

## GARMIN SDK TERMS OF USE

By electronically clicking "I Agree" to receive access to this Garmin Software Development Kit (SDK), you ("You" or "Your") accept and agree to be bound by the following terms and conditions (the "Terms of Use"). This SDK is owned by Garmin Ltd. or its subsidiaries ("Garmin").

### 1. GARMIN SDK

**a. Overview of the Garmin SDK and License Grant.** This Garmin SDK consists of a set of development tools that permit You to create customer software applications that will integrate with Garmin PDA devices and software. This SDK describes the communication interfaces required for interacting or transferring data.

Subject to the terms and restrictions set forth in these Terms of Use, Garmin grants You the following limited, non-exclusive, non-transferable and non-sublicensable license: You may use the SDK contents which may include the Application Program Interface (API) manual, header files, and sample code, to create software applications that integrate with Garmin PDA devices and software.

**b. Updates and Modifications.** Garmin may, at its sole discretion, release subsequent versions of this Garmin SDK and underlying data and require You to obtain and use the most current version. In addition, Garmin may modify these Terms of Use at any time with or without notice. You can always review the most up-to-date version of the Terms of Use online at <http://developer.garmin.com/mobile/mobile-sdk/>.

### **c. Restrictions on Use.**

I. You have no rights with respect to the SDK or any portion thereof and shall not use the SDK or any portion thereof except as expressly set forth herein. You may use, modify and distribute, in object code form, the sample source code included with the SDK. You agree not to redistribute the SDK or any portion thereof; please refer other developers directly to Garmin. You agree not to and not to allow any third party to modify, alter, attempt to disassemble, decompile, or otherwise reverse engineer the SDK except and only to the extent authorized by this Agreement. When reverse engineered and decompiled, the SDK contains the Intellectual Property Rights of Garmin.

II. You agree to be fully responsible for your own conduct and content while using the SDK, and for any consequences thereof. You agree to use the SDK only for purposes that are legal, proper and in accordance with these Terms of Use and any applicable policies or guidelines. By way of example, and not as a limitation, You agree that the applications you develop using the SDK will not:

- transmit or share any end-user data (including location) obtained through these APIs without first obtaining the fully informed consent of the end user;
- transmit or share any map data obtained through these APIs or take any other action that violates the end-user's license agreement for such data;
- use any data or services provided by these APIs for any illegal or unauthorized purpose;
- remove or alter any copyright, trademark or other proprietary rights notices contained in the SDK or any other Garmin content, including but not limited to maps and/or driving directions;
- submit content that falsely expresses or implies that such content is sponsored or endorsed by Garmin; or
- transmit any viruses, worms, defects, Trojan horses, or any items of a destructive nature.

In the event that You are located outside of the United States, or the website You are operating is running on a server located outside of the United States, You agree to comply with any laws, rules or regulations in your locale or in the location of your web server regarding online conduct and acceptable content, including laws regulating the export of data to the United States or your country of residence.

**e. Termination of Use.** Garmin hereby reserves all rights to discontinue Your access to the SDK and the underlying content at any time, at Garmin's sole discretion, for any reason, with or without notice.

**f. Marketing Obligations.** You may employ commercially reasonable efforts to market Your applications. You shall provide Garmin with, and obtain prior written approval for, all content in press releases mentioning Garmin. You agree and acknowledge that Garmin shall have the right to disapprove promotional materials that, in Garmin's business judgment and sole discretion, does not represent suitable quality advertisements, or that reflect unfavorably on Garmin. You will not utilize any promotional materials mentioning Garmin, not expressly approved by Garmin in writing. Upon written request from Garmin, You shall immediately remove any advertisements or promotions mentioning Garmin that Garmin finds unsuitable.

## **2. DISCLAIMER OF WARRANTIES**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

a. YOUR USE OF THE SDK IS AT YOUR SOLE RISK. THE SDK IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. GARMIN EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

b. GARMIN MAKES NO WARRANTY THAT (i) THE SDK WILL MEET YOUR REQUIREMENTS, (ii) THE SDK WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, AND/OR THAT (iii) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.

c. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE SDK IS DONE AT YOUR OWN DISCRETION AND RISK AND. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM/NETWORK OR ANY LOSS OF DATA THAT MAY RESULT FROM THE DOWNLOAD OF ANY SUCH MATERIAL OR THE USE OF THE API.

## **3. LIMITATION OF LIABILITY**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT GARMIN SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF GARMIN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SDK; (ii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; OR (iii) ANY OTHER MATTER RELATING TO THE SDK. Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages. Accordingly, some of the above limitations of sections 2 and 3 may not apply to you.

## **4. INDEMNIFICATION**

You agree to indemnify and hold harmless Garmin, and its subsidiaries, affiliates, officers, agents, and employees, advertisers, licensors, and partners, from and against any third party claim arising from or in

any way related to your use of the SDK, violation of these Terms of Use or any other actions connected with use of any Garmin applications, including any liability or expense arising from all claims, losses, damages (actual and consequential), suits, judgments, litigation costs and attorneys' fees, of every kind and nature. In such a case, Garmin will provide You with written notice of such claim, suit or action.

## **5. INTELLECTUAL PROPERTY RIGHTS.**

**a. "Intellectual Property Rights"** shall mean any and all rights existing under patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law, unfair competition law, publicity rights law, privacy rights law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide. As between You and Garmin, You acknowledge that Garmin owns all right, title and interest, including without limitation all Intellectual Property Rights, in and to the SDK, including but not limited to the Garmin SDK and any mapping data accessed by virtue of the Garmin SDK, and that You shall not acquire any right, title, or interest in or to the SDK, except the limited license expressly set forth in the Terms of Use. Any designs, modifications, or other changes You make to the SDK shall remain the property of Garmin.

**b. Trade Secrets.** You acknowledge and agree that those techniques, algorithms and processes contained in the SDK which have been developed, acquired or licensed by Garmin, or any modification or extraction thereof, constitute trade secrets of Garmin or its licensors, and You agree they will be used only in accordance with the terms and conditions of this Agreement. You shall, at all necessary means, protect the proprietary rights of Garmin in the SDK, including without limitation, securing employee confidentiality agreements, maintaining such agreements, restricting security access, and using password protection.

**c. Trademark License.** For purposes of the Terms of Use, "**Trademarks**" shall be defined as the trademarks, trade names, logos, domain names, along with any other distinctive brand features of each party. Garmin hereby grants to You a nontransferable, nonsublicenseable, nonexclusive license during the Term to display Garmin's Trademarks solely for the purpose of promoting or advertising that You use the API in accordance with these Terms of Use. You hereby grant to Garmin a nontransferable, nonexclusive license during the Term to use Your Trademarks to advertise that You are using the SDK and to the extent as may be necessary for Garmin to provide you with the SDK.

You understand and agree that Garmin has the sole discretion to determine whether your use of Garmin Trademarks is in accordance with Garmin's standards for Trademark usage. Except as set forth in this Section 5, nothing in the Terms of Use shall grant or shall be deemed to grant to one party any right, title or interest in or to the other party's Trademarks.

## **6. TERM AND TERMINATION.**

**a. Term.** The term of the Terms of Use shall commence on the date upon which You agree to the Terms of Use and shall continue in force thereafter, unless terminated as provided herein.

**b. Termination.** Garmin may change, suspend or discontinue all or any aspect of the SDK, including its availability, at any time, and may suspend or terminate Your use of the SDK at any time. In addition, either party may terminate the Terms of Use at any time, for any reason, or for no reason including, but not limited to, if You engage in any action that reflects poorly on Garmin or otherwise disparages or devalues the Garmin Trademarks or Garmin's reputation or goodwill. If You desire to terminate the Terms of Use, You must remove the SDK and cease all use of the SDK.

**c. Effect of Termination.** Upon the termination of the Terms of Use for any reason (i) all license rights granted herein shall terminate; (ii) You shall immediately delete any and all maps images and Garmin Trademarks; and (iii) You shall immediately cease all use of the SDK.

**d. Survival.** In the event of any termination or expiration of the Terms of Use for any reason, Sections two through six (2-6) shall survive termination. Neither party shall be liable to the other party for damages of any sort resulting solely from terminating the Terms of Use in accordance with its terms.

**f. Equitable Remedies.** You acknowledge that Your breach of SDK/license restrictions contained herein may cause irreparable harm to Garmin. Accordingly, You agree that, in addition to any other remedies to which Garmin may be legally entitled, Garmin shall have the right to seek immediate injunctive relief in the event of a breach of such sections by You or any of Your officers, employees, consultants or other agents.

## **7. MISCELLANEOUS TERMS**

**a. Entire Agreement.** The Terms of Use constitute the entire agreement between You and Garmin and govern your use of the SDK, superseding any prior agreements between You and Garmin. You also may be subject to additional terms and conditions that may apply when You use or purchase certain other Garmin products or applications, affiliate applications, third-party content or third-party software.

**b. Jurisdiction, Venue and Choice of Law.** The Terms of Use and the relationship between You and Garmin shall be governed by the laws of the State of Kansas without regard to its conflict of law provisions. You and Garmin agree to submit to the personal and exclusive jurisdiction of the United States District Court for the District of Kansas and the Kansas state courts located in Johnson County, Kansas.

**c. Severability and Waiver.** The failure of Garmin to exercise or enforce any right or provision of the Terms of Use shall not constitute a waiver of such right or provision. If any provision of the Terms of Use is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Terms of Use remain in full force and effect.

**d. Statute of Limitations.** You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Garmin API or the Terms of Use must be filed within one (1) year after such claim or cause of action arose or be forever barred.