

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM444681

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Dealertrack, Inc.		08/18/2015	Corporation: DELAWARE
RECEIVING PARTY DATA			
Name:	DealerSocket, Inc.		
Street Address:	100 Avenida La Pata		
City:	San Clemente		
State/Country:	CALIFORNIA		
Postal Code:	92673		
Entity Type:	Corporation: DELAWARE		
PROPERTY NUMBERS Total: 7			
Property Type	Number	Word Mark	
Registration Number:	2714489	AAX	
Registration Number:	3528164	AAX	
Registration Number:	3784244	AUTOREEL	
Registration Number:	3587080	CORE IS KING	
Registration Number:	3837673		
Registration Number:	3805064	ECARLIST	
Registration Number:	3786264	IDEAL INVENTORY MODEL	
CORRESPONDENCE DATA			
Fax Number:	4352521361		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	435-252-1360		
Email:	rgilmore@mabr.com		
Correspondent Name:	Richard C. Gilmore		
Address Line 1:	201 S. Main St.		
Address Line 2:	Suite 600		
Address Line 4:	Salt Lake City, UTAH 84111		
NAME OF SUBMITTER:	Richard C. Gilmore		
SIGNATURE:	/Richard C. Gilmore/		
DATE SIGNED:	09/27/2017		

OP \$190.00 2714489

Total Attachments: 18

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ASSET PURCHASE AGREEMENT

by and between

DEALERSOCKET, INC.

and

DEALERTRACK, INC.

DATED AS OF AUGUST 18, 2015

ASSET PURCHASE AGREEMENT

ASSET PURCHASE AGREEMENT, dated as of August 18, 2015 (this “Agreement”), by and between DealerSocket, Inc., a Delaware corporation (the “Buyer”), and Dealertrack, Inc., a Delaware corporation (the “Seller”). The Seller and the Buyer may sometimes be referred to herein individually as a “Party” and collectively as the “Parties”. Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in Article 10.

WHEREAS, the Seller is engaged in the reproduction, testing, configuration, installation, maintenance, support, service, marketing, sale, licensing, delivery, provision and other disposition of the Products (the “Business”), among other things;

WHEREAS, the Buyer desires to purchase from the Seller, and the Seller desires to sell to the Buyer, the Purchased Assets, and the Seller desires that the Buyer assume, and the Buyer has agreed to assume, the Assumed Liabilities, in each case upon the terms and subject to the conditions set forth in this Agreement and the other Transaction Documents; and

WHEREAS, on the date hereof the Parties are also entering into the Ancillary Agreements to be effective following Closing.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1 PURCHASE AND SALE

Section 1.1 Purchased Assets. Except as otherwise provided in Section 1.2, at the Closing, the Seller shall sell, assign, transfer and deliver to the Buyer all of its respective right, title and interest in and to all of its assets to the extent primarily related to the Business (collectively, the “Purchased Assets”), including:

- (a) all equipment and machines (including computers), personal property, furniture and office equipment to the extent primarily used in the Business;
- (b) the Business Intellectual Property;
- (c) all Contracts (the “Assigned Contracts”), including those set forth on Schedule 1.1(d), subject to Section 6.8;
- (d) all goodwill primarily related to the Business;
- (e) cash in the amount equal to the Pre-Closing Incentive Compensation Amount;
- (f) any pre-paid expenses listed on Schedule 1.1(f);

with the Transition Services and the rights granted to Buyer pursuant to the Ancillary Agreements, constitute all rights, title, interests and other assets that are sufficient and necessary to conduct the Business as it is currently conducted in all material respects.

Section 4.10 Intellectual Property.

(a) The Seller exclusively owns all right, title, and interest in and to, or has the right to use pursuant to a valid and enforceable written license, all Intellectual Property that is used in or necessary for the operation of the Business (together with the Business Intellectual Property, the “Used Intellectual Property”), free and clear of any Liens. Schedule 4.10(a) sets forth a correct and complete list of (i) all Products by name, and internal tracking number, version number or other appropriate product identifiers, and (ii) all material registrations of and applications to register any Intellectual Property used or held for use by the Business, including the name of the current owner, registrant or applicant, the jurisdictions by or in which any such registrations or applications have been issued or filed, the respective registration or application numbers and dates of issuance, registrations or filing. All of the Intellectual Property listed in Schedule 4.10(a) is, to Seller’s Knowledge, valid, subsisting and fully enforceable.

(b) Except as set forth on Schedule 4.10(b), there are no material Contracts to which the Seller or any of its Affiliates is a party relating to any Used Intellectual Property, including any such Contract (A) pursuant to which the Seller or any of its Affiliates has (I) transferred ownership of any Business Intellectual Property, or granted any license or option to any other Person with respect to any Business Intellectual Property (including any Contract pursuant to which the Seller or any of its Affiliates has granted or may be obligated to grant in the future, to any Person, a source code license or option or other right to use or acquire source code that is part of Business Intellectual Property) or (II) obtained for use in the Business a license or option to the Intellectual Property of another Person (except for Contracts for the license of “click-wrap”, “shrink-wrap” or other generally commercially available Software with a total replacement cost of less than \$25,000), (B) for the development of any Intellectual Property for the benefit of the Business by any Person other than the Seller or (C) relating to the provision of Product hosting or related services primarily for the benefit of the Business (collectively, the “IP Contracts”).

(c) The Seller’s and its Affiliates’ conduct of the Business, including the provision of services and the sale or licensing of the Products, has not (i) infringed upon, misappropriated, diluted or otherwise violated the Intellectual Property rights of, or rights of publicity or privacy of, or libeled or defamed, any other Person or (ii) constituted unfair competition or trade practices. The Seller’s and its Affiliates’ conduct of the Business as currently conducted, including the provision of services and the sale or licensing of the Products, does not (x) infringe upon, misappropriate, dilute or otherwise violate the Intellectual Property rights of, or rights of publicity or privacy of, or libel or defame, any other Person or (y) constitute unfair competition or trade practices. Neither the Seller nor any of its Affiliates has received any written claim, charge, demand, notice or threat relating to any of the foregoing in this Section 4.10(c). To the Knowledge of the Seller, no third party is infringing upon, misappropriating, diluting or otherwise violating the Business Intellectual Property.

(d) The Seller is not, nor, as a result of its execution and delivery of the Transaction Documents or its performance of the Transactions, will be, in material violation of any Contract for the license or assignment of any Intellectual Property. Upon completion of the Closing, the Buyer will own all right, title and interest in, or have valid and enforceable license rights to, the Business Intellectual Property on substantially similar terms and conditions as the Seller and its Affiliates enjoyed immediately prior to the Closing.

(e) The Seller and its Affiliates have taken commercially reasonable steps to safeguard and maintain all Business Intellectual Property and the secrecy and confidentiality of the Trade Secrets that are part of the Business Intellectual Property and has not taken any steps that could constitute abandonment of or that could invalidate, in any material manner, its rights in and to the Business Intellectual Property, and the Seller has paid all necessary fees and filing all appropriate affidavits, disclosures and renewals with the appropriate Governmental Entities.

(f) Each present and past manager, officer, employee, contractor and consultant of the Seller or any of its Affiliates who developed any part of any Product (including Software) has executed a valid and enforceable agreement that conveys any and all right, title and interest therein and thereto in connection with such Person's employment or Contract to the Seller.

(g) Except as set forth on Schedule 4.10(g), each Product (i) performs in material conformance with its documentation in all respects, and (ii) to the Knowledge of the Seller, is free from any material software defect, viruses, worms, Trojan horses and similar disabling codes or programs. The Business Intellectual Property includes all source code and other documentation and materials necessary or desirable to compile and operate the Products.

(h) Except as expressly set forth in Schedule 4.10(h), the Seller has not incorporated or linked to Software that is distributed or made available as "open source software" or "public software" or under a similar licensing or distribution model (including the GNU General Public License) ("Open Source Materials") in any Product. The Seller has not (i) distributed Open Source Materials with any Product, or (ii) used, incorporated or distributed Open Source Materials that require, or condition the use or distribution of such Open Source Materials on, the Seller's granting to any Person any right or immunity with respect to any Business Intellectual Property (including any requirement or condition that other Software incorporated into, derived from, or distributed with such Open Source Materials be (A) disclosed or distributed in source code form, (B) licensed for the purpose of making derivative works, or (C) redistributable at no or minimal charge).

(i) The Seller has a privacy policy (a "Privacy Policy"), a copy of which has been provided to the Buyer, regarding the collection and use of information from web site visitors or other parties, including from such other Persons who submit information to the Seller's customers by using any Product (collectively, "Customer Information"). Neither the Seller nor any of its Affiliates has used, collected, stored or transferred any Customer Information in violation of the Privacy Policy or applicable Law. Neither the Seller nor any of its Affiliates use, collect, store or transfer any of the Customer Information it receive through its web sites or otherwise in a manner that in any way violates applicable Law or the privacy rights of any Person. The Privacy Policy is posted in a clear and conspicuous location on each of the

Seller's web sites. The Seller and its Affiliates have commercially reasonable security measures in place to protect the Customer Information they receive and that store in their computer systems from illegal use by third parties or use by third parties in a manner that violates the privacy rights of any Person. The consummation of the Transactions and the transfer of the Customer Information to the Buyer will not materially violate (A) the Privacy Policy as it currently exists or as it existed at any time during which any of the Customer Information was collected or obtained or (B) applicable Law.

Section 4.11 Real Property; Leases. The Business does not own (and has never owned) any real property. The leases (the "Real Property Leases") with respect to the real property listed on Schedule 4.11 (the "Leased Real Property") is all of the real property that the Business operates or leases. To the Knowledge of the Seller, the Business has valid leasehold interests in all Leased Real Property free and clear of all Liens. No written notice has been received by the Seller indicating the desire or intention of any other party to a Real Property Lease to amend, modify, rescind or terminate the same.

Section 4.12 Environmental, Health and Safety Matters. The Seller has complied in all respects with all Environmental, Health and Safety Requirements with respect to the Business, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Without limiting the generality of the foregoing, the Seller has obtained and complied, with respect to the Business, in all respects with all Permits that are required pursuant to Environmental, Health and Safety Requirements, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Seller has not received, with respect to the Business, any written notice of any actual or alleged violation of, or Liability under, Environmental, Health and Safety Requirements, including any investigatory, remedial or corrective obligations, relating to the Business or the facilities primarily used by the Business. To the Knowledge of the Seller, there are no Hazardous Substances present at, on, or under any Leased Real Property which would reasonably be expected to give rise to a material Liability of the Business. The Seller has provided to the Buyer all material environmental reports, assessments, studies, investigations and other analyses in its possession or control relating to the Leased Real Property.

Section 4.13 Benefit Plans.

(a) No Employee Benefit Plan in which a Business Employee participates as of the date hereof has been maintained, sponsored or contributed to or required to be contributed to by the Seller or its respective ERISA Affiliates is or was (i) a "multiemployer plan" as defined in Section 3(37) of ERISA, (ii) a plan described in Section 413 of the Code, (iii) a plan subject to Title IV of ERISA or (iv) a plan subject to the minimum funding standards of Section 412 of the Code or Section 302 of ERISA.

(b) Except as would not result in any material Liability to Buyer, each Employee Benefit Plan in which a Business Employee participates in as of the date hereof has been maintained and administered in compliance with its terms and with the requirements prescribed by the Laws, including ERISA and the Code, which are applicable to such plans, in each case in all material respects.

(b) by Seller, if the Antitrust Division of the U.S. Department of Justice shall have determined that Buyer is not a viable acquirer of the Purchased Assets on the terms hereof, as they may be amended, so long as the fundamental terms hereof, taken as a whole, are not modified in a manner that is materially adverse to Seller so as to deprive Seller of the primary benefit of the bargain of this Agreement; or

(c) by either party hereto, if (i) the Closing shall not have occurred by September 30, 2015, or (ii) the Merger Agreement shall have been terminated.

Section 9.2 Effect of Termination. In the event of termination by the Seller or Buyer pursuant to Article 9, written notice thereof shall forthwith be given to the other party and the transactions contemplated by this Agreement shall be terminated, without further action by either party. If this Agreement is terminated and the transactions contemplated hereby are abandoned as described in this Article 9, this Agreement shall become void and of no further force or effect, except for the provisions of (a) Section 9.2, (b) Section 6.5, (c) Section 6.10 and (e) Article 11. Nothing in this Section 9.2 or Article 11 shall be deemed to release either party from any liability for any willful and material breach by such party of the terms and provisions of this Agreement or to impair the right of either party to compel specific performance by the other party of its obligations under this Agreement.

ARTICLE 10 DEFINITIONS

Section 10.1 Certain Definitions. As used in this Agreement, the following terms have the following meanings unless the context otherwise requires:

“Accounts Payable” means all trade accounts payable of the Seller that relate primarily to the Business.

“Accounts Receivable” means all accounts and notes receivable of the Seller that relate primarily to the Business.

“Affiliate” means, with respect to any Person: (i) who is an individual, the spouse, parent, sibling or lineal descendant of such Person; (ii) that is an entity, the officers, managers, directors, stockholders, members, general partners, limited partners or any affiliate of the foregoing; and (iii) any other Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, another Person. For purposes of this definition, the terms “control,” “controlling,” “controlled by” and “under common control with,” as used with respect to any Person, means the possession, directly or indirectly, of the power to direct the management, policies and/or investment decisions of a Person, whether through the ownership of voting securities, by Contract or otherwise.

“Ancillary Agreements” shall mean the following agreements to be entered into at Closing by Seller and Buyer: the Inventory Integration Agreement in the form set forth in Exhibit A, the Inventory+ Data License Agreement to be entered into at closing in the form set forth in Exhibit B, the PaymentDriver Incentive Data License Agreement in the form set forth in Exhibit C and the DTV-DTX License to be entered into at closing in the form set forth in Exhibit D.

“Business Day” means any day, other than a Saturday, Sunday or a day on which all banking institutions in New York, New York are authorized or obligated by applicable Law or executive order to close.

“Business Employees” means the employees of the Seller or its subsidiaries who primarily serve the Business.

“Business Intellectual Property” means (x) all Intellectual Property (other than Trademarks and Internet Assets) primarily related to the Business and (y) the Trademarks and Internet Assets listed on Schedule 10.1(A).

“Business Records” means all books, records, ledgers and files or other similar information (whether in paper, electronic or other form) of the Business, including (a) customer lists (including pricing information, credit information and historical sales information for each such customer), vendor lists, customer relationship databases, lists of prospects, and lists of other purchasers of goods and services from the Business, (b) all market research, marketing and promotional plans and materials and sales and marketing information primarily related to the Business, (c) advertising and publicity materials and brochures, (d) records of operation, standard forms of documents, and manuals of operations or business procedures , and (e) Product plans and roadmaps.

“Cash and Cash Equivalents” means the aggregate cash and cash equivalents of the Seller, determined in accordance with GAAP, which, for the avoidance of doubt, shall not include any deposits, customer advances or outstanding checks.

“COBRA” means the Consolidated Omnibus Budget Reduction Act and similar provisions of state law.

“Code” means the Internal Revenue Code of 1986, as amended.

“Contract” means any written or oral contract, license, agreement, commitment, lease, instrument, undertaking or other legally binding obligation or arrangement to which a Person is a party, by which a Person is bound or by which any of the assets or properties of a Person is bound.

“Copyrights” means all copyrights, including in and to works of authorship and all other rights corresponding thereto throughout the world, whether published or unpublished, including rights to prepare, reproduce, perform, display and distribute copyrighted works and copies, compilations and derivative works thereof, including all renewals and extensions thereof, and whether registered or unregistered, and registrations and applications for registration thereof.

“Cox” means Cox Automotive, Inc.

“Damages” means and includes any loss, damage, injury, liability, claim, demand, settlement, judgment, award, fine, penalty, interest (whether incurred in connection with an indemnification payment or otherwise, and including penalties and interest thereon), fee (including any reasonable legal fee, accounting fee, expert fee, consulting fee or advisory fee), charge, cost (including any cost of investigation) or expense, in each case of any nature.

“Employee Benefit Plan” means any material benefit, employment and compensation plan, Contract, arrangement or policy, including any “employee benefit plan,” as defined in Section 3(3) of ERISA, and deferred compensation stock option, stock purchase, stock appreciation rights, stock-based, incentive, bonus, severance plans, post-retirement insurance benefits, or other benefits, entered into, maintained or contributed to by the Seller or any of its subsidiaries or parent companies for the benefit of any Business Employee or with respect to which the Seller or any of its subsidiaries or parent companies has or may in the future have any Liability with respect to any Business Employee.

“Environmental, Health and Safety Requirements” means any Law relating to pollution or protection of the environment, natural resources, or human health and safety that is applicable to the Business.

“ERISA” means the Employee Retirement Income System Act of 1974, as amended.

“ERISA Affiliate” means any Person that, together with the Seller, would be deemed a “single employer” within the meaning of Section 414(b), (c), (m) or (o) of the Code.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

“Excluded EH&S Liability” means any Liability of the Seller arising out of circumstances that exist or existed, or events that occurred, on or prior to the date hereof under Environmental, Health and Safety Requirements.

“Excluded Employment and Benefit Related Liability” means any Liability of the Seller or its subsidiaries arising out of or relating to (i) the employment, termination or similar relationship of any employee, former employee, or consultant to the Seller or its subsidiaries with respect to the period on or prior to the Closing Date, (ii) any Employee Benefit Plan (or other employee benefit plan to which Seller has any liability); (iii) Non-Hired Employees and (iv) employee salaries, vacation time, paid time off, bonuses, commissions or other employment-related expenses with respect to the period on or prior to the Closing Date, whether direct or indirect.

“Excluded Taxes” means (i) any Taxes owed by the Seller or any of its Affiliates, (ii) any Taxes with respect to the Business or the Purchased Assets for any Pre-Closing Tax Period and (iii) any Taxes as a result of transferee liability, of being a member of an Affiliated, consolidated, combined or unitary group during any Pre-Closing Tax Period, by Contract or otherwise as a result of transactions entered into during any Pre-Closing Tax Period, in each case, other than Transfer Taxes that are the responsibility of the Buyer pursuant to Section 6.9(b). For purposes of this Agreement, in the case of any Straddle Period, (i) Property Taxes for the Pre-Closing Tax Period shall be equal to the amount of such Property Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that is in the Pre-Closing Tax Period and the denominator of which is the number of days in the entire Straddle Period, and (ii) Taxes (other than Property Taxes) for the Pre-Closing Tax Period shall be computed as if such taxable period ended as of the close of business on the Closing Date.

“GAAP” means generally accepted accounting principles in the United States of America consistently applied.

“Governmental Entity” means any United States (federal, state or local) or foreign government, or any governmental, regulatory, judicial or administrative authority, agency or commission, as well as any arbitral body.

“Hazardous Substances” means all materials, wastes or substances defined by, or regulated under, any Environmental Law as a hazardous waste, hazardous material, hazardous substance, extremely hazardous waste, restricted hazardous waste, contaminant, pollutant, toxic waste, or toxic substance, including petroleum and petroleum products, asbestos, lead, toxic mold, radioactive materials and polychlorinated biphenyls.

“Indebtedness” means, as of any time, without duplication, the outstanding principal amount of, accrued and unpaid interest on, and other payment obligations (including any prepayment penalties, premiums, costs, breakage or other amounts payable upon the discharge thereof at the Closing) arising under, any obligations of the Seller primarily relating to the Business consisting of (i) indebtedness for borrowed money, (ii) any obligations in respect of any note, bond, debenture or other debt security, (iii) any Liability with respect to interest rate swaps, collars, caps and similar hedging obligations (provided that for purposes hereof, such Liabilities shall be valued as the amount of any termination payment, breakage, costs or other amounts payable upon termination thereof on the Closing Date), (iv) Liabilities for deferred and unpaid purchase price of property (but excluding any trade payables and accrued expenses arising in the ordinary course of business), (v) obligations required to be recorded as capitalized leases under GAAP, (vi) any other fees, expense reimbursements, indemnity payments or other amounts, in each case payable by the Seller pursuant to the terms of the foregoing, and (vii) guarantees of, or agreements to insure, become liable for, or pledge any assets to secure, any indebtedness of a third party of the type described in the foregoing clauses (i) and (ii).

“Independent Accounting Firm” means an independent accounting firm selected by and mutually acceptable to the Buyer and the Seller.

“Intellectual Property” means all intellectual property rights, as they exist anywhere in the world, including (a) Copyrights, (b) Trademarks, (c) Software, (d) Trade Secrets, (e) Patents, (f) Internet Assets, and (g) all rights to sue at law or in equity for any infringement, misappropriation or other impairment of any of the foregoing and the right to collect damages and proceeds therefrom.

“Internet Assets” means all domain names, Internet addresses and other computer identifiers, web sites, web pages and similar rights and items.

“Knowledge” means the current, actual knowledge of, or the knowledge that would reasonably be expected to be gained by each of Eric Jacobs, Gary Papilsky and Robert Granados following inquiries of their respective reports.

“Law” means any and all domestic (federal, state or local) or foreign laws, rules, regulations, or promulgated by any Governmental Entity, as well as any Orders.

“Liabilities” means any and all direct or indirect indebtedness, liabilities, obligations, costs, expenses, claims, losses, damages, deficiencies or responsibilities, whether known or unknown, accrued or fixed, absolute or contingent, liquidated or unliquidated, choate or inchoate, subordinated or unsubordinated, matured or unmatured, secured or unsecured or determined or determinable, whether or not of a kind required by GAAP to be set forth on a financial statement, including those arising under any Law or Order, other governmental, regulatory or administrative charges or lawsuit brought, under any Contract or otherwise.

“Lien” means any mortgage, pledge, security interest, lien (statutory or otherwise), charge, claim, option, right of first refusal, right of first offer, attachment, title imperfection or defect, easement, covenant or other right, restriction or encumbrance of any kind, including any collateral security arrangement, conditional or installment sales agreement or other restriction of any kind (other than those created under applicable securities Laws). Lien does not include a nonexclusive license to Intellectual Property.

“Litigation” means any claim, action, suit, complaint, charge, demand, litigation, prosecution, contest, hearing, inquiry, inquest, audit or other judicial, administrative or arbitration proceeding.

“Material Adverse Effect” means any change, effect or circumstance or group of any of the foregoing that has a material adverse effect on the business, results of operations or financial condition of the Business taken as a whole, other than any of the following or any effect attributable to any of the following: (i) changes in general economic or political conditions or financial, credit or securities markets in general (including changes in interest or exchange rates) in any country or region in which the Seller or any of its subsidiaries conducts business; (ii) any events, circumstances, changes or effects that affect the industries in which the Business operates; (iii) any changes in Laws applicable to the Business or any of its properties or assets or changes in GAAP; (iv) acts of war, armed hostilities, sabotage or terrorism, or any escalation or worsening of any acts of war, armed hostilities, sabotage or terrorism; (v) any action taken that is required, expressly contemplated by, this Agreement (including the impact thereon on relationships (contractual or otherwise) with customers, vendors, lenders, employees or other business partners, or the identity of Buyer, Cox Automotive, Inc. and Runway Acquisition Co.) or any action taken at the request of Buyer; (vi) any failure by the Business to meet internal or published projections, forecasts, estimates or revenue or earnings predictions or expectations for any period, it being understood that any underlying event causing such changes or failures in whole or in part may be taken into account in determining whether a Material Adverse Effect has occurred; or (viii) earthquakes, hurricanes, tsunamis, tornadoes, floods, mudslides, wildfires or other natural disasters, weather conditions, pandemics, manmade disasters and other force majeure events in any region in the world; in each case of clauses (i), (ii), (iii), (iv) or (viii) to the extent such changes, events, circumstances, effects, acts, escalation or worsening do not have a materially disproportionate impact on the Business relative to other businesses in similar industries to those in which Business operates.

“Merger Agreement” means the Agreement and Plan of Merger, dated as of June 12, 2015, by and among Dealertrack Technologies, Inc., Cox Automotive, Inc. and Runway Acquisition Co.

“Non-Hired Employees” means the employees of the Seller that are not Hired Employees.

“Orders” means any order, judgment, injunction, award, decision, decree, stipulation, determination, writ or other ruling issued by any Governmental Entity.

“Patents” means all patents, patent applications and inventions, designs and improvements described and claimed therein, patentable inventions, and other patent rights (including any divisions, continuations, continuations-in-part, reissues, reexaminations or interferences thereof, whether or not patents are issued on any such applications and whether or not any such applications are modified, withdrawn or resubmitted, and any foreign equivalents of any of the foregoing).

“Permits” means any and all licenses, registrations, franchises, qualifications, permits, variances, exemptions, consents, certificates, Orders, approvals and authorizations issued by any Governmental Entity.

“Person” means an individual, partnership, corporation, limited liability company, joint stock company, unincorporated organization or association, trust, joint venture, association or other similar entity, whether or not a legal entity.

“Pre-Closing Tax Period” means any Tax period (or portion thereof) ending on or before the Closing Date.

“Products” means the AAX software product and the Inventory+ software product, including the eCarList website.

“Property Taxes” means real, personal and intangible ad valorem property Taxes.

“Seller Expenses” means, without duplication, (A) all of the fees, expenses, costs, charges, payments and other obligations that are incurred by or on behalf of the Seller, or for which the Seller is otherwise liable in connection with the Transactions (whether incurred or to be paid prior to, at or after Closing), including (i) the fees and expenses of bankers, counsel, accountants, advisors, agents and representatives, (ii) any payments triggered or accelerated (alone or in connection with one or more other events) as a direct or indirect result of the consummation of the Transactions, including any success, change of control, special or other bonuses or similar amounts payable by the Seller to any Person, including any employee, director, consultant or contractor, and (iii) the Seller’s obligations to pay Transfer Taxes, filing fees and similar amounts as required under this Agreement, and (B) any other Liability of the Seller arising out of or relating to the negotiation and preparation of any of the Transaction Documents or the performance of the Transactions, including any Tax Liability so arising.

“Software” means all computer software, including source code, object code, databases, comments, user interfaces, menus, buttons and icons, and all files, data, manuals, design notes and other items and documentation related thereto or associated therewith, and any derivative works, foreign language versions, fixes, upgrades, updates, enhancements, new versions or previous versions thereof; and all media and other tangible property necessary for the delivery or transfer thereof.

“Straddle Period” means any Tax period begins on or before and ends after the Closing Date.

“Tax” or “Taxes” means: (a) all federal, state, local, foreign and other taxes, duties government fees, or other assessments or charges of any kind whatsoever, including net income, alternative or add-on minimum tax, gross income, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, lease, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, windfall profits, customs or other taxes and unclaimed property liabilities, together with any interest, penalties or additions to tax imposed with respect thereto; (b) any Liability for payment of amounts described in clause (a) whether as a result of transferee liability, of being a member of an Affiliated, consolidated, combined or unitary group for any period, by Contract or otherwise.

“Tax Return” means all returns, declarations, reports, forms, estimates, information returns and statements required to be filed in respect of the determination, assessment, collection or payment of any Taxes or to be supplied to a Taxing Authority in connection with the administration, implementation or enforcement of or compliance with any Law related to any Tax (including any amendments or schedules, attachments or other supporting documentation with respect thereto).

“Taxing Authority” shall mean any Governmental Authority having jurisdiction over the assessment, determination, collection or other imposition of any Tax.

“Trademarks” means all trademarks, service marks, logos, designs, trade names, brand names, and trade dress, including trademarks used in column headings, section names, department names and editorial feature titles, corporate names, and other indicia of origin, and all registrations and applications for registration thereof, and all rights and goodwill associated therewith.

“Trade Secrets” means all trade secrets, concepts, ideas, designs, research, processes, procedures, techniques, methods, know-how, formulas, algorithms, data, mask works, discoveries, developments, inventions, modifications, extensions, improvements, confidential business information, and other confidential or proprietary rights (whether or not patentable or subject to copyright, mask work, or trade secret protection).

“Transactions” means the transactions contemplated by this Agreement and the other Transaction Documents.

“Transaction Documents” means this Agreement and all other agreements, certificates, instruments, documents and writings delivered in connection with this Agreement including the Ancillary Agreements.

“Transfer Taxes” means any sale or use, transfer, documentary, gross receipts, sales and use, value added, real property gains, excise, stamp or other similar Taxes imposed by reason of the Transactions or resulting, directly or indirectly, from the sale, assignment, transfer and delivery of the Purchased Assets.

“Welfare Benefits” shall mean the types of benefits described in Section 3(1) of ERISA (whether or not covered by ERISA).

Section 10.2 Other Defined Terms. The following terms are defined in the following Sections of this Agreement:

<u>Term</u>	<u>Section</u>
Agreement	Preamble
Allocation	2.3
Assigned Contracts	1.1(f)
Assumed Liabilities	1.3
Business	Recitals
Buyer	Preamble
Buyer 401(k) Plan	6.7(h)
Buyer Damages	9.3(a)
Buyer Indemnified Parties	9.3(a)
Cap	9.5
Closing	3.1
Closing Date	3.1
Consents	7.8(a)
Customer Information	4.10(i)
Delayed Asset	7.8(a)
Delayed Liability	7.8(a)
Disclosure Schedule	Article 4
Excluded Assets	1.2
Excluded Liabilities	1.4
Final Allocation	2.3
Fundamental Representations	9.1
Hired Employees	6.7(a)
Indemnitee	9.4(a)
Indemnitor	9.4(a)
IP Contracts	4.10(b)
Leased Real Property	1.1(a)
Material Contracts	4.8(a)
OSHA	4.14(d)
Parties	Preamble
Periodic Taxes	6.9(c)
Privacy Policy	4.10(i)
Purchase Price	2.1
Purchased Assets	1.1
Real Property Leases	4.11
Revenue Statement	4.3(a)
Seller	Preamble
Seller 401(k) Plan	6.7(h)
Seller Damages	9.3(b)
Seller Indemnified Parties	9.3(b)
Survival Date	9.1

Term
Tax Contest
Threshold

Section
6.9(a)
9.5

**ARTICLE 11
MISCELLANEOUS**

Section 11.1 Governing Law. This Agreement shall be governed by, and construed in accordance with the laws of the State of Delaware, without giving effect to any choice or conflict of laws provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware.

Section 11.2 Waiver of Jury Trial. EACH PARTY HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF SELLER OR BUYER IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT THEREOF. EACH PARTY (A) MAKES THIS WAIVER VOLUNTARILY AND (B) ACKNOWLEDGES THAT SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS CONTAINED IN THIS SECTION 11.2.

Section 11.3 Notices. Any notice required to be given hereunder shall be sufficient if in writing, and sent by facsimile transmission or e-mail of a .pdf attachment (provided that any notice received by facsimile or e-mail transmission or otherwise at the addressee's location on any Business Day after 5:00 p.m. (addressee's local time) shall be deemed to have been received at 9:00 a.m. (addressee's local time) on the next Business Day and any notice by email shall also be delivered by another permitted means of giving notice), by reliable overnight delivery service (with proof of service), hand delivery or certified or registered mail (return receipt requested and first-class postage prepaid), addressed as follows (or at such other address for a party as shall be specified in a notice given in accordance with this Section 11.3):

(a) if to the Seller, to:

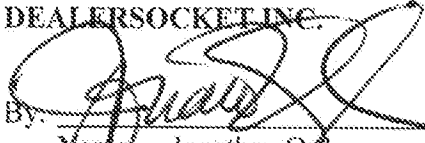
Dealertrack Inc.
1111 Marcus Avenue, Suite M04
Lake Success, NY 11042
Attention: Gary Papilsky
Facsimile: (516) 908-4958
E-mail: gary.papilsky@dealertrack.com

with a copy to (which will not constitute notice):

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the date first above written.

BUYER:

DEALERSOCKET INC.

By: 

Name: Jonathan Ord

Title: President and Chief Executive Officer

SELLER:

DEALERTRACK, INC.

By: _____

Name:

Title:

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the date first above written.

BUYER:

DEALERSOCKET INC.

By: _____
Name:
Title:

SELLER:

DEALERTRACK, INC.

By: Mark E. O'Neil
Name: Mark E. O'Neil
Title: CEO & Chairman

TRADEMARK

REEL: 006163 FRAME: 0457

Schedule 4.10(a)

(i)

Product Name	Internal Tracking Number	Version Number
Inventory+	N/A	3.15
eCarList Websites	N/A	N/A
AAX	N/A	5.11

(ii)

Trademark	Registrant	Jurisdiction	Application / Registration #	Application / Registration Date
AAX	Dealertrack, Inc.	United States	2714489	5/6/2003
AAX	Dealertrack, Inc.	United States	3528164	11/4/2008
AAX	Dealertrack AAX, Inc.	Canada	TMA788543	1/25/2011
AUTOREEL	Dealertrack AAX, Inc.	United States	3784244	5/4/2010
CORE IS KING	Dealertrack, Inc.	United States	3587080	3/10/2009
eCarList Logo/Design	Dealertrack AAX, Inc.	United States	3837673	8/24/2010
ECARLIST	Dealertrack AAX, Inc.	United States	3805064	6/15/2010
IDEAL INVENTORY MODEL	Dealertrack, Inc.	United States	3786264	5/4/2010
INVENTORY+	Dealertrack Canada, Inc.	Canada	1730455	5/29/2015

Domain Name	Registrant
dealervilleusa.com	Dealertrack, Inc.
ecarlist.com	Dealertrack, Inc.
ecarlist.mobi	Dealertrack, Inc.
ecarlistsem.com	Dealertrack, Inc.
aaexchange.com	Dealertrack, Inc.
aaxchange.com	Dealertrack, Inc.
aaxexchange.com	Dealertrack, Inc.
aaxexchange.net	Dealertrack, Inc.
aaxideal.com	Dealertrack, Inc.
aaxims.com	Dealertrack, Inc.
americanautexchange.com	Dealertrack, Inc.

Domain Name	Registrant
coreisking.com	Dealertrack, Inc.
coreisking.net	Dealertrack, Inc.
einventorylink.com	Dealertrack, Inc.
idealinventorymodel.com	Dealertrack, Inc.
inventoryplus.ca	Dealertrack, Inc.
jmsaax.com	Dealertrack, Inc.
jmsreports.com	Dealertrack, Inc.
mobileaax.com	Dealertrack, Inc.
movemyinventoryworkshop.com	Dealertrack, Inc.
moveyourinventoryworkshop.com	Dealertrack, Inc.
profitperday.com	Dealertrack, Inc.
quickerturns.com	Dealertrack, Inc.