to those Recipient employees and permitted contractors who are under obligations of confidentiality at least as stringent as those contained herein for the protection of Discloser's Confidential Information and who have a need to know such Discloser Confidential Information for purposes of this Agreement. The Recipient shall be responsible for any use or disclosure of the Discloser's Confidential Information by any of the Recipient's employees, contractors or agents. To the extent that the Recipient prepares any materials incorporating the Discloser's Confidential Information, the Recipient shall mark such materials as proprietary and confidential. Except as permitted herein, the Recipient shall not make use of the Discloser's Confidential Information for the Recipient's own benefit or for the benefit of third parties, or for any purpose other than as necessary for this Agreement. If Recipient becomes subject to a court order for the release of Confidential Information of Discloser or is otherwise legally compelled to release Confidential Information, Recipient shall use its best efforts to provide Discloser with as much advance notice as possible of the information's prospective release, to the extent permitted by applicable Laws, to enable Discloser to petition for protective order, or to oppose the disclosure, of the Confidential Information of Discloser. In the event Discloser does not obtain such protective order, then the Recipient will only disclose that portion of Confidential Information that the Recipient's counsel advises Recipient is legally required to disclose

**8.2 Treatment of Confidential Information.** Upon expiration or termination of this Agreement, Recipient shall destroy all Discloser Confidential Information. Each party shall be permitted to retain a copy of the other party's Confidential Information for archival and disaster recovery purposes, provided that such retained Confidential Information continues to be subject to the terms of this Agreement and is destroyed in accordance with the timing required by Recipient's standard document retention and destruction policies. Within thirty (30) days following Discloser's request, Recipient shall provide Discloser with a letter of attestation from an officer of Recipient indicating that the above destruction or retention has been performed in accordance with the provisions of this section.

**8.3 Unauthorized Disclosure of Confidential Information.** Dealer and Polly agree that the unauthorized disclosure of Confidential Information is a



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material breach of this Agreement that may result in irreparable harm to the party whose Confidential Information has been improperly disclosed. In those cases, payment of money damages is inadequate and difficult to ascertain. The parties agree, therefore, that the injured party may, at its sole option, seek immediate injunctive relief in any court of competent jurisdiction enjoining any further such breach, and the parties consent to the entry of judgment for injunctive relief. Each party waives any requirement for the posting of a bond or other security in the event that the other party seeks an injunction.

**8.4 Protected Data.** “**Protected Data**” means any Data or information accessible by either Party as a result of its business relationship with the other Party that can be used to identify or locate a natural person, including but not limited to, name, address, telephone number, email address, social security number or driver’s license number. “Protected Data” also includes “non-public personal information” (“**NPI**”) as that term is defined by applicable state or federal laws or regulations (including, but not limited to, the Gramm-Leach- Bliley Act) covering the use, security, and disclosure of NPI.

**8.5 Protective Measures.** The Parties hereby warrant and represent that they will comply with all applicable privacy laws and regulations with respect to the use, disclosure and safeguarding of NPI. The Parties shall maintain commercially reasonable physical, electronic, and procedural controls and safeguards to protect the security, confidentiality and integrity of the other’s Confidential Information. In addition, in the event that the Parties send or receive any Protected Data over the Internet or through an ISP, the Parties shall secure or encrypt such information in a manner consistent with industry security standards. Upon request and reasonable advance notice, but no more often than annually, each Party shall have the right to conduct an audit and test result information sufficient to assure the Party that the other Party and its subcontractors, if any, have implemented information security measures that are consistent with its obligations under this Agreement. In the event of the unauthorized use or disclosure of Confidential Information, the disclosing Party shall notify the other Party immediately and comply with applicable laws in connection therewith. The aggrieved Party shall be entitled to all remedies available at law or in equity, including injunctive relief. Notwithstanding anything to the contrary in this Agreement, Dealer acknowledges that when its customers consent to submit data to Polly

through any application of Polly, any customer data (including Data) included in such submission is the customers’ data and the use of such customer data by Polly is (i) subject to the provisions of the consent that customer has agreed to with Polly and (ii) not considered to be Dealer data.

**9. INDEPENDENT CONTRACTORS.** Polly and Dealer are independent contractors, and nothing contained in this Agreement shall be construed to (i) give either party the power to direct and control the day-to-day activities of the other, (ii) constitute the parties as agents, partners, joint venturers, co-owners or otherwise as participants in a joint undertaking, or (iii) allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever. Dealer shall be responsible for withholding taxes and making all legally-required payments, including federal, state and local income taxes, paying Social Security taxes and unemployment insurance, and maintaining workers’ compensation insurance coverage in any amount and under such terms as required by state law.

**10. SUBCONTRACTING/DELEGATION.** Dealer shall not subcontract or otherwise delegate any of its duties or obligations under this Agreement without Polly’s prior written approval. Polly may use subcontractors in connection with its provision of the Services. Each party shall be solely responsible for the acts and/or omissions of its approved subcontractors or agents.

**11. FORCE MAJEURE.** Neither Party will be liable to the other for any delay or failure to perform any obligation under this Agreement if the delay or failure results from any cause beyond such party’s reasonable control, including acts of war or terrorism, strikes, riots, floods, storms, earthquakes, other elements or acts of God or the public enemy, utility or communication failure or delays, labor disputes, strikes, or shortages, equipment failures, software malfunctions, government actions, or epidemics.

**12. GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Vermont without giving effect to any choice of law rule that would cause the application of the laws of any other jurisdiction, and, to the extent federal law is applicable, the laws of the United States of America without giving effect to any choice of law rule that would cause the application of the laws of any other country. Each party (a) hereby irrevocably submits itself



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and consents to the exclusive jurisdiction of the federal and state courts located in Burlington, Vermont in connection with any controversy, claim or dispute arising out of or relating to this Agreement, (b) hereby waives any and all objections to venue in those courts, and (c) hereby unconditionally waives trial by jury in any legal suit, action, proceeding, claims, or countersuit arising out of or relating to this Agreement.

**13. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, negotiations, representations, and proposals, whether written or oral, relating to the subject matter hereof. Polly may, from time to time, modify this Agreement by posting new terms at the URL specified in the Order Form (or such other URL as Polly may notify Dealer of from time to time). By continuing to use the Services, Dealer expressly consents to any changes or modifications to this Agreement. No other modification, amendment, supplement to, or waiver of, this Agreement or any of its provisions shall be binding upon the Parties unless made in writing and duly signed by both parties. Contrary or supplementary terms of conditions on any other document that is not a fully executed amendment to this Agreement shall be of no effect. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one single document between the parties. Notwithstanding the foregoing, Dealer acknowledges that its Authorized Users may be required, on their own behalf, to accept and agree to be bound by a Terms of Use or similar contractual terms governing their use of the Software and receipt of Referral Fees (the “**Terms of Use**”). Polly will provide Dealer with a copy of then-current Terms of Use upon request. This Agreement is solely between Polly and Dealer and does not create or confer any rights upon any other person or entity, including Authorized Users and Dealer’s customers. Any provision of this Agreement that by its nature should survive the termination of this Agreement in order to achieve its full purpose or effect is deemed to survive termination.

**14. ASSIGNMENT.** This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. Neither party may assign this Agreement without the other Party’s prior written consent, except upon notice in the event of a reorganization, merger, acquisition (assets or stock), or similar such transaction.

**15. EXCLUSIVITY.** During the term of the Agreement, Dealer shall not, and shall not allow any Authorized Dealership to, engage any third party to provide services similar to the Services it receives from Polly.

### 16. DEFINITIONS

16.1 “**Affiliated Dealership**” means a rooftop affiliated with Dealer that, subject to Polly’s agreement, is authorized by Dealer to receive the Services.

16.2 “**Authorized User**” means an employee or permitted service provider of Dealer or its Affiliated Dealerships that uses the Services on behalf of Dealer or an Affiliated Dealership.

16.3 “**Confidential Information**” means (i) the terms and conditions of this Agreement and (ii) all information disclosed or made available by a party or its affiliates (“**Discloser**”) hereunder to the receiving party (“**Recipient**”) that is marked confidential, restricted, or proprietary, or, if not so marked, which a reasonable businessperson would deem to be confidential in light of the nature of the information and the circumstance of disclosure. Confidential Information, however, shall not include information that the Recipient can demonstrate is or was, at the time of the disclosure: (a) generally known or available to the public; (b) rightfully received by Recipient from a third-party without an obligation of confidentiality; (c) already in Recipient’s possession prior to the date of receipt from Discloser; or (d) independently developed by Recipient without reference to or utilization of Discloser’s Confidential Information. These exceptions apply in each case as long as the information was not delivered to or obtained by Recipient as a result of any breach of this Agreement, Law, or any contractual, ethical, or fiduciary obligation owed to Discloser.

16.4 “**Data**” means Required Data and Optional Data. For clarity, “Data” does not include any data or information provided by a consumer directly to Polly or verified by the consumer to Polly.

16.5 “**Data Sources**” means third party platforms, systems, APIs, data providers, and other companies that Dealer may authorize or otherwise use to provide Data to Polly, including Dealer’s CRM, DMS, F&I providers, and integrations with other third party tools.

16.6 “**Documentation**” means all help files, printed or digital user manuals, FAQs, support guides and other instructions for the Service, which may be updated by Polly from time to time.



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16.7 **"Feedback"** means any feedback regarding, suggestions for improvement, further development or enhancement of, or other comments relating to or in connection with the Services or Polly's provision of the Services.

16.8 **"Improvements"** means all improvements, updates, enhancements, error corrections, bug fixes, upgrades and changes to the Services made generally available for production use.

16.9 **"Insurance Verification Program"** means Polly's insurance verification services, including any Software, designed to enable the Dealer to verify insurance documentation from a consumer in connection with a transaction.

16.10 **"Intellectual Property Rights"** means any and all copyright and related rights, trademark and similar rights, trade secret rights, patent rights, publicity rights, moral rights, and other intellectual and industrial property rights recognized in any jurisdiction worldwide, including any and all applications and registrations with respect thereto.

16.11 **"Law"** means any local, state, or national law, rule or regulation applicable to a respective Party.

16.12 **"Misconduct"** means (i) any deceptive or fraudulent conduct of Dealer or an Authorized User, including submission of fake or fraudulent referrals, (ii) misuse of the Services, (iii) Dealer's violation of this Agreement, or (iv) an Authorized User's violation of the Terms of Use accepted by the Authorized User in the Software.

16.13 **"Optional Data"** means any data and information provided by Dealer, or a third-party on behalf of Dealer, to Polly under this Agreement that is not Required Data.

16.14 **"Program Materials"** means those printed and electronic materials provided by Polly to Dealer in connection with the Services, which may include wall signs, table tents, videos, and posters.

16.15 **"Referral Program"** means the multi-channel insurance referral services, including any Software, operated by Polly that enables auto dealerships to refer consumers to Polly for their insurance needs.

16.16 **"Required Data"** means any data and information provided by Dealer, or a third-party on behalf of Dealer, to Polly under this Agreement that Polly indicates is required for receipt of the Services.

16.17 **"Services"** means the Referral Program and

Insurance Verification Program to which Dealer has subscribed by executing an Order Form, including all Documentation and Improvements thereto and implementation and ongoing support.

16.18 **"Software"** means the software-as-a-service solutions, mobile applications, websites, application programming interfaces (APIs), and other similar technology products made available by Polly to Dealer in connection with the Services.

16.19 **"Third-Party Applications"** means separate or third-party data, software, services, offerings, or applications (and consulting services related thereto) that interoperate with the Services and are subject to an independent agreement.

*End of Terms and Conditions*