

## End User Agreement for Germania Mobile Auto Adjuster - Photo App

Effective Date: April 1, 2017

**THESE TERMS OF USE ARE ENTERED INTO BY AND BETWEEN YOU AND GERMANIA INSURANCE COMPANY, GERMANIA FIRE & CASUALTY COMPANY AND GERMANIA SELECT INSURANCE COMPANY (COLLECTIVELY GERMANIA INSURANCE COMPANY, GERMANIA FIRE & CASUALTY COMPANY AND GERMANIA SELECT INSURANCE COMPANY SHALL COLLECTIVELY BE REFERRED TO HEREIN AS "GERMANIA"). THE FOLLOWING TERMS AND CONDITIONS (THE "AGREEMENT") GOVERN YOUR ACCESS TO AND USE OF GERMANIA MOBILE AUTO ADJUSTER, INCLUDING ANY DOCUMENTATION, FUNCTIONALITY AND SERVICES OFFERED ON OR THROUGH GERMANIA MOBILE AUTO ADJUSTER (COLLECTIVELY, "GERMANIA MOBILE AUTO ADJUSTER").**

**PLEASE READ THIS AGREEMENT CAREFULLY BEFORE YOU START TO USE GERMANIA MOBILE AUTO ADJUSTER. BY DOWNLOADING, INSTALLING, OR USING GERMANIA MOBILE AUTO ADJUSTER, 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 GERMANIA MOBILE AUTO ADJUSTER AND DISCONTINUE ITS USE. CONTINUED USE OF GERMANIA MOBILE AUTO ADJUSTER 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 Germania (except for matters that may be taken to small claims court).**

Germania Mobile Auto Adjuster is a mobile application that is designed to allow individuals to take photographs of their damaged vehicles, upload those photographs (along with additional information) to the insurance carriers that are handling their claims, and receive vehicle damage repair estimates from the insurance carriers (and their service providers). All use of Germania Mobile Auto Adjuster 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) of the damage to your vehicle; and (d) a brief text description of the damage to your vehicle. Please do not include any personal information about you, or any other person, in the photographs or text you submit to Germania Mobile Auto Adjuster. Everything you submit to Germania Mobile Auto Adjuster will be shared, unedited, with Germania and other parties, as described in our [Privacy Policy](#).**

### **Incorporation of Related Terms and Third Party Content**

Germania Mobile Auto Adjuster may be used only 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 Germania Mobile Auto Adjuster (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. GERMANIA does not endorse such third party services or the Content and does not and cannot pre-screen or monitor Content. GERMANIA 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 Germania Mobile Auto Adjuster.

### **Privacy Policy**

All information GERMANIA collects from Germania Mobile Auto Adjuster is subject to the Germania Mobile Auto Adjuster Privacy Policy ([2 Privacy Policy](#)), the location and terms of which may be changed from time to time. By using Germania Mobile Auto Adjuster, you acknowledge that you have read and understood the Privacy Policy. Further, you acknowledge and consent to GERMANIA sharing information with CCC Information Services Inc. pursuant to the Privacy Policy and as set forth herein.

### **GERMANIA Content**

As part of Germania Mobile Auto Adjuster, you may be provided with content developed by GERMANIA or its licensors. GERMANIA reserves the right to disable or remove any GERMANIA 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 16 or over) to access and use Germania Mobile Auto Adjuster. Subject to this Agreement, GERMANIA grants you a limited, non-exclusive, non-transferable, non-sublicensable and revocable license to use Germania Mobile Auto Adjuster 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, GERMANIA grants you a limited, non-exclusive, non-transferable, non-sublicensable and revocable license to use the GERMANIA Content solely for your personal, non-commercial use in connection with Germania Mobile Auto Adjuster.

This Agreement also governs any updates to or supplements or replacements for Germania Mobile Auto Adjuster and the GERMANIA 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 Germania Mobile Auto Adjuster or the GERMANIA Content; (b) reproduce, modify, create derivative works based upon, distribute, license, lease, sell, resell, transfer, publically display, transmit, stream, republish, broadcast or otherwise exploit Germania Mobile Auto Adjuster or the GERMANIA Content except as set

forth in this Agreement; (c) decompile, reverse engineer or disassemble Germania Mobile Auto Adjuster or the GERMANIA Content; or (d) link to, mirror or frame any portion of Germania Mobile Auto Adjuster or the GERMANIA Content.

Any use of Germania Mobile Auto Adjuster and the GERMANIA 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 Germania Mobile Auto Adjuster and the GERMANIA 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 GERMANIA or its licensors.

You acknowledge and agree that (a) the Feedback does not contain confidential or proprietary information of third parties; (b) GERMANIA is under no obligation of confidentiality regarding the Feedback (express or implied); (c) GERMANIA may have something similar to the Feedback; (d) GERMANIA is under no obligation to use the Feedback; and (e) GERMANIA 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 GERMANIA 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 GERMANIA 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 Germania Mobile Auto Adjuster, the Content or GERMANIA Content is transferred to you, and all rights not expressly granted are reserved by GERMANIA.

### **Account Information**

To access Germania Mobile Auto Adjuster, you may be asked to provide certain registration details or other information (the "Account Information?"). It is a condition of your use of Germania Mobile Auto Adjuster 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 Germania Mobile Auto Adjuster 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 GERMANIA of any misuse or unauthorized access to or use of your Account Information. You are personally responsible for any use of Germania Mobile Auto Adjuster, the Content and the GERMANIA 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 Germania Mobile Auto Adjuster, you agree that GERMANIA, its affiliates, agents, third party partners, and successors, may use, process, maintain, share, and/or transmit the information you provide through your use of Germania Mobile Auto Adjuster—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 GERMANIA of any suspected unauthorized transactions associated with Germania Mobile Auto Adjuster or any other breach of security. GERMANIA 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 Germania Mobile Auto Adjuster. You are solely responsible for taking precautionary steps to protect User Information.

### **User-Generated Content**

You may generate content, written or otherwise, while using Germania Mobile Auto Adjuster ("User-Generated Content?"). User-Generated Content includes, but is not limited to, any communications, images, photos, sounds, and all the material, data and information that you upload or transmit through Germania Mobile Auto Adjuster. You acknowledge and agree that User-Generated Content may be used, reproduced, displayed, modified, deleted, added to, adapted, and published by GERMANIA (for example, in product marketing campaigns). You grant GERMANIA, including its affiliates, 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 Germania Mobile Auto Adjuster and the GERMANIA Content only for lawful purposes and in accordance with this Agreement. Germania Mobile Auto Adjuster and the GERMANIA 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 GERMANIA's user accounts.
5. Could disable, overburden, damage or impair GERMANIA's services or networks or interfere with any other party's use of Germania Mobile Auto Adjuster, including another party's ability to engage in real time activities through Germania Mobile Auto Adjuster.
6. Uses any robot, spider or other automatic device, process or means to access Germania Mobile Auto Adjuster for any purpose, including monitoring or copying any of the material on Germania Mobile Auto Adjuster.
7. Uses any manual process to monitor or copy any of the material on Germania Mobile Auto Adjuster or for any other unauthorized purpose without GERMANIA's prior written consent.
8. Uses any device, software or routine that interferes with the proper working of Germania Mobile Auto Adjuster.
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 Germania Mobile Auto Adjuster, the server on which Germania Mobile Auto Adjuster is stored, or any server, computer or database connected to Germania Mobile Auto Adjuster.

11. Attacks Germania Mobile Auto Adjuster via a denial-of-service attack or a distributed denial-of-service attack.
12. Otherwise attempts to interfere with the proper working of Germania Mobile Auto Adjuster.
13. Fails to comply with applicable Third Party Terms.

#### **Termination**

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

#### **Geographic Restriction**

GERMANIA provides Germania Mobile Auto Adjuster for use only by persons located in the United States.

#### **Indemnification**

You agree to indemnify and hold harmless GERMANIA, 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 reasonable attorneys' fees) arising out of or relating to your violation of this Agreement or your use of Germania Mobile Auto Adjuster, including, but not limited to, any use of the GERMANIA Content, the Content, services and products other than as expressly authorized in this Agreement or your use of any information obtained from Germania Mobile Auto Adjuster.

#### **No Warranties**

GERMANIA MOBILE AUTO ADJUSTER, THE CONTENT AND THE GERMANIA CONTENT ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED. YOU ARE USING GERMANIA MOBILE AUTO ADJUSTER, THE CONTENT AND THE GERMANIA CONTENT AT YOUR OWN RISK. TO THE FULLEST EXTENT ALLOWABLE UNDER APPLICABLE LAW, GERMANIA DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES THAT GERMANIA MOBILE AUTO ADJUSTER, THE CONTENT AND THE GERMANIA 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 GERMANIA MOBILE AUTO ADJUSTER, THE CONTENT AND THE GERMANIA CONTENT BY YOU IS IN COMPLIANCE WITH LAWS, OR THAT YOUR INFORMATION TRANSMITTED IN CONNECTION WITH GERMANIA MOBILE AUTO ADJUSTER WILL BE SUCCESSFULLY, ACCURATELY OR SECURELY TRANSMITTED.

#### **Limitation on Liability**

IN NO EVENT WILL GERMANIA, 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, GERMANIA MOBILE AUTO ADJUSTER, THE CONTENT AND THE GERMANIA 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 GERMANIA, 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 GERMANIA MOBILE AUTO ADJUSTER OR \$100.00, WHICHEVER IS LESS.

#### **Intellectual Property**

GERMANIA, the GERMANIA logo and all related names, logos, product and service names, designs and slogans are trademarks of GERMANIA or its affiliates or licensors (the "GERMANIA Marks"). All other names, logos, product and service names, designs and slogans in connection with Germania Mobile Auto Adjuster are the trademarks of their respective owners (the "Third Party Marks"). The GERMANIA 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 GERMANIA or the applicable trademark owner.

#### **Choice of Law, Jurisdiction; Arbitration**

This Agreement and your use of Germania Mobile Auto Adjuster are governed by and construed in accordance with the laws of the State of Texas 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 Germania Mobile Auto Adjuster shall be resolved by binding arbitration. By using Germania Mobile Auto Adjuster, you signify your consent to arbitration in Brenham, Texas.

**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 Brenham, Texas. 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 GERMANIA's Privacy Policy constitute the sole and entire agreement between you and GERMANIA with respect to Germania Mobile Auto Adjuster and the GERMANIA Content and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to Germania Mobile Auto Adjuster and the GERMANIA Content.

#### **Modification of this Agreement**

GERMANIA may change or modify this Agreement or any other GERMANIA terms, conditions, or policies related to the use of Germania Mobile Auto Adjuster (including those identified in this Agreement) at any time and at its sole discretion by posting revisions on GERMANIA's website ([www.Germania.com](http://www.Germania.com)) or within Germania Mobile Auto Adjuster. Continued use of Germania Mobile Auto Adjuster 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 Germania Mobile Auto Adjuster.

#### **Waiver and Severability**

No waiver by GERMANIA 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 GERMANIA 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 GERMANIA's service providers, licensors, or others involved in creating or providing Germania Mobile Auto Adjuster, nothing herein, express or implied, shall give or be construed to give any rights hereunder to any third party, with the exception of CCC Information Services Inc. which is expressly given the right to pursue or enforce any rights set forth in these Terms and Conditions.

#### **Assignment**

GERMANIA may assign or delegate this Agreement and/or GERMANIA'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 GERMANIA's Privacy Policy without the prior written consent of GERMANIA's Chief Executive Officer, and any unauthorized assignment and delegation by you is ineffective.