

## END USER LICENCE AND TERMS OF USE AGREEMENT

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**IMPORTANT:** CAREFULLY READ THIS ENTIRE AGREEMENT BEFORE USING THE DEVICE. USING THE DEVICE INDICATES YOUR ACKNOWLEDGMENT THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ITS TERMS AND CONDITIONS. IF YOU DO NOT AGREE, RETURN THE COMPLETE PRODUCT WITHIN 7 DAYS OF THE DATE YOU ACQUIRED IT (IF PURCHASED NEW) FOR A FULL REFUND TO THE DEALER FROM WHICH YOU PURCHASED THIS PRODUCT.

**1. License:** Subject to the terms and conditions of this Agreement, Garmin hereby grants you during the Term a limited, non-exclusive, revocable, non-assignable, non-sublicensable and non-transferable license to execute the Software on the Device in machine-readable form only.

**2. Updates; Support or Maintenance:** Garmin may extend, enhance, or otherwise modify the Software at any time without notice, but Garmin shall not be obligated to provide you with any updates to the Software. If updates are made available by Garmin, the terms of this Agreement will govern such updates, unless the update is accompanied by a separate license in which case the terms of that license will govern. You further acknowledge that Garmin has no express or implied obligation to announce or make available any updates of the Software to anyone in the future. You acknowledge that the value-added reseller from whom you obtained the Device and not Garmin is responsible for providing support and maintenance for your Device.

**3. Compliance with Laws and Regulations:** You covenant that your use of the Software will comply with applicable laws and regulations. Garmin will not be responsible for your use of the Device in violation of any laws or regulations.

### **4. Confidentiality; Prohibitions**

**4.1 Confidentiality:** You acknowledge the confidentiality of the Software. At all times during the Term and thereafter, you shall keep confidential and not disclose, directly or indirectly, and shall not use for your benefit or any other individual or entity, confidential information of Garmin.

**4.2 Prohibitions:** All intellectual property rights in the Software shall remain with Garmin. You shall not remove, obscure or alter any copyright, trademark, restrictive legend or other proprietary rights notices contained in the Software or the Device. You shall not reverse engineer, de-compile, disassemble or create derivative works of the Software or the Device.

**5. Indemnification:** You agree to indemnify, defend and hold harmless Garmin and its directors, officers, employees, independent contractors and agents (each a “Garmin Indemnified Party”) from any and all claims, losses, liabilities, damages, expenses and costs (including without limitation attorney fees and court costs) (collectively “Losses”) incurred by a Garmin Indemnified Party as a result of your breach of this Agreement, a breach of any certification, covenant, representation or warranty made by you in this Agreement, or claims otherwise related to or arising from your use of the Device.

## **6. Term and Termination**

**6.1 Term:** The term of this Agreement shall continue for as long as you use the Device. However, this Agreement and all rights granted by Garmin hereunder will terminate automatically without notice from Garmin if you fail to comply with any of its terms or conditions. Garmin also reserves the right to discontinue offering any data or services provided by a third party if such supplier ceases to supply such data or services to Garmin or Garmin’s contract with such supplier terminates for any reason.

**6.2 Effect of Termination:** Upon the termination of this Agreement for any reason, you shall immediately cease all use of the Device, and erase and destroy all copies of Garmin confidential information in your possession or control. The provisions of Sections 3, 4, 5, 6, 7 and 8 will survive any termination of this Agreement. Garmin will not be liable for compensation, indemnity, or damages of any sort as a result of terminating this Agreement in accordance with its terms, and termination of this Agreement will be without prejudice to any other right or remedy Garmin may have, now or in the future.

## **7. NO WARRANTY; DISCLAIMER OF ACTUAL AND CONSEQUENTIAL DAMAGES**

**(a) EXCEPT FOR THE MANUFACTURER’S LIMITED WARRANTY APPLICABLE TO THE DEVICE AND EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN, THE SOFTWARE IS PROVIDED ON AN "AS-IS", "WHERE IS" AND “WITH ALL FAULTS” BASIS. GARMIN AND ITS LICENSORS SPECIFICALLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AS TO THE SOFTWARE. WITHOUT LIMITING THE FOREGOING, GARMIN DOES NOT WARRANT THAT THE SOFTWARE OR THE OPERATION THEREOF WILL BE ACCURATE, RELIABLE, UNINTERRUPTED, ERROR-FREE OR FREE OF VIRUSES OR OTHER HARMFUL AGENTS. NO ORAL OR WRITTEN ADVICE OR INFORMATION PROVIDED BY GARMIN OR ITS SERVICE PROVIDERS, SUPPLIERS, CHANNEL PARTNERS AND**

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(b) GARMIN DISCLAIMS ALL LIABILITY FOR ANY LOSS, INJURY OR DAMAGE RESULTING FROM USE OF THE SOFTWARE. IN NO EVENT WILL GARMIN BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, INCIDENTAL, EXEMPLARY, AND CONSEQUENTIAL DAMAGES, LOST PROFITS, OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION) RESULTING FROM THE USE OR INABILITY TO USE THE SOFTWARE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT GARMIN IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU, IN WHICH CASE SUCH EXCLUSION OR LIMITATION APPLIES TO THE FULLEST EXTENT ALLOWABLE UNDER THE APPLICABLE LAW.

## **8. General Legal Terms**

**8.1 Assignment:** This Agreement may not be assigned, nor may any of your obligations under this Agreement be delegated, in whole or in part, by you by operation of law, merger, or any other means without Garmin's express prior written consent and any attempted assignment without such consent will be null and void.

**8.2 Severability:** If a court of competent jurisdiction finds any clause of this Agreement to be unenforceable for any reason, that clause of this Agreement shall be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement shall continue in full force and effect.

**8.3 Waiver and Construction:** Failure by Garmin to enforce any provision of this Agreement shall not be deemed a waiver of future enforcement of that or any other provision. Any laws or regulations that provide that the language of a contract will be construed against the drafter will not apply to this Agreement.

**8.4 Government End Users:** If you are an agency, department, or other entity of the United States Government, or funded in whole or in part by the U.S. Government, then use, duplication, reproduction, release, modification, disclosure or transfer of the Software is restricted in accordance with the LIMITED or RESTRICTED rights as described in any applicable DFARS or FAR. In case of conflict between any of the FAR and/or DFARS that may apply to the Software, the construction that provides greater limitations on the Government's rights shall control. The contractor/manufacturer is Garmin International, Inc., 1200 East 151st Street, Olathe, Kansas 66062, USA. For purpose of any public disclosure provision under any federal, state or local law, it is agreed that the Software constitutes trade secrets and/or a proprietary commercial product and not subject to disclosure.

**8.5 Export Control:** You agree not to export or re-export the Software to any country in violation of the export control laws of the United States of America.

**8.6 Dispute Resolution:** Any litigation or other dispute resolution between you and Garmin arising out of or relating to this Agreement or your use of the Software will take place in the State of Kansas. 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 with respect any such litigation or dispute resolution. This Agreement will be governed by and construed in accordance with the laws of the United States and the State of Kansas, except that body of Kansas law concerning conflicts of law. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. If either party takes legal action to enforce any right under this Agreement, the prevailing party shall be entitled to recover all reasonable costs, including attorney fees.

**8.7 Entire Agreement:** This Agreement constitutes the entire agreement between you and Garmin with respect to the use of the Software and the Device, and supersedes all prior understandings regarding such subject matter. Any translation of this Agreement is done for local requirements and in the event of a dispute between the English and any non-English version, the English version of this Agreement shall govern. If you are located in the province of Quebec, Canada, the following clause applies: The parties hereby confirm that they have requested that this Agreement and all related documents be drafted in English. Les parties ont exigé que le présent contrat et tous les documents connexes soient rédigés en anglais.