

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION

IN THE MATTER OF:

Carfax, Inc. and
CARFAX Total Loss Valuation Service Application 2020-IN-001

APPLICANTS

Pursuant to R.I. Gen. Laws § 27-9.1-4(25) and
230-RICR-20-40-2.8(A)(2)(c)

CARFAX, INC. PETITION FOR APPROVAL OF CARFAX TOTAL LOSS VALUATION
SERVICE PURSUANT TO INSURANCE REGULATION R.I. GEN. LAWS § 27-9.1-4(25)
AND 230-RICR-20-40-2.8(A)(2)

Before the Rhode Island Department of Business Regulation, Insurance Division (“DBR”) is the application from Carfax, Inc. (“CARFAX”) for approval of the CARFAX Total Loss Valuation Service (“Application”), submitted pursuant to 230-RICR-20-40-2.8(A)(2). The CARFAX Total Loss Valuation Service uses the CARFAX History-Based Value (“CARFAX Value”), a “nationally recognized compilation of retail values commonly used by the automotive industry” and therefore meets the requirements set forth under R.I. Gen. Laws § 27-9.1-4(25) and 230-RICR-20-40-2.8(A)(2). CARFAX respectfully requests that the CARFAX Total Loss Valuation Service be approved for use by insurance companies when determining the fair market value of a loss vehicle in the State of Rhode Island.

BACKGROUND

R.I. Gen. Laws § 27-9.1-4(25) regulates the designation of motor vehicle as a total loss.¹ In order to determine the fair market value of the motor vehicle immediately preceding the time it was damaged, a Rhode Island insurance company must consult the retail value of a motor vehicle as set forth in a current edition of a nationally recognized compilation of retail values commonly used by the automotive industry to establish values of motor vehicles.² The DBR has established a three-part test to determine whether a valuation service meets the statutory requirements: (1) whether the applicant is a “nationally recognized compilation of motor vehicle values”; (2) whether the applicant is “commonly used by the automotive industry to establish values of motor vehicles”; and (3) whether the applicant applies arbitrary deductions taken from comparable vehicle values when calculating the total loss value.³

¹ Generally, a Rhode Island insurance company may not designate a motor vehicle a total loss if the cost to rebuild or reconstruct the motor vehicle to its pre-accident condition is less than seventy-five percent (75%) of the fair market value of the motor vehicle immediately preceding the time it was damaged. R.I. Gen. Laws § 27-9.1-4(25).

² R.I. Gen. Laws § 27-9.1-4(25)(i).

³ In the Matter of Mitchell International, Inc. (R.I. Dept. of Bus. Reg. June 21, 2018)

A. THE CARFAX TOTAL LOSS VALUATION SERVICE MEETS THE THREE PART TEST ESTABLISHED BY THE DBR TO DETERMINE WHETHER A VALUATION SERVICE MEETS THE STATUTORY REQUIREMENTS.

1. The CARFAX Value, which is used to determine the retail value of the loss vehicle in the CARFAX Total Loss Valuation Service, is a “nationally recognized compilation of motor vehicle values”.

As attested to by Jon-Erik Valetti in his Affidavit dated April 22, 2020 (“JEV Affidavit”), the CARFAX Total Loss Valuation Service uses the CARFAX Value to determine a loss vehicle’s retail value. CARFAX has thousands of automobile dealer customers and is used by millions of consumers nationally. CARFAX products and services, including the CARFAX Value, are well-established tools used by automobile dealers, automobile finance companies and consumers every day. Paragraph 5 of the JEV Affidavit and the Affidavit submitted by Srinidhi Melkote (“SM Affidavit”) describe the methodology used to calculate the CARFAX Value. The CARFAX Value is derived using a statistical regression model incorporating pricing data from millions of used car listings in combination with each vehicle’s unique trim and options, mileage, condition, location, and hundreds of other attributes drawn from CARFAX’s vast vehicle history database. The CARFAX Value quantifies the factors that impact the value of a vehicle, incorporating recency, frequency, and severity in combination with each vehicle’s unique attributes along with local market supply and demand to arrive at a unique value for each unique vehicle. It analyzes vehicle pricing down to the zip code level and only expands beyond the zip code when needed to arrive at a statistically valid set of pricing observations. Thus, even though the CARFAX Value is calculated for each vehicle, it is calculated based on a statistical regression model. As discussed in Paragraph 5 of the SM Affidavit, a vehicle’s retail CARFAX Value in each edition is the same, whether viewed by insurance companies, automobile dealers or consumers. It is not a snapshot at a moment in time, but rather, a compilation of retail values that is updated weekly. Consumers can access the CARFAX Value for a vehicle through the CARFAX website.

2. The CARFAX Value is “commonly used by the automotive industry to establish values of motor vehicles”.

Paragraphs 7-13 of the JEV Affidavit establish that users of the CARFAX Value fall squarely within the definition of “automotive industry” as established by the DBR. As of October 2019, nationally, more than 20,000 automobile dealers and millions of consumers across the country use CARFAX products and services, including the CARFAX Value. This includes more than 75% of franchise dealers in Rhode Island. Furthermore, dealers subscribing to CARFAX products and services routinely use CARFAX Value for various valuation purposes, including many that use the CARFAX Value when offering a vehicle for retail sale. Therefore, not only do automobile dealers use CARFAX Value for vehicle valuation purposes, but specifically for valuation in the context of retail sales. Paragraphs 15-16 of the JEV Affidavit establish that not only do automobile dealers use the CARFAX Value in the normal course of their business of retail sale of used cars, the CARFAX Value is commonly accepted and used by automobile finance companies in financing decisions.

3. The CARFAX Total Loss Valuation Service does not apply arbitrary deductions taken from comparable vehicle values when calculating the total loss value.

As demonstrated by Paragraph 21 of JEV Affidavit, Paragraphs 6-8 of SM Affidavit and Paragraphs 2-4 of the Affidavit submitted by Peter LaPlaca, the CARFAX Total Loss Valuation Service does not, and does not allow an insurance company to, make arbitrary deductions from the retail value of the loss vehicle. There is an objective basis for the underlying value. The CARFAX Value for a vehicle is determined using a statistical regression model that analyzes hundreds of factors for millions of current and historical sales listings for used cars to assess the impact of these factors on the retail sale price of a vehicle. The model is then used to calculate the retail value of the subject vehicle using its vehicle-specific attributes and vehicle condition so that the value is representative of retail prices observed for similar vehicles currently and historically listed for sale. The CARFAX Total Loss Valuation Service allows the insurance company to validate information about the loss vehicle, such as vehicle condition, trim, optional equipment, location and mileage for CARFAX to display the pre-calculated value based on the statistical regression model. Most importantly, these factors are presented to the consumer to reduce subjectivity by giving the consumer the same information used by the insurance company to place the insurance company and the vehicle owner in agreement about the loss vehicle's equipment and condition. Therefore, the CARFAX Total Loss Valuation Service provides transparency to the consumer by displaying the factors that impact the value of the loss vehicle. Not only does the CARFAX Total Loss Valuation Service help provide the fair market value of a loss vehicle immediately prior to the total loss event, as described in Paragraph 5 of Peter LaPlaca's Affidavit, the CARFAX Total Loss Valuation Report includes information on vehicles of like kind and quality available for sale. Each vehicle is presented in a side-by-side comparison of vehicles available as of the report date, often with dealer information and a link to the actual dealer listing. This will help the consumer feel confident that they can replace their vehicle for the value offered by the insurance company (a helpful feature not available in other valuation services). Arbitrary deductions have no place in the CARFAX calculation of value.

B. ADDITIONAL RESPONSE TO COMMENTS SUBMITTED BY AUTO BODY ASSOCIATION OF RHODE ISLAND ("ABARI")

1. ABARI has made a conclusory statement that "CARFAX has become a common word used in nomenclature . . . Its name refers to a product, which others may provide." That is inaccurate. While CARFAX is a leading provider of vehicle history reports, the CARFAX brand, nonetheless, is protected by U.S. and international trademark laws.
2. ABARI alleges that the CARFAX Value is not commonly used in the automotive industry based on a non-scientific survey of 10 automobile dealers. While CARFAX takes exception to the survey methodology used by ABARI, including the criteria for selection of automobile dealerships, respondents and the questions asked, that is immaterial. ABARI's assertion is easily disproven. Common usage of the CARFAX Value is easily demonstrated. ABARI has conceded that at least one dealer, Grieco Automotive Group, uses CARFAX Value on its website to promote its vehicles. As evidenced by the dealers' publicly available listings of vehicles offered for retail sales, samples of which are attached as Exhibit 1, at least 6 of the 10 dealer groups cited by ABARI in fact use CARFAX Value for various valuation purposes, including when offering a vehicle for retail sale. This shows that the CARFAX Value is already widely used by leading automobile dealerships in Rhode Island for purposes of retail sales.

C. ADDITIONAL RESPONSE TO COMMENTS SUBMITTED BY MITCHELL INTERNATIONAL INC. ("MITCHELL")

Comments submitted by Mitchell are not relevant to the Application. CARFAX believes each petition for approval should be assessed on its own merits.

D. ADDITIONAL RESPONSE TO COMMENTS SUBMITTED BY ERNEST SHAGHALIAN.

Comments submitted by Mr. Shaghalian are based on flawed assumptions about the CARFAX Value. As established by the Affidavits submitted by CARFAX, the CARFAX Value takes into consideration a vehicle's unique history, which is important since every vehicle's unique history has an impact on that vehicle's unique value. The CARFAX Total Loss Valuation Report incorporates a CARFAX Vehicle History Report for the insured's vehicle, documenting important events in the vehicle's past, often including service records, which are reflected in the CARFAX Value. This is a unique advantage that differentiates CARFAX from the other valuation tools as it can relieve the consumer of the burden to produce maintenance records for the insurance company.

CONCLUSION

As attested in Paragraph 24 of the JEV Affidavit, the CARFAX Total Loss Valuation Service is currently available for use by insurance companies in 45 states. CARFAX Total Loss Valuation Service meets the three part test established by DBR for the approval of a claims valuation product: 1) the applicant is a nationally recognized compilation of retail values; 2) commonly used in the automotive industry; 3) without arbitrary deductions.

CARFAX respectfully requests the Hearing Officer grant CARFAX's petition for the approval of the CARFAX Total Loss Valuation Service based on the documents submitted by CARFAX.

Respectfully Submitted,
Carfax, Inc.
By its Attorneys,
Chace Ruttenberg & Freedman, LLP

/s/ Robert D. Fine

Robert D. Fine, Esq.
One Park Row, Suite 300
Providence, RI 02903

Dated May 18, 2020

EXHIBIT 1

EXHIBIT 1

1. **Grieco Honda** – Three screenshots: One from Grieco Honda’s pre-owned inventory search page and two from a results page on the CARFAX® Used Car Listing site.

2017 Honda Accord LX

33 Photos

Price: \$15,988 \$265/mo est.

GOOD VALUE \$172 below \$16,160 CARFAX Value

<p>No Accident or Damage</p> <p>No accident or damage reported to CARFAX.</p>	<p>CARFAX 1-Owner</p> <p>Purchased on 04/27/17 and owned in RI until Present.</p>	<p>Personal Use</p> <p>Driven an estimated 5,487 miles/year.</p>	<p>Service History</p> <p>Last serviced at 16,086 miles in Johnston, RI on...</p>
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Dealer: Grieco Honda
Location: Johnston, RI (13 miles from East Greenwich, RI)
Description: Used 2017 Honda Accord LX with FWD, 18 Inch Wheels, Alloy Wheels, Cloth Seats

Mileage: 16,086 miles
Color: Gold

Body Type: Sedan
Engine: 4 Cyl 2.4 L

2017 Toyota Highlander XLE



Price: \$28,988 \$480/mo est.

FAIR VALUE → \$738 above \$28,250 CARFAX Value

<p>No Accident or Damage</p> <p>No accident or damage reported to CARFAX.</p>	<p>CARFAX 1-Owner</p> <p>Purchased on 03/30/17 and owned in RI until 03/17/20.</p>	<p>Personal Use</p> <p>Driven an estimated 10,077 miles/year.</p>	<p>Service History</p> <p>Last serviced in East Providence, RI on 03/28/20 • Vehicl...</p>
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Dealer: Grieco Toyota

Mileage: 29,902 miles

Body Type: SUV

Location: East Providence, RI (14 miles from East Greenwich, RI) **Color:** Silver

Engine: 6 Cyl 3.5 L

Description: Used 2017 Toyota Highlander XLE with AWD, Navigation System, Fog Lights, Spoiler, Heated Seats, Roof Rails, Power Liftgate, Blind Spot Monitor, 18 Inch Wheels, Alloy Wheels, Third Row Seating

2. **Paul Masse Chevrolet** – This dealership places CARFAX Value Badging on their inventory demonstrating to the consumer the retail price is appropriate for the vehicle. Clicking the CARFAX Value Badge displays the CARFAX Value and CARFAX Vehicle History Report™.

3. **Lexus of Warwick (Penske Automotive Group/Warwick Auto Mall)** – This dealership is using the CARFAX 1-Owner badge to link to the CARFAX Value and the CARFAX Vehicle History Report to demonstrate to the consumer the vehicle is competitively priced.

The screenshot displays the Lexus of Warwick website interface. At the top, a navigation bar includes the Lexus logo, the dealership name, and various menu items like 'NEW', 'PRE-OWNED INVENTORY', 'SPECIALS', 'FINANCE', 'SERVICE & PARTS', 'ABOUT US', and 'STORE HOURS'. A search bar and utility icons are also present.

The main content area features a listing for a 2019 Lexus IS 300 Sedan. The listing includes a photo of the car, a 'WATCH VIDEO' button, and a 'SAVE THIS CAR! GET ALERTS' button. The vehicle's specifications are listed: Engine (3.5L V-6 cyl), Transmission (6-Speed Automatic), Mileage (5,838 miles), MPG Range (19/26), Exterior Color (Eminent White Pearl), Interior Color (Flame), Stock # (21444L), and VIN (JTHC81D21K5038087). The price is shown as \$33,699*. A 'CHECK AVAILABILITY' and 'VIEW DETAILS' button is visible.

Below the listing, there is a 'L/CERTIFIED BY LEXUS' badge and a 'CARFAX 1-OWNER' badge. A red box highlights the 'CARFAX 1-OWNER' badge, with a red arrow pointing to a pop-up window titled 'CARFAX History-Based Value Report'. This pop-up window shows the following information:

- History events affecting this vehicle's value:** No Accidents Reported, 1-Owner Vehicle, Certified Pre-Owned, Service History.
- Value Summary:** \$36,730 CARFAX Value, \$33,699 Dealer Price *, \$3,031 Savings.
- Vehicle History Report:** No accidents reported to CARFAX, No damage reported to CARFAX, CARFAX 1-Owner vehicle.

The pop-up window also includes a 'WELL MAINTAINED' badge with a dog icon. The background of the pop-up shows a 'CARFAX 1-OWNER GREAT VALUE' badge.

4. **Tarbox** – Three screenshots: One from Tarbox’s vehicle details page showing the link to the CARFAX Value and CARFAX Vehicle History Report and two from a results page on the CARFAX Used Car Listing site.

2019 Hyundai Elantra SEL



Price: \$14,991 \$248/mo est.
GREAT VALUE \$1,009 below \$16,000 CARFAX Value

 No Accident or Damage No accident or damage reported to CARFAX.	 CARFAX 1-Owner Purchased on 04/12/19 and owned in RI until Present.	 Corporate Use Corporate vehicle.	 Service History Last serviced in East Greenwich, RI on 05/07/20 • Vehicl...
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Dealer: Tarbox Hyundai

Mileage: 12,344 miles

Body Type: Sedan

Location: North Kingstown, RI (3 miles from East Greenwich, RI)

Color: Silver

Engine: 4 Cyl 2.0 L

Description: Used 2019 Hyundai Elantra SEL with FWD, Cargo Package, Tinted Windows, Folding Mirrors, Blind Spot Monitor, Alloy Wheels, Lane Departure Warning, Heated Mirrors, Satellite Radio, 16 Inch Wheels, Black Grille

2019 Hyundai Tucson SEL



Price: \$19,591 \$325/mo est.
GREAT VALUE \$1,679 below \$21,270 CARFAX Value

 No Accident or Damage No accident or damage reported to CARFAX.	 CARFAX 1-Owner Purchased on 04/12/19 and owned in RI until Present.	 Corporate Use Corporate vehicle.	 Service History Last serviced in East Greenwich, RI on 04/24/20 • Vehicl...
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Dealer: Tarbox Hyundai

Mileage: 15,385 miles

Body Type: SUV

Location: North Kingstown, RI (3 miles from East Greenwich, RI)

Color: Gray

Engine: 4 Cyl 2.4 L

Description: Used 2019 Hyundai Tucson SEL with AWD, Cargo Package, Remote Start, Keyless Entry, Heated Seats, Cargo Cover, Roof Rails, Tinted Windows, Blind Spot Monitor, 18 Inch Wheels, Smart Key

5. **Tasca** – This dealership places CARFAX Value Badging on their inventory demonstrating to the consumer the retail price is appropriate for the vehicle. Clicking the CARFAX Value Badge displays the CARFAX Value and CARFAX Vehicle History Report. This dealership also lists vehicles on the CARFAX Used Car Listing site, which shows the CARFAX Value.

PRE-OWNED 2014 CHEVROLET EQUINOX
AWD LTZ

MYPRICE \$11,750
See Important Disclosures Here



Chevrolet
WOONSOCKET RI
You Will Be Satisfied

2013 - 2019
DEALER OF THE YEAR

47 photos

Save Compare

SPECIFICATIONS +

Stock Number SUUSU2233A

SHOW ME THE CARFAX GREAT VALUE

VIEW DETAILS

PRE-OWNED 2017 CHEVROLET CRUZE
Sedan LT (Automatic)

MYPRICE \$12,250
See Important Disclosures Here



Chevrolet
WOONSOCKET RI
You Will Be Satisfied

2013 - 2019
DEALER OF THE YEAR

53 photos

Save Compare

SPECIFICATIONS +

Stock Number SU2336

CARFAX 1 OWNER GOOD VALUE

VIEW DETAILS

2014 CHEVROLET EQUINOX LTZ
VIN: 2GNFLH32E6150801

Vehicle History Report™

Vehicle Highlights™

Warranty Check™

Buyback Guarantee™

CARFAX ADVANTAGE DEALER

This report provided free of charge by:
Tasca Chevrolet
114 Fortin Dr
Woonsocket, RI 02895
888-766-1962
Visit Dealer Website >

★ 4.2 out of 5.0
25 Verified Reviews

♥ 278
Customer Favorites

CARFAX Advantage Dealers are committed to offering a CARFAX Report on every used car they sell.

CARFAX History-Based Value Report

SHOW ME THE CARFAX GREAT VALUE

History events affecting this vehicle's value

Service History Minor Damage

\$13,440 CARFAX Value
\$12,000 Dealer Price *
\$1,440 Savings

*As reported to CARFAX as of 5/14/2020, 21:29 PM EST

CARFAX Vehicle History Report™ US \$39.99

2014 CHEVROLET EQUINOX LTZ
VIN: 2GNFLH32E6150801
4 DOOR WAGON/SPORT UTILITY
3.6L V6 F DOHC 24V
GASOLINE
ALL WHEEL DRIVE

This CARFAX Report Provided by:
Tasca Chevrolet
★ 4.2 / 5.0 25 Verified Reviews
♥ 278 Customer Favorites

Accident reported: minor damage

2 Previous owners

15 Service history records

Types of owners: Commercial, Personal

Last owned in Rhode Island

89,668 Last reported odometer reading



2020 Kia Forte LXS



Price: \$16,750 \$278/mo est.

GOOD VALUE \$80 below \$16,830 CARFAX Value



No Accident or Damage

No accident or damage reported to CARFAX.



CARFAX 1-Owner

Purchased on 12/27/19 and owned in GA until 04/13/20.



Personal Use

Personal Use vehicle.



Service History

Last serviced at 855 miles in Cranston, RI on 04/30/20 • Vehi...

Dealer: **Tasca Automotive Group**

Location: Cranston, RI (8 miles from East Greenwich, RI)

Description: Used 2020 Kia Forte LXS with FWD, Bed Liner, Cloth Seats, Rear Bench Seat

Mileage: 855 miles

Color: Gray

Body Type: Sedan

Engine: 4 Cyl 2.0 L

2019 Toyota Corolla L



Price: \$13,200 \$219/mo est.

GREAT VALUE \$2,130 below \$15,330 CARFAX Value



No Accident or Damage

No accident or damage reported to CARFAX.



CARFAX 1-Owner

Purchased on 01/18/19 and owned in NC until 03/30/20.



Personal Use

Driven an estimated 12,989 miles/year.



Service History

Last serviced in Cranston, RI on 04/08/20 • Vehi...

Dealer: **Tasca Automotive Group**

Location: Cranston, RI (8 miles from East Greenwich, RI)

Description: Used 2019 Toyota Corolla L with FWD, Bed Liner, Heated Mirrors, Rear Bench Seat

Mileage: 15,559 miles

Color: Silver

Body Type: Sedan

Engine: 4 Cyl 1.8 L

2019 Toyota Camry L



Price: \$18,500 \$307/mo est.

GREAT VALUE \$1,530 below \$20,030 CARFAX Value



No Accident or Damage

No accident or damage reported to CARFAX.



CARFAX 1-Owner

Purchased on 01/19/19 and owned in VA until 02/24/20.



Personal Use

Driven an estimated 15,046 miles/year.



Service History

Last serviced in Cranston, RI on 04/21/20 • Vehi...

Dealer: **Tasca Automotive Group**

Location: Cranston, RI (8 miles from East Greenwich, RI)

Description: Used 2019 Toyota Camry L with FWD, Navigation System, Alloy Wheels, Bed Liner

Mileage: 17,824 miles

Color: Gray

Body Type: Sedan

Engine: 4 Cyl 2.5 L

6. Viti Mercedes-Benz – Screenshot of pre-owned inventory on Viti’s site using the CARFAX Value to increase consumer confidence.

The screenshot displays the Viti website's pre-owned inventory page for a 2019 Mercedes-Benz GLE Coupe 43 AMG. The main listing includes a photo of the car, a 'VIEW MORE' link, and a 'SHOW ME THE FREE CARFAX VEHICLE HISTORY REPORTS' button highlighted with a red box. A red arrow points from this button to a detailed CARFAX report overlay.

2019 MERCEDES-BENZ GLE COUPE 43 AMG
VIN: 4J0ED6ED6KA151931

Vehicle History Report™

Vehicle Highlights™
Warranty Check™
Buyback Guarantee™

CARFAX History-Based Value Report

History events affecting this vehicle's value

- No Accidents Reported
- Service History
- Personal Vehicle

\$69,600 CARFAX Value
\$66,495 Dealer Price *
\$3,105 Savings

CARFAX Vehicle History Report™

2019 MERCEDES-BENZ GLE COUPE 43 AMG
VIN: 4J0ED6ED6KA151931
4 DOOR WAGON/SUV/SPORT UTILITY
3.0L V6 250HP GAS/DIESEL
ALL WHEEL DRIVE

- No accidents reported to CARFAX
- No damage reported to CARFAX
- 2 Previous owners
- 6 Service history records
- Types of owners: Personal lease, Personal
- 12,240 Last reported odometer reading

Price: \$66,495

Get Your E-Price
Request Custom Video
TEXT US

Compare

2019 Mercedes-Benz

Mileage: 12,240
MPG Range: 17/24
Engine: 3.0L V-6
Transmission: 9-Speed Shifttable Automatic
Drive Line: AWD
Exterior Color: Black
Interior Color: Black
Stock #: N20370A

SHOW ME THE FREE CARFAX VEHICLE HISTORY REPORTS

AutoPacket.com
VEHICLE RECORDS