

End User Agreement for **Advantage Auto MGA - Quick Photo**

Effective Date: December 13, 2019

THESE TERMS OF USE ARE ENTERED INTO BY AND BETWEEN YOU AND **ADVANTAGE AUTO MGA. THE FOLLOWING TERMS AND CONDITIONS (THE “AGREEMENT”) GOVERN YOUR ACCESS TO AND USE OF **ADVANTAGE AUTO MGA – QUICK PHOTO**, INCLUDING ANY DOCUMENTATION, FUNCTIONALITY AND SERVICES OFFERED ON OR THROUGH QUICK **PHOTO** (COLLECTIVELY, “QUICK **PHOTO**”).**

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE YOU START TO USE QUICK **PHOTO. BY DOWNLOADING, INSTALLING, OR USING QUICK **PHOTO**, YOU ACKNOWLEDGE AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. SHOULD YOU NOT ACKNOWLEDGE AND AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU MUST IMMEDIATELY UNINSTALL QUICK **PHOTO** AND/OR DISCONTINUE ITS USE. CONTINUED USE OF QUICK **PHOTO** SIGNIFIES YOUR CONTINUED ACCEPTANCE OF THIS AGREEMENT AND ANY CHANGES TO IT.**

If you are a resident of the United States (including its possessions and territories), by accepting this Agreement you are agreeing to the Arbitration Agreement and class action waiver described herein to resolve any disputes with **Advantage Auto MGA (except for matters that may be taken to small claims court).**

Quick **Photo** is designed to allow individuals to take photographs and videos of their damaged vehicles, upload those photographs and videos (along with additional information) to the insurance carriers that are handling their claims, and receive information relating to their damaged vehicles, such as vehicle damage repair estimates from the insurance carriers (and their service providers). In addition, Quick **Photo** is designed to allow individuals to utilize video for live communications with representatives of an insurance carrier, and to allow individuals and representatives of the insurance carrier to record and transmit to the insurance carrier or its representatives photographs and videos of the individual's damaged vehicle(s). All use of Quick **Photo** for any other purpose is strictly prohibited.

Please limit your submissions to the following: (a) a photograph of your current odometer reading; (b) a photograph of your Vehicle Identification Number (“VIN”); (c) photograph(s) and/or video(s) of the damage to your vehicle; (d) a brief text description of the damage to your vehicle and (e) your vehicle's option information. Please do not include any personal information about you, or any other person, in the photographs, videos or text you submit to Quick **Photo. Everything you submit to Quick **Photo** will be shared, unedited, with insurance carriers and other parties, as described in our Privacy Policy [\[Link\]](#).**

Incorporation of Related Terms and Third Party Content

Quick **Photo** may be used on Apple iPhone® mobile phone devices and Android™ mobile phone devices (individually, a “Device” and collectively, the “Devices”). You are responsible for paying for all rates and charges in connection with using the Devices.

Third party content may be made available to you in connection with Quick **Photo** (the “Content”). All statements and/or opinions expressed in the Content are solely the opinions and responsibility of the

person or entity providing those materials. **Advantage Auto MGA** does not endorse such third party services or the Content and does not and cannot pre-screen or monitor Content. **Advantage Auto MGA** shall not be liable for any products, services or the Content of third parties or the accuracy of any such products, services or the Content.

You acknowledge and agree that different terms of use and privacy policies may apply to your use of the Devices and the Content (the “Third Party Terms”). Should any provisions in the Third Party Terms conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement will control, solely to the extent such provisions apply to Quick **Photo**.

Privacy Policy

All information **Advantage Auto MGA** collects from Quick **Photo** is subject to the Quick **Photo** Privacy Policy (“Privacy Policy”) [\[Link\]](#), the location and terms of which may be changed from time to time. By using Quick **Photo**, you acknowledge that you have read and understood the Privacy Policy.

Advantage Auto MGA Content

As part of Quick **Photo**, you may be provided with content developed by **Advantage Auto MGA** or its licensors. **Advantage Auto MGA** reserves the right to disable or remove any **Advantage Auto MGA** Content for any reason at any time without notice to you.

License

You must be at least 16 years old (or the legal age to drive in your jurisdiction if different than 16 as long as you are 13 or over) to access and use Quick **Photo**. Subject to this Agreement, **Advantage Auto MGA** grants you a limited, non-exclusive, non-transferable, non-sublicensable and revocable license to use Quick **Photo** solely for your personal, non-commercial use and only on a Device that is owned or controlled by you as permitted under the applicable Apple or Google terms and conditions and in accordance with this Agreement. In addition, **Advantage Auto MGA** grants you a limited, non-exclusive, non-transferable, non-sublicensable and revocable license to use the **Advantage Auto MGA** Content solely for your personal, non-commercial use in connection with Quick **Photo**.

This Agreement also governs any updates to or supplements or replacements for Quick **Photo** and the **Advantage Auto MGA** Content, unless separate terms accompany such updates, supplements or replacements, in which case the separate terms will apply.

You may not (a) remove any copyright, trademark or other proprietary notices from any portion of Quick **Photo** or the **Advantage Auto MGA** Content; (b) reproduce, modify, create derivative works based upon, distribute, license, lease, sell, resell, transfer, publically display, transmit, stream, republish, broadcast or otherwise exploit Quick **Photo** or the **Advantage Auto MGA** Content except as set forth in this Agreement; (c) decompile, reverse engineer or disassemble Quick **Photo** or the **Advantage Auto MGA** Content; or (d) link to, mirror or frame any portion of Quick **Photo** or the **Advantage Auto MGA** Content.

Any use of Quick **Photo** and the **Advantage Auto MGA** Content not specifically permitted under this Agreement is strictly prohibited.

Intellectual Property Rights and Feedback

All right, title and interest (including all copyrights, patents, patent rights, trade secrets, trademarks, service marks, trade names, moral rights and other intellectual property and proprietary rights) in Quick **Photo** and the **Advantage Auto MGA** Content (including any modification, translation or adaptation thereof and any other improvement or development thereto or based thereon which is suggested by you (the “Feedback”)) are and shall remain the sole and exclusive property of **Advantage Auto MGA** or its licensors.

You acknowledge and agree that (a) the Feedback does not contain confidential or proprietary information of third parties; (b) **Advantage Auto MGA** is under no obligation of confidentiality regarding the Feedback

(express or implied); (c) **Advantage Auto MGA** may have something similar to the Feedback; (d) **Advantage Auto MGA** is under no obligation to use the Feedback; and (e) **Advantage Auto MGA** may use, distribute, exploit, assign and further develop and modify the Feedback for any purpose, and you shall not be entitled to any compensation of any kind. To the extent that any copyright or other intellectual property ownership interest vests in you with respect to the Feedback, you hereby grant **Advantage Auto MGA** a worldwide, non-exclusive, royalty-free, fully paid up, irrevocable, sub-licensable and perpetual right and license to make, use, copy, sell, distribute, otherwise exploit and create derivative works of the Feedback. You irrevocably release **Advantage Auto MGA** from any and all liability and claims that may result from or are related to the rights in the Feedback. No right, title or interest in or to Quick **Photo**, the Content or **Advantage Auto MGA** Content is transferred to you, and all rights not expressly granted are reserved by **Advantage Auto MGA**.

Account Information

To access Quick **Photo**, you may be asked to provide certain registration details or other information (the “Account Information”). It is a condition of your use of Quick **Photo** that all of the information you provide is correct, current and complete.

If you fail to maintain truthful, accurate and complete Account Information, your access to and use of Quick **Photo** may be terminated. You are responsible for (a) updating your Account Information; (b) protecting your Account Information against use by others; and (c) promptly notifying **Advantage Auto MGA** of any misuse or unauthorized access to or use of your Account Information. You are personally responsible for any use of Quick **Photo**, the Content and the **Advantage Auto MGA** Content and any activity that occurs under your Account Information.

User Information

By acknowledging and consenting to this Agreement, or by downloading, installing or using Quick **Photo**, you agree that **Advantage Auto MGA**, its affiliates, insurance carrier customers, agents, third party partners, and successors, may use, process, maintain, share, and/or transmit the information you provide through your use of Quick **Photo**—including your Personal Information (as defined in the Privacy Policy)—for the purposes disclosed in this Agreement and the Privacy Policy.

You further agree to immediately notify **Advantage Auto MGA** of any suspected unauthorized transactions associated with Quick **Photo** or any other breach of security. **Advantage Auto MGA** shall not be responsible for any losses arising from the financial loss or theft of User Information due to unauthorized or fraudulent transactions related to Quick **Photo**. You are solely responsible for taking precautionary steps to protect User Information.

User-Generated Content

You may generate content, written or otherwise, while using Quick **Photo** (“User-Generated Content”). User-Generated Content includes, but is not limited to, any communications, images, photos, videos, sounds, and all the material, data and information that you upload or transmit through Quick **Photo**. You acknowledge and agree that User-Generated Content may be used, reproduced, displayed, modified, deleted, added to, adapted, and published by **Advantage Auto MGA** (for example, in product marketing campaigns). You grant **Advantage Auto MGA**, including its affiliates, insurance carrier customers, agents, third party partners and successors, a worldwide, irrevocable, transferrable, sub-licensable, fully-paid and royalty- free, and non-exclusive license to use, reproduce, display, modify, delete from, add to, adapt, publish, store and prepare derivative works from and exploit, in whole or part, the User-Generated Information in any manner or any medium now known or hereafter devised.

Prohibited Uses

You may use Quick **Photo** and the **Advantage Auto MGA** Content only for lawful purposes and in accordance with this Agreement. Quick **Photo** and the **Advantage Auto MGA** Content shall not be used in any way that:

1. Violates any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the United States or other countries).
2. Harasses, abuses, stalks, threatens, defames or violates the rights of any other party (including, but not limited to, rights of publicity or other proprietary rights).
3. Is in violation of this Agreement or for fraudulent or deceptive purposes.
4. Attempts to gain unauthorized access to Advantage Auto MGA's user accounts.
5. Could disable, overburden, damage or impair Advantage Auto MGA's services or networks or interfere with any other party's use of Quick Photo, including another party's ability to engage in real time activities through Quick Photo.
6. Uses any robot, spider or other automatic device, process or means to access Quick Photo for any purpose, including monitoring or copying any of the material on Quick Photo.
7. Uses any manual process to monitor or copy any of the material on Quick Photo or for any other unauthorized purpose without Advantage Auto MGA's prior written consent.
8. Uses any device, software or routine that interferes with the proper working of Quick Photo.
9. Introduces any viruses, Trojan horses, worms, logic bombs or other material which is malicious or technologically harmful.
10. Attempts to gain unauthorized access to, interfere with, damage or disrupt any parts of Quick Photo, the server on which Quick Photo is stored, or any server, computer or database connected to Quick Photo.
11. Attacks Quick Photo via a denial-of-service attack or a distributed denial-of-service attack.
12. Otherwise attempts to interfere with the proper working of Quick Photo.
13. Fails to comply with applicable Third Party Terms.

Termination

Advantage Auto MGA may, in its sole discretion, terminate this Agreement and/or remove the Content and/or the Advantage Auto MGA Content at any time and for any reason. Upon termination, the rights and licenses granted to you, including your ability to access and use Quick Photo, will immediately terminate, and you shall immediately terminate your use of and access to Quick Photo and the Advantage Auto MGA Content.

Geographic Restriction

Advantage Auto MGA provides Quick Photo for use only by persons located in the United States.

Indemnification

You agree to indemnify and hold harmless Advantage Auto MGA, its affiliates, licensors and service providers, and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including Photo attorneys' fees) arising out of or relating to your violation of this Agreement or your use of Quick Photo, including, but not limited to, any use of the Advantage Auto MGA Content, the Content, services and products other than as expressly authorized in this Agreement or your use of any information obtained from Quick Photo.

No Warranties

QUICK PHOTO, THE CONTENT AND THE ADVANTAGE AUTO MGA CONTENT ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED. YOU ARE USING QUICK PHOTO, THE CONTENT AND THE ADVANTAGE AUTO MGA CONTENT AT YOUR OWN RISK. TO THE FULLEST EXTENT ALLOWABLE UNDER APPLICABLE LAW, ADVANTAGE AUTO MGA DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES THAT QUICK PHOTO, THE CONTENT AND THE ADVANTAGE AUTO MGA CONTENT ARE

MERCHANTABLE, RELIABLE, ACCURATE, FIT FOR A PARTICULAR PURPOSE OR NEED, NON-INFRINGEMENT OR FREE OF DEFECTS OR ABLE TO OPERATE ON AN UNINTERRUPTED BASIS, OR THAT THE USE OF QUICK PHOTO, THE CONTENT AND THE ADVANTAGE AUTO MGA CONTENT BY YOU IS IN COMPLIANCE WITH LAWS, OR THAT YOUR INFORMATION TRANSMITTED IN CONNECTION WITH QUICK PHOTO WILL BE SUCCESSFULLY, ACCURATELY OR SECURELY TRANSMITTED.

Limitation on Liability

IN NO EVENT WILL ADVANTAGE AUTO MGA, ITS AFFILIATES, LICENSORS OR SERVICE PROVIDERS, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, CONTRACTORS, AGENTS, LICENSORS SUPPLIERS, SUCCESSORS AND ASSIGNS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, QUICK PHOTO, THE CONTENT AND THE ADVANTAGE AUTO MGA CONTENT, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, AND LOSS OF DATA, WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

IN THE EVENT THAT APPLICABLE LAW DOES NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES, IN NO EVENT SHALL ADVANTAGE AUTO MGA, ITS AFFILIATES, LICENSORS OR SERVICE PROVIDERS, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, CONTRACTORS, AGENTS, LICENSORS SUPPLIERS, SUCCESSORS AND ASSIGNS, BE LIABLE FOR DAMAGES, LOSSES AND/OR CAUSES OF ACTION EXCEEDING THE AMOUNT, IF ANY, PAID BY YOU FOR USE OF QUICK PHOTO OR \$100.00, WHICHEVER IS LESS.

Intellectual Property

Advantage Auto MGA's logo and all related names, logos, product and service names, designs and slogans are trademarks of Advantage Auto MGA or its affiliates or licensors (the "Advantage Auto MGA Marks"). All other names, logos, product and service names, designs and slogans in connection with Quick Photo are the trademarks of their respective owners (the "Third Party Marks"). The Advantage Auto MGA Marks and Third Party Marks are collectively referred to as the "Marks." The Marks may not be used by you without the prior written consent of Advantage Auto MGA or the applicable trademark owner.

Choice of Law, Jurisdiction; Arbitration

This Agreement and your use of Quick Photo are governed by and construed in accordance with the laws of the State of Tennessee to the exclusion of its conflict of laws rules. Any dispute, claim, case or controversy, whether in tort, contract, statute or otherwise, arising out of or relating to Quick Photo shall be resolved by binding arbitration. By using Quick Photo, you signify your consent to arbitration in Nashville, Tennessee.

This Agreement does not permit class arbitration or any claims brought as a plaintiff or class member in any class or representative arbitration proceeding. No arbitration will be combined with another without the prior written consent of all parties to all affected arbitrations or proceedings. Any disputes regarding arbitrability, the scope of arbitration or the arbitrator's jurisdiction

will be decided by the arbitrator. The arbitration will be administered by either (a) the American Arbitration Association under its Commercial Arbitration Rules, or (b) JAMS Dispute Resolution Experts under its Comprehensive Arbitration Rules. The arbitration will be conducted by a single arbitrator in English in **Nashville, Tennessee**. The award of the arbitrator shall be accompanied by a statement of the reasons upon which the award is based. This Agreement is governed by the Federal Arbitration Act, and any award shall be subject to judicial confirmation in any court having jurisdiction. If any part of this paragraph is deemed illegal, unenforceable or invalid, then that portion will be severed and it shall not operate to invalidate any other portion of this paragraph.

BY AGREEING TO THIS ARBITRATION PROVISION, THE PARTIES UNDERSTAND THAT THEY ARE WAIVING ANY RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL AS WELL AS ANY RIGHT TO PARTICIPATE IN A CLASS ACTION OR IN CLASS ACTION PROCEEDINGS.

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

Entire Agreement

This Agreement and **Advantage Auto MGA's** Privacy Policy constitute the sole and entire agreement between you and **Advantage Auto MGA** with respect to Quick **Photo** and the **Advantage Auto MGA** Content and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to Quick **Photo** and the **Advantage Auto MGA** Content.

Modification of this Agreement

Advantage Auto MGA may change or modify this Agreement or any other **Advantage Auto MGA** terms, conditions, or policies related to the use of Quick **Photo** (including those identified in this Agreement) at any time and at its sole discretion by posting revisions on **Advantage Auto MGA's** website (www.advantageauto.com) or within Quick **Photo**. Continued use of Quick **Photo** following the posting of these changes or modifications will constitute your acknowledgement and agreement to such changes or modifications. If you do not agree to or cannot comply with the Agreement as modified, you must stop using Quick **Photo**.

Waiver and Severability

No waiver by **Advantage Auto MGA** of any term or condition set forth in this Agreement shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of **Advantage Auto MGA** to assert a right or provision under this Agreement shall not constitute a waiver of such right or provision.

If any provision of this Agreement is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of this Agreement will continue in full force and effect.

Third Party Beneficiary

Except for **Advantage Auto MGA's** service providers, licensors, or others involved in creating or providing Quick **Photo**, nothing herein, express or implied, shall give or be construed to give any rights hereunder to any third party.

Assignment

Advantage Auto MGA may assign or delegate this Agreement and/or **Advantage Auto MGA's** Privacy Policy, in whole or in part, to any person or entity at any time with or without your consent. You may not assign or delegate any rights or obligations under this Agreement or **Advantage Auto MGA's** Privacy Policy without the prior written consent of **Advantage Auto MGA's** Chief Executive Officer, and any unauthorized assignment and delegation by you is ineffective.

Legal Notice

Certain portions of Quick **Photo** are owned by Autodata, Inc. dba Chrome Data; ©1986-2018 Autodata, Inc. dba Chrome Data. Certain portions of Quick **Photo** are owned and licensed through Sightcall, Inc.