

# **PENSKE FORD LA MESA**

## **Terms of Use**

Last Updated: December 16, 2019

These Terms of Use ("Terms") govern your use of the websites operated by Penske Ford La Mesa ("Penske Ford," "we," "us" or "our"), including penskefordlamesa.com and penskecollisionlamesa.com, where these Terms are posted (collectively, the "Sites"). These Terms represent a binding contract between Penske Ford and you. By accessing the Sites, you expressly agree to be bound by them. If you do not agree to be bound by the Terms, you may not use the Sites.

PLEASE NOTE THE ARBITRATION PROVISION SET FORTH BELOW, WHICH REQUIRES, EXCEPT WHERE AND TO THE EXTENT PROHIBITED BY LAW, YOU TO ARBITRATE ANY CLAIMS YOU MAY HAVE AGAINST PENSKE FORD ON AN INDIVIDUAL BASIS. ARBITRATION ON AN INDIVIDUAL BASIS MEANS THAT YOU WILL NOT HAVE, AND YOU WAIVE, THE RIGHT FOR A JUDGE OR JURY TO DECIDE YOUR CLAIMS, AND THAT YOU MAY NOT PROCEED IN A CLASS OR CONSOLIDATED CAPACITY.

### **ACCESSIBILITY**

Those with disabilities may access this these Terms by clicking the accessibility symbol on the lower right corner of this screen or by clicking here to view a PDF.

### **ACCOUNT CREATION AND PASSWORDS**

To access certain portions of the Sites, such as to schedule service appointments, you must create an account. You agree to provide truthful and accurate information during the account creation process. You also agree to maintain the accuracy of any submitted data. If you provided any information that is untrue, inaccurate, or incomplete, we reserve the right to terminate your account and suspend your use of any and all Sites.

You are responsible for preserving the confidentiality of your account password and will notify us of any known or suspected unauthorized use of your account. You agree that you are responsible for all acts or omissions that occur on your account while your password is being used.

### **LISTINGS ON THE SITES**

The Sites make available information and images associated with vehicles and related products and services (such service plans, protection plans, accessories, and parts) being offered for sale by or through Penske Ford (collectively, "Listings"). While we endeavor to display accurate information on the Sites, we cannot guarantee the accuracy of any Listings, including any features, specifications, and prices. Similarly, while we attempt to display the colors of vehicles and products that appear on the Sites as accurately as possible, we cannot guarantee that your device's display of any of these colors will be accurate. Certain items listed on the Sites may have limited quantities and may not always be available. All information provided in connection with any Listings is subject to change at any time.

Listings available on the Sites may be subject to additional terms and conditions of purchase that will be presented during the purchase process. It is your responsibility to carefully review any such

additional terms and conditions and to consult any qualified legal or financial professionals as needed.

## USER CONDUCT

By using the Sites, you agree to not use the Sites in any manner that:

- Is designed to interrupt, destroy or limit the functionality of, any computer software or hardware or telecommunications equipment (including by means of software viruses or any other computer code, files or programs);
- Interferes with or disrupts the Sites, services connected to the Sites, or otherwise interferes with operations or services of the Sites in any way;
- Infringes any copyright, trademark, trade secret, patent or other right of any party, or defames or invades the publicity rights or the privacy of any person, living or deceased (or impersonates any such person);
- Consists of any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- Causes us to lose (in whole or in part) the services of our Internet service providers or other suppliers;
- Links to materials or other content, directly or indirectly, to which you do not have a right to link;
- Is false, misleading, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive or another's privacy, hateful, or racially, ethnically or otherwise objectionable, as determined by us in our sole discretion;
- Copies, modifies, creates a derivative work of, reverse engineers, decompiles or otherwise attempts to extract the source code of the software underlying the Sites or any portion thereof;
- Violates, or encourages anyone to violate these Terms, any ancillary terms and conditions listed on the Sites, or the Privacy Statement; or
- Violates, or encourages to violate, any applicable local, state, national, or international law, regulation, or order.

## LINKING

We welcome links to Sites. You are usually free to establish a hypertext link to any of the Sites so long as the link does not create a false implication of sponsorship or endorsement of your site by any of the Sites or by Penske Ford.

## NO FRAMING

Without our prior written permission, you may not frame, or make it appear that a third-party website is presenting or endorsing, any of the content of the Sites, or incorporate any intellectual property of the Sites, Penske Ford or any of its licensors into another website or other service.

## AGE LIMITATION

The Sites are not intended for use by persons under the age of 16. If you are under the age of 16, please do not use the Sites. Specific age requirements for purchases or payments associated with any Listings may be provided in additional terms and conditions presented in connection with the relevant Listing.

## COPYRIGHT AND TRADEMARK OWNERSHIP

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#### THIRD-PARTY SITES AND APPLICATIONS

The Sites may contain links to other websites. We are not responsible for the availability of these external websites nor do we necessarily endorse the activities or services provided by these websites. The Sites may also include third-party plug-ins, applications, and functionalities (collectively, "Third-Party Applications"), which may include Third-Party Applications related to vehicle appraisals. Third-Party Applications available through the Sites are not under the control of Penske Ford and may be subject to additional terms and conditions between you and the provider of the Third-Party Application. You are responsible for your compliance with such additional terms and conditions.

Under no circumstances shall we be held responsible or liable, directly or indirectly, for any loss or damage caused or alleged to have been caused to a user in connection with the use of or reliance on any content, goods or services available on such external websites or Third-Party Applications.

#### PRIVACY

We respect your privacy and have taken specific steps to protect it. Your submission of personal information through the Sites is governed by our [Privacy Statement](#).

#### DISCLAIMER OF WARRANTIES

TO THE FULLEST EXTENT PERMITTED UNDER LAW AND SAVE FOR THE RIGHTS GRANTED TO CONSUMERS UNDER APPLICABLE LAWS, THE SITES AND THE CONTENT ON THE SITES ARE PROVIDED "AS IS." WE MAKE NO REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER TO YOU OR ANY OTHER PERSON RELATING IN ANY WAY TO THE SITES OR THE CONTENT OR COMMUNICATIONS ON THE SITES, OR ANY WEBSITE OR OTHER CONTENT OR SERVICE THAT MAY BE ACCESSIBLE DIRECTLY OR INDIRECTLY THROUGH THE SITES, TO THE EXTENT PERMITTED BY LAW. WE DISCLAIM IMPLIED WARRANTIES THAT THE SITES AND ALL SOFTWARE, CONTENT AND SERVICES, INFORMATION DISTRIBUTED THROUGH THE SITES ARE MERCHANTABLE, OF SATISFACTORY QUALITY, ACCURATE, TIMELY, FIT FOR A PARTICULAR PURPOSE OR NEED, OR NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY PENSKE FORD OR A PENSKE FORD REPRESENTATIVE SHALL CREATE A WARRANTY.

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FURTHER, WE DO NOT ENDORSE AND MAKE NO WARRANTY REGARDING THE ACCURACY OR RELIABILITY OF ANY OPINION, INFORMATION, ADVICE OR STATEMENT ON THE SITES. UNDER NO CIRCUMSTANCES WILL WE BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY YOUR RELIANCE ON INFORMATION OBTAINED THROUGH THE CONTENT ON THE SITES. IT IS YOUR RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS OR USEFULNESS OF ANY INFORMATION, OPINION, ADVICE OR OTHER CONTENT AVAILABLE THROUGH THE SITES. PLEASE SEEK THE ADVICE OF PROFESSIONALS, AS APPROPRIATE, REGARDING THE EVALUATION OF ANY SPECIFIC INFORMATION, OPINION, ADVICE OR OTHER CONTENT ON THE SITES.

#### LIMITATION OF LIABILITY

TO THE FULLEST EXTENT PERMITTED UNDER LAW AND SAVE FOR THE RIGHTS GRANTED TO CONSUMERS UNDER APPLICABLE LAWS, WE WILL HAVE NO OBLIGATION OR LIABILITY (WHETHER ARISING IN CONTRACT, WARRANTY, TORT, INCLUDING NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE) FOR ANY DAMAGES OR LIABILITIES, INCLUDING DIRECT, INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL (INCLUDING ANY LOSS OF DATA, REVENUE OR PROFIT OR DAMAGES ARISING FROM PERSONAL INJURY/WRONGFUL DEATH) ARISING WITH RESPECT TO YOUR USE OF THE SITES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES TO DAMAGES ARISING FROM (i) USE OF OR INABILITY TO USE THE SITES, (ii) COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES, (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS BY THIRD PARTIES, (iv) THIRD PARTY CONTENT MADE AVAILABLE TO YOU THROUGH THE SITES, OR (v) ANY OTHER MATTER RELATING TO THE SITES.

IN ADDITION, WHEN USING THE SITES, INFORMATION WILL BE TRANSMITTED OVER A MEDIUM WHICH IS BEYOND OUR CONTROL AND JURISDICTION AND THAT OF OUR PARTNERS, ADVERTISERS, AND SPONSORS OR ANY OTHER THIRD PARTY MENTIONED ON THE SITES. ACCORDINGLY, WE ASSUME NO LIABILITY FOR OR RELATING TO THE DELAY, FAILURE, INTERRUPTION, OR CORRUPTION OF ANY DATA OR OTHER INFORMATION TRANSMITTED IN CONNECTION WITH USE OF THE SITES.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

#### DISPUTE RESOLUTION AND AGREEMENT TO ARBITRATE

Except where and to the extent prohibited by law, by using the Sites, you and Penske Ford agree that, if there is any controversy, claim, action, or dispute arising out of or related to your use of the Sites or the breach, enforcement, interpretation, or validity of these Terms or any part of it ("Dispute"), both parties shall first try in good faith to settle such Dispute by providing written notice to the other party describing the facts and circumstances of the Dispute and allowing the receiving party thirty (30) days in which to respond to or settle the Dispute. Notice shall be sent to:

- Penske Ford La Mesa, at 9136 E Firestone Blvd., Downey, CA 90241; ATTN: General Counsel, or
- You, at the address we have on file for you.

Both you and Penske Ford agree that this dispute resolution procedure is a condition precedent that must be satisfied before initiating any litigation or filing any claim against the other party. IF ANY DISPUTE CANNOT BE RESOLVED BY THE ABOVE DISPUTE RESOLUTION PROCEDURE, YOU AGREE THAT THE SOLE AND EXCLUSIVE JURISDICTION FOR SUCH DISPUTE WILL BE DECIDED BY BINDING ARBITRATION ON AN INDIVIDUAL BASIS. ARBITRATION ON AN INDIVIDUAL BASIS MEANS THAT YOU WILL NOT HAVE, AND YOU WAIVE, THE RIGHT FOR A JUDGE OR JURY TO DECIDE YOUR CLAIMS, AND THAT YOU MAY NOT PROCEED IN A CLASS OR CONSOLIDATED CAPACITY. Other rights that you and we would otherwise have in court will not be available or will be more limited in arbitration, including discovery and appeal rights. All such disputes shall be exclusively submitted to JAMS ([www.jamsadr.com](http://www.jamsadr.com)) for binding arbitration under its rules then in effect, before one arbitrator to be mutually agreed upon by both parties. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute arising under or relating to the interpretation, applicability, enforceability, or formation of these Terms, including any claim that all or any part of these Terms are void or voidable.

#### CHOICE OF LAW AND CHOICE OF FORUM

These Terms have been made in and shall be construed in accordance with the laws of the State of California, without giving effect to any conflict of law principles. Any disputes or claims not subject to the arbitration provision discussed above shall be resolved by a court located in the State of California and you agree and submit to the exercise of personal jurisdiction of such courts for the purpose of litigating any such claim or action.

#### MODIFICATION AND TERMINATION

We reserve the right to modify these Terms at any time. When we do so, we will update the "Last Updated" date above. You will be notified of any material changes to these Terms via a posting on the Sites and/or via email at the email address we have on file for you.

We shall have the right to immediately terminate these Terms with respect to any user which we, in our sole discretion, consider to be unacceptable, or in the event of any breach by you of these Terms.

#### CONTACT US

If you have any questions, comments or concerns about these Terms, please contact Penske Ford using the "Contact Us" form on our website, by calling 1-833-491-0172, or by mail at 9136 E Firestone Blvd., Downey, CA 90241, ATTN: General Counsel.

California residents may reach the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by mail at 1625 North Market Blvd., Sacramento, CA 95834, or by telephone at 1-916-445-1254 or 1-800-952-5210.