

# LOTLINX MARKET INTELLIGENCE MOBILE APPLICATION END USER LICENSE AGREEMENT

This End User License Agreement (this “EULA”) is entered by and between Lotlinx, Inc. (“Lotlinx”) and you regarding your use of the Lotlinx Market Intelligence mobile application (the “App”) and any other related products and services that you access through or using the App, or otherwise refer or link to this EULA (collectively, the “Services”). The terms “you” and “your” mean the person or legal entity that is downloading, installing, or using the App and includes any company (including any automotive dealership or dealership group) on the behalf of which you download, install, or use the App.

This EULA applies to your use of the App regardless of whether you create a login account and regardless of whether you purchase or pay to use any of the Services. You may not accept this EULA if you are not of a legal age to form a binding contract with Lotlinx. By using the App, you are representing to Lotlinx that you have the capacity to be bound by this EULA or, if you are acting on behalf of a company, entity, or other third party, that you have the authority to bind such company, entity, or third party.

READ THIS EULA CAREFULLY BEFORE YOU DOWNLOAD, USE, OR INSTALL THE APP. BY DOWNLOADING, INSTALLING, OR USING THE APP, YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS EULA, DO NOT DOWNLOAD, INSTALL, OR USE THE APP. BY CONTINING TO USE THE APP, EVEN WITHOUT EXPRESSLY AGREEING TO THE TERMS OF THIS EULA, YOU ARE GIVING YOUR IMPLIED AGREEMENT TO THE TERMS OF THIS EULA AND AGREE TO BE BOUND BY ITS TERMS.

If you understand and accept the terms and conditions of this EULA, click the checkbox next to “I have read and accept the Lotlinx Market Intelligence End User License Agreement.” If you do not understand or do not accept the terms and conditions of this EULA, do not click that checkbox and, instead, uninstall the App.

**This EULA was last updated on:** August 1, 2024

## Contact Us

If you have any questions concerning this EULA, the App, or if you would like to contact the developer, Lotlinx, for any other reason, please write to:

Lotlinx, Inc.  
ATTN: Customer Feedback  
20 Grove St., Suite 100  
Peterborough, NH 03458  
[hello@lotlinx.com](mailto:hello@lotlinx.com)

By using the App, you agree to the following:

### 1. License Grant

1.1. **Limited License.** Subject to you fulfilling all your obligations under this EULA, Lotlinx hereby provides you with a personal, time-limited, nonexclusive, revocable, non-sublicensable, license, solely for your personal, non-commercial use or internal business purpose, to: (a) use the App in accordance with this EULA only; and (2)

download or print a copy of any portion of the Content to which you have properly gained access through the App (the “License”). You agree that the License is personal to you and that you will not share any login information or credentials relating to the App (your “Account”) with any third party. You are solely responsible for all activities that occur through the copy of the App downloaded and/or used by you.

1.2. **No Other License.** This EULA, and your use of the App, provides no license to any other software or service made, sold, or offered by Lotlinx or its affiliates.

## 2. **Free and Paid Use**

2.1. **Free and Paid Use.** You may use your Account to access certain features of the App free of charge, but some features may require payment of fees. All Services provided to you through the App, whether paid for or free of charge are covered by the License but Lotlinx may change which features require payment at any time and without notice to you, although Lotlinx will charge you fees only for the Services ordered by you as a paid-for feature or Service.

2.2. **Payment of Fees.** As consideration for the License granted by Lotlinx under this EULA, and for use of the Services, you agree to pay Lotlinx the fees specified in each order placed by you, in accordance with the terms of this EULA and each such order, as approved and accepted by Lotlinx. Payment must be made by credit card or other form of payment accepted by Lotlinx. You hereby authorize and agree to do all other things necessary to authorize Lotlinx to charge any credit card associated with you or your Account for payment of any amounts owed under this EULA, including credit card information provided by you through the App or directly to Lotlinx. You shall not directly or indirectly cause or allow any challenge, appeal, charge-back, or other action that prevents or otherwise reverses the charges authorized by you under this EULA. You further agree that, in any instance where you breach your obligations under this Section, that you shall pay all fees and costs incurred by Lotlinx to collect payment of fees owed, including all reasonable attorneys’ and collections fees.

2.3. **Taxes.** You are responsible for paying any applicable sales, use, excise or similar taxes (collectively, “Taxes”) related to your performance of this EULA and use of the App or the Services, except for taxes based on the net income of Lotlinx.

## 3. **Privacy and the Use of Your Content by Lotlinx**

3.1. **Your Privacy.** By creating your Account, using the App, and/or using the Services, you agree to be bound by the Lotlinx Privacy Policy located at <https://lotlinx.com/privacy-policy/>, which is incorporated into this EULA. You should read that Privacy Policy carefully, as it explains how Lotlinx collects, uses, and shares your information.

3.2. **United States Operation.** Unless otherwise specified by Lotlinx, the operation of the App and the Services are hosted in the United States. If you access the App or Services from any other region of the world with laws or other requirements governing personal data collection, use, or disclosure that differ from applicable laws in the United States, then through your continued use of the App or Services, you are transferring your data to the United States, and you expressly consent to have your data transferred to and processed in the United States.

3.3. **Notices.** By using the App or creating your Account, you agree to receive notices electronically that are related to your use of the App using the contact information that you provided when making or updating your Account, which may include your email address and phone number.

**3.4. Google Analytics and Inventory Feed.** As a requirement to use certain parts of the Software and the Lotlinx Services, you must grant Lotlinx access to your Google Analytics account and automobile inventory feed. Accordingly, you agree, when notified by Lotlinx that such access is required to provide the Lotlinx Services and continue your full use of the Software, that you will provide Lotlinx with the information and permission necessary to access any such inventory feed and will grant Lotlinx access to your Google Analytics account and inventory feed and grant necessary permissions to install Google Tag Manager scripts onto your website, and you agree that your use of any such third-party product shall be governed by the then-current standard terms and conditions of the software licensor (e.g., Google).

**3.5. The License you grant to Lotlinx.** You hereby grant to Lotlinx a perpetual, irrevocable, royalty-free, and non-exclusive license to use, copy, encode, enhance, store, reproduce, edit, adapt, modify, translate, transmit, publish, syndicate, sublicense, and publicly display any data and content, including the inventory and inventory related data, and images that you share with or submit to Lotlinx (the "Content"). This license also gives Lotlinx the right to share the Content with third parties, including publishers and affiliates that Lotlinx has a relationship with and who may help provide the Lotlinx Services (the "Service Providers"). You agree not to provide Lotlinx with Content that you do not have the right to share with Lotlinx, including Content that infringes or misappropriates any third party rights, advertises illegal goods or services, or is defamatory, inaccurate or otherwise tortious or criminal. If you discover that any Content shared with Lotlinx violates the foregoing, you shall: (a) immediately upload new, corrected Content; and (b) notify Lotlinx at [operations@lotlinx.com](mailto:operations@lotlinx.com) of the facts surrounding the provision of such Content. If Lotlinx discovers that any Content violates the foregoing, Lotlinx will: (i) immediately remove the Content; and (ii) notify you so that you can provide Lotlinx with Content. YOU AGREE TO DEFEND AND INDEMNIFY LOTLINX FOR ANY CLAIM RELATING TO THE CONTENT, EXCEPT TO THE EXTENT THE CLAIM IS BASED ON MODIFICATION OR ALTERATION MADE TO SUCH CONTENT BY LOTLINX.

**3.6. Use of the Content.** You agree that the license you grant to Lotlinx in the Content includes giving Lotlinx and the Service Providers the right to engage a data polling service to poll and transmit data from your inventory systems or feeds, and analytics platforms (including Google Analytics) to enable the App and to provide the Services. You also hereby grant to Lotlinx and each Service Provider a royalty free, nonexclusive, nontransferable, perpetual license to use such Content for the purposes of: (a) providing the Lotlinx Services; (b) consumer, vehicle, and industry research and reference; (c) evaluation of performance; (d) combining with other data to create proprietary reports and guides; and (e) generating market analysis data and related products.

**3.7. Your Representations and Warranties Regarding Content.** YOU HEREBY REPRESENT AND WARRANT THAT ANY AND ALL CONTENT SUBMITTED TO LOTLINX WILL NOT VIOLATE OR OTHERWISE INFRINGE UPON ANY COPYRIGHT, TRADEMARK, PATENT, STATUTORY, REGULATORY, STATE, FEDERAL, OR COMMON LAW, POLICY, PRIVACY, OR PROPRIETARY RIGHT OF OTHERS, OR CONTAIN ANYTHING CONSIDERED OBSCENE OR LIBELOUS. YOU HEREBY AGREE THAT YOUR PERFORMANCE OF THE OBLIGATIONS UNDER THIS EULA, AND THE OPERATION OF ANY BUSINESS, INCLUDING BUT NOT LIMITED TO THE USE OF SALES LEADS AND USE AND MAINTENANCE OF CONSUMER PERSONAL DATA, WILL COMPLY WITH ALL APPLICABLE PRIVACY POLICIES, THIRD PARTY AGREEMENTS, AND ALL STATE AND FEDERAL LAWS AND REGULATIONS.

#### **4. California Users and Residents**

If any complaint you make with Lotlinx is not satisfactorily resolved, you can contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 North Market Blvd., Suite N 112, Sacramento, California 95834 or by telephone at (800) 952-5210 or (916) 445-1254.

## 5. **Term and Termination**

5.1. **Term.** The License is effective commencing on the date you download the App and/or agree to the terms of this EULA and terminates on the earliest occurrence of: (a) you uninstall and/or destroy all copies of the App in your possession; (b) you breach any obligation of this EULA; (c) you use the App in any way that conflicts with applicable law; or (d) it is terminated by Lotlinx as set forth in this EULA.

5.2. **Termination by Lotlinx.** Lotlinx may, at its sole option, terminate this EULA at any time and for any reason, including any time when, in the opinion of Lotlinx, you use the App in a manner that: (a) is not a good faith use; (b) infringes on a third party's intellectual property rights; (c) is illegal, unlawful, or malicious; (d) deemed improper by Lotlinx; (e) is defamatory, threatening, abusive, intimidating, or otherwise violates the rights of other, including without limitation other's privacy rights or rights of publicity; (f) accesses or uses (or attempts to access or use) another account of any customer or another user of the App; (g) transmits any software or materials that contain any viruses, worms, Trojan horses, defects, or other items of a destructive nature; or (h) harvests or collects information about or from other customer of Lotlinx; or probes, scans, or tests the vulnerability of the Lotlinx website or any Lotlinx Services.

## 6. **Export Controls**

Export of the App may be subject to compliance with the rules and regulations promulgated from time to time by the Bureau of Export Administration, United States Department of Commerce, which restrict the export and re-export of certain products and technical data. If the export of the App is controlled under such rules and regulations, then the App shall not be exported or re-exported, directly or indirectly: (a) without all export or re-export licenses and United States or other governmental approvals required by any applicable laws; or (b) in violation of any applicable prohibition against the export or re-export of any part of the App. Some countries have restrictions on the use of encryption within their borders, or the import or export of encryption even if for only temporary personal or business use. You acknowledge that the implementation and enforcement of these laws is not always consistent as to specific countries. Although the following countries are not an exhaustive list there may exist restrictions on the exportation to, or importation of, encryption by: Belgium, China (including Hong Kong), France, India, Indonesia, Israel, Russia, Saudi Arabia, Singapore, and South Korea. You acknowledge it is your ultimate responsibility to comply with all government export and other applicable laws and that Lotlinx has no further responsibility after the initial license to you within the original country of sale.

In addition, the App and underlying information or technology may not be downloaded or otherwise exported or re-exported: (i) into (or to a national or resident of) Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria or any other country to which the United States has embargoed goods; or (ii) to anyone on the United States Treasury Department's list of Specially Designated Nations or the United States Commerce Department's Table of Denial Orders. By downloading or using the App you are agreeing to the foregoing, and you are certifying that you are not located in, under the control of, or a national or resident of, any such country or on any such list.

## 7. **Modifications to the EULA and License**

Lotlinx may, at any time and in its sole discretion, modify this EULA, including the License granted herein by any means reasonably calculated to reach you. Your continued use of the App as of the effective date of the modifications will constitute your acceptance of those modifications.

## 8. **Indemnification**

To the extent permitted by applicable law, you will indemnify, hold harmless and defend Lotlinx, at your expense, from any and all third party claims, actions, proceedings, and suits brought against Lotlinx or any of its officers, directors, employees, agents or affiliates, and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including, reasonable attorneys' fees and other litigation expenses) incurred by Lotlinx or any of its officers, directors, employees, agents or affiliates, arising out of or relating to: (a) your breach of any term or condition of this EULA; (b) your use of the App or any Services; (c) your violation of applicable laws, rules or regulations in connection with the App or any Services; (d) any representations and warranties made by you to any third party concerning any aspect of the App or the Services; (e) any claims made by or on behalf of any third party pertaining directly or indirectly to your use of the App or the Services; (f) violations of your obligations of privacy to any third party; and (g) any claims with respect to acts or omissions of any third party in connection with the App or the Services.

#### 9. **No Product or Service Warranties**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE APP, THE SERVICES, AND ANY CONTENT ASSOCIATED THEREWITH IS AT YOUR SOLE RISK AND IS PROVIDED "AS IS" AND "AS AVAILABLE." IN PARTICULAR, LOTLINX, THE SERVICE PROVIDER(S) AND THEIR AFFILIATES AND LICENSORS DO NOT REPRESENT OR WARRANT TO YOU THAT: (A) YOUR USE OF THE APP OR THE CONTENT WILL MEET YOUR SUBJECTIVE REQUIREMENTS, (B) YOUR USE OF THE APP OR CONTENT WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR, OR (C) YOU WILL BE PROVIDED WITH A MINIMUM NUMBER OF SALES LEADS, SHOPPERS, OR ACHIEVE A SPECIFIC NUMBER OF CONVERSIONS OF SALES. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE APP IS DONE AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEMS OR OTHER DEVICES OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM LOTLINX OR ANY SERVICE PROVIDER OR THROUGH OR FROM THE USE OF THE APP OR SERVICES SHALL CREATE ANY WARRANTY.

#### 10. **Limitation of Liability**

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#### 11. **Proprietary Rights Notice**

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## 12. Platforms and Devices Used to Run the App

This EULA apply to your use of the App on any platform, regardless of the source obtained. Example sources include, but are not limited to, the Apple Store and Google Play (each an "[App Distributor](#)"). Your access to the App and the License granted to you is limited to use of the App on a device that utilizes the Apple iOS or Android operating systems, as applicable, and in accordance with the usage rules set forth in the applicable App Distributor's terms of service. Lotlinx is not responsible for providing any maintenance and support services with respect to the App and you acknowledge that each App Distributor has no obligation whatsoever to furnish any maintenance and support services with respect to the App. In the event of any failure of the App to conform to any applicable warranty, you may notify the applicable App Distributor, and the App Distributor, in accordance with its terms and policies, may refund the purchase price, if any, paid for the App, and to the maximum extent permitted by applicable law, the App Distributor will have no other warranty obligation whatsoever with respect to the App. You acknowledge and agree that the App Distributors are third-party beneficiaries of this EULA and that each App Distributor will have the right (and will be deemed to have accepted the right) to enforce the terms and conditions in this EULA against you as a third-party beneficiary thereof.

## 13. Third Party Terms of Agreement

As a requirement of using the App, you must comply with all applicable third-party terms of agreement. For example, you must remain in compliance with any applicable wireless data service agreement relating to the device on which you use the App and the hardware and software license that may be applicable to your use of that device.

## 14. Services Management

Lotlinx reserves the right, but not the obligation, to: (a) monitor the App for violations of this EULA; (b) take appropriate legal action against anyone who, in the sole discretion of Lotlinx, violates the law or this EULA, including without limitation, reporting such user to law enforcement authorities; (c) in the sole discretion of Lotlinx and without limitation, refuse, restrict access to, limit the availability of, or disable (to the extent technologically feasible) any of your Content or any portion thereof; (d) in the sole discretion of Lotlinx and without limitation, notice, or liability, to remove from the App or otherwise disable all files and content that are excessive in size or are in any way burdensome to its systems; and (5) otherwise manage the App in a manner designed to protect the rights and property of Lotlinx and to facilitate the proper functioning of the App.

15. **Waiver**

No delay in exercising any right, power, or remedy under this EULA shall operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power, or remedy preclude any other or further exercise of that right, power, or remedy.

16. **Severability**

If any provision of this EULA shall be unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from this EULA and will not affect the validity and enforceability of any remaining provisions of this EULA.

17. **Assignment**

You may not assign this EULA or the License without the prior written approval of Lotlinx. Lotlinx may assign this EULA and the License without notice to you. This EULA will be binding on and inure to the benefit of you and Lotlinx and their respective successors and assigns.

18. **Governing Law, Venue for Resolving Disputes, Binding Arbitration – READ CAREFULLY AS THIS SECTION AFFECTS YOUR LEGAL RIGHTS**

The laws and jurisdiction of the State of New Hampshire, without regard to its conflict or choice of law provisions, governs this EULA and the provision of the App and the Services through the App. Any dispute or controversy arising under or in connection with your use of the App or this EULA shall be settled exclusively by arbitration and must be submitted to a single arbitrator to be chosen by mutual agreement of you and Lotlinx from the panel of arbitrators at the JAMS Boston, Massachusetts office within five (5) days after the request for arbitration notice is received by a Party. If you and Lotlinx cannot agree on an arbitrator, the arbitrator shall be chosen pursuant to the JAMS Comprehensive Arbitration Rules & Procedures from its panel of arbitrators at the JAMS Boston, Massachusetts office. A copy of the Rules & Procedures can be found at <http://www.jamsadr.com/rules-comprehensive-arbitration>. The arbitration hearing shall be held in Peterborough, New Hampshire, United States of America, or at such other place that you, Lotlinx, and the arbitrator mutually agree upon, such agreement shall take place no later than thirty (30) days after the demand for arbitration is received in writing. You and Lotlinx agree that any arbitration hereunder will be subject to JAMS Expedited Procedures Rule 16.1 and 16.2 and any other JAMS Rules and Procedures not in conflict with the Expedited Procedure Rules shall apply. Either you or Lotlinx may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this arbitration clause and without abridgment of the powers of the arbitrator. YOU UNDERSTAND THAT THIS SECTION DISCUSSES ARBITRATION AND YOU AGREE TO SUBMIT ANY PRESENT AND FUTURE CLAIMS AGAINST LOTLINX TO BINDING ARBITRATION, AND THAT THIS ARBITRATION CLAUSE

CONSTITUTES A WAIVER OF YOUR RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES WITH LOTLINX.

19. **Entire Agreement**

This EULA constitutes the entire agreement and understanding between you and Lotlinx regarding your use of the App. This EULA supersedes all prior agreements, consents and understandings whether oral or written regarding your use of the App, the License, and all other subject matter of this EULA.