

## Automile terms and conditions

### Automile (“Automile”, “we” or “us”)

Effective as of: November 1, 2019

The terms and conditions set forth below (the “terms”) govern your use of the website located at [www.automile.com](http://www.automile.com) (the “site”) and the hardware products and services sold or leased to you by automile (collectively, the “services”). These terms are a legal agreement between you and automile and govern your access to, and use of, the services and the site. If you do not agree with any of these terms, do not access or otherwise use the site, the services or any information contained on the site. Your use of the site and/or the services will be deemed to be your agreement to abide by each of the terms set forth below.

We may modify the terms at any time, in our sole discretion. If you continue to use the services after we’ve notified you that the terms have been modified, you are agreeing to be bound by the modified terms. If you don’t agree to be bound by the modified terms then you may no longer use the services. Because our services continue to evolve, we may change or discontinue all or any part of the services, at any time and without notice, in our sole discretion.

**Note: these terms contain a binding arbitration provision and time limit on submitting claims that affect your rights. Please read these terms and conditions carefully.**

You represent, acknowledge and agree that: (i) if you are acting on your own behalf, you are at least 18 years of age; or (ii) if you are registering on behalf of a company, or other legal entity, then you are at least 18 years of age and have all authority necessary to bind the company or other legal entity you represent to these terms. If acting for a company or other legal entity the terms “you” and “your” will refer to that organization.

**Automile does not support every make and model vehicle. Before using the services, please ensure your vehicle is supported.**

### **Choice of Law, Venue and Contracting Entity**

If you reside in the United States, your contractual relationship is with Automile, Inc., a United States company, and our agreement is governed by the law of California, USA, and arbitration will apply as stated below. If you reside in Norway, your relationship is with Automile, AS, and our agreement is governed by the laws of Norway, with Oslo District Court as exclusive venue. If you reside anywhere else in the world, your relationship is with Automile AB, and our agreement is governed by the laws of Sweden, with Stockholm District Court as exclusive venue. You may have additional rights under the law. We do not seek to limit those rights where it is prohibited to do so by law.

### **Account and Registration**

In order to use the Services offered you must become a registered user and establish an account (“Account”) and receive or establish a password (“Password”). In the case of a legal entity, each person that is authorized by you to use the Services on your behalf will need to establish a username and password. In registering you agree to provide true, accurate, current and complete information about yourself as prompted by our registration form (“Registration Data”) and to maintain and promptly update the Registration Data to keep it true, accurate, current and complete.

If you provide any Registration Data that is untrue, inaccurate, not complete or incomplete, or Automile has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Automile has the right to suspend or terminate your Account and to refuse any and all current or future use of the Services (or any portion thereof) by you. You are responsible for all activities that occur under your Account and your Password. You agree to notify Automile immediately of any unauthorized use of your Account or Password or any other breach of security. You agree that you are responsible for any losses arising out of the unauthorized use of your Account.

In the event you change or deactivate your mobile telephone number, you agree to promptly update your Automile account information to ensure that messages are not sent to a person that may acquire your old number. In the event that you fail to comply with the obligation to promptly update your Automile account information, you accept full responsibility for any of your messages that may not be delivered or may be sent to the person that acquires your old number.

### **Description of Services**

The Services include (a) all mobile applications and other software (“Software”), data, reports, text, images, and other content made available by us, on the Site or otherwise and (b) all Automile devices (the “Hardware”) that may be connected to your vehicle separately or in connection with the Service. Hardware may be purchased or leased. Any new features or updates added to the Services are also subject to these Terms. You agree and consent that we may automatically through the Services or over-the-air update the Software without any further notice to you. You acknowledge and agree that any obligation we may have to support any version of the Software may be ended upon our making available to you any update, upgrade and/or implementation of additional features.

**Automile has no obligation or liability to you if you fail to properly install the Hardware in your vehicle. Failure to properly install Hardware may cause the Services to function improperly, erratically, or not at all. You are responsible for carefully reading and following all installation instructions in any Automile user manual or installation guide provided with the Hardware or on the Site.**

You understand and agree that the Services are provided in part through systems which are not owned or controlled by Automile including, but not limited to the Internet, mobile telephone carriers and GPS location providers. As such, the Services may from time to time have reduced or lost functionality, delays, disruptions from interruptions, errors or other faults of such third party providers. We have no control over such third party providers and we have no liability if such faults should occur.

The Services are provided on a subscription basis and all subscriptions are twelve (12) months duration, unless otherwise agreed, and subscription fees are paid annually in advance. Subscriptions will automatically renew for additional twelve (12) month terms unless either party gives not less than thirty (30) days prior written notice of its intent not to renew. Customer shall send such notice to [billing@automile.com](mailto:billing@automile.com).

The Services may contain software that is the sole property of third parties or is open source software. Such software is provided subject to the terms and conditions of such third party or under such open source license. You acknowledge and agree that by using the Services you are bound to these third party licenses or terms of use.

### **Trial period**

If you are using the Services on a trial basis, you may only use the Services for the limited trial period specified by us or on the Site at the time of your order, solely for the purpose of evaluating suitability. Your trial use is subject to these Terms. At the conclusion of your trial period, you will either (i) immediately cease all use of the Services, and return the Hardware (upon your request, we will provide you with a free return label you may use), or (ii) promptly purchase a subscription of the Services from the trial end date, and begin paying for the Services. If you choose option (i) you will get a refund on your upfront payment, after we have received the Hardware in resellable condition.

When the trial period ends, and unless we have received the Hardware in return within 10 days after the trial end date, you will be considered to have purchased a subscription of the Services and you shall pay against invoice 10 days net the applicable subscription and hardware fees or, if you have submitted your credit card information, we will charge your credit card.

### **Alerts and Notifications**

As part of the Services we provide, you may (if enabled) receive push notifications, text messages, alerts, emails, or other types of messages directly sent to you outside or inside the App (“Push Messages”). You have control over the Push Messages settings, and can opt in or out of these

Push Messages through the Services (with the possible exception of infrequent, important service announcements and administrative messages). Please be aware that third party messaging fees may occur for some of the Push Messages depending on the message plan you have with your wireless carrier.

### **License and Use of the Services**

**LICENSE GRANT.** Automile grants you, subject to all of the terms and conditions included in the Terms, a limited, non-exclusive, non-transferable, non-sublicensable license to permit you and your employees, agents and contractors (each, an “Authorized User” and, collectively, “Authorized Users”) to access and use Automile’s Services. You will ensure each Authorized User’s compliance with the restrictions and obligations set forth in these Terms and you will be responsible for any breach of such restrictions and obligations by an Authorized User as if committed by you. The Services may not be resold, leased, sublicensed, distributed, assigned, displayed, accessed or used by anyone other than you, or for any purpose other than your use of the Services for your or your internal business use. Except as expressly licensed herein, you will acquire no rights in, and Automile grants no rights with respect to, the Services. No implied licenses are granted and Automile reserves all rights not expressly granted herein.

**ACCESS AND USE.** You represent and warrant that, at all times, Authorized Users will access and use the Services solely in full compliance with all applicable laws and regulations in the jurisdictions in which the Services are obtained, used, or in which you reside or operate, as well as in compliance with these Terms. Each Authorized User will (i) maintain the Services and all Confidential Information (as defined below) in strict confidence; and (ii) comply with all policies and procedures provided by Automile from time to time with respect to access to and use of the Services.

You will comply with any codes of conduct, acceptable use policies or other notices or restrictions Automile provides you or publishes in connection with the Services. You agree to promptly notify Automile if you learn of a data or security breach related to the Services.

**RESTRICTIONS.** You and each Authorized User will not, and will not permit any third party to, (i) reproduce, modify or create any derivative work of, frame, mirror, republish, download, display, transmit or distribute any portion of the Services, except as expressly permitted herein; (ii) use the Hardware or Software in any unlawful manner (including, without limitation, in violation of any data, privacy or export control laws) or in any manner that interferes with or disrupts the integrity or performance of the Services, including the Hardware or their components; (iii) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any source code or underlying ideas, algorithms or Confidential Information (defined below) or any portion of the Services, except to the extent required by applicable law; (iv) use any portion of the Services or Confidential Information, to create any product or service that is substantially similar to, or competitive with, the Services or any other product or service of Automile; or (v) remove, obscure or modify any proprietary notices from the Services. You and Authorized Users will not, in connection with accessing the Services, access, upload, store, distribute or transmit any virus, “Trojan horse,” timer, clock, counter, or other limiting design, instruction, or routine that

erases data or programming or causes software or any hardware or computer system to become inoperable or otherwise incapable of being used in the full manner for which it was designed, or is designed to do so; or (vi) conduct any benchmark or similar tests against any similar platform or service; or (vii) without Automile's express prior written consent, conduct any security analysis or any penetration or other security testing of the Services regardless of whether such testing is intrusive or not.

You will not use our Services (and we will not be liable for your use of the Services) in connection with (i) cars and vehicles with a modified engine or electronic control systems, or (ii) cars and vehicles of any make, model or year that we do not support.

### **Ownership**

As between the parties, Automile retains all right, title and interest in and to the Services and all modifications, enhancements and derivative works thereof, all related inventions, know-how, designs, methodologies, documentation, reports, and specifications, all data generated from your use of the Services and analytics relating to such data, Confidential Information, Feedback and all intellectual property rights relating to any of the foregoing (collectively, "Automile Intellectual Property"). You agree to assign and do hereby assign to Automile any and all rights you may acquire in any Automile Intellectual Property and you agree to execute such documents and take such other actions as may be reasonably necessary to carry out the foregoing assignment.

### **Fees and Payment**

After the trial period, you will be responsible for payment of the applicable fee ("Subscription Fee") at the time you create your Account and select your Services. All Subscription Fees will be invoiced, or billed to the credit card account you designate during the registration process. If you want to designate a different credit card or if there is a change in your credit card account status, you must change your information online or send an e-mail to [billing@automile.com](mailto:billing@automile.com). By authorizing Automile to charge your credit card for Services, you further authorize Automile to continue to charge your credit card (or a replacement card, if the credit-issuing entity informs Automile that a replacement card has been issued) for all fees associated with the Services, including renewals and Hardware. You must contact Automile if you do not wish to renew your Services subscription; if you do not contact Automile, the Subscription Fee for Services that you selected will automatically renew for the same subscription that you initially selected, at Automile's then current Subscription Fee for such Services.

You hereby authorize Automile to bill your credit card as described above. Fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you are responsible for payment of all such taxes, levies or duties. Any amounts not paid when due will bear interest at the rate of one and one half percent (1.5%) per month, or the maximum legal rate if less. If any fee cannot be charged to your credit card for any reason, Automile may provide you, via email, notice of such non-payment and a link for you to update your payment information. If such non-payment is not remedied within seven (7) days after delivery of such notice of non-payment, Automile may immediately terminate the applicable Services.

Automile reserves the right, at any time, to change its prices and billing methods for Services

sold, effective immediately upon posting on the Site or by electronic communications to you, providing any changes to a subscription will not take effect until your subscription renews.

All Hardware purchased from Automile are made pursuant to a shipment contract. This means that the risk of loss and title for such Hardware pass to you upon our delivery to you by the carrier. Any customs incurred in relation to exporting the Hardware to you, shall be paid by you.

### **User Content**

All content added, created, uploaded, submitted, distributed, or posted to the Service by you (“User Content”), whether publicly posted or privately transmitted, is the sole responsibility of the person who originated such User Content. Automile reserves the right to access your account in order to respond to your requests for technical support. By posting User Content on or through the Service, you hereby grant Automile a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully paid, sub-licensable and transferable license to use, modify, reproduce, distribute, display and publish the User Content in connection with the Service. Automile has the right, but not the obligation, to monitor the Services, and the User Content. You further agree that Automile may remove or disable any User Content at any time for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such content), or for no reason at all. You expressly acknowledge and agree that we may collect, compile, store and use, and generally process aggregated and non-aggregated data and system usage information to maintain and improve the Services, including for technical diagnostics, to detect fraud and abuse, to create usage reports and for the creation of new products. For more information about our use of the data collected by the Services, please see our Privacy Policy, which is hereby incorporated in these Terms by reference. For the latest version of our Privacy Policy, please visit <https://automile.com/privacy-policy>.

Automile uses reasonable security measures to protect the data we receive through the Services. However, we cannot guarantee that third parties will never defeat our security measures. You acknowledge that you are using the Services at your own risk.

### **Feedback**

You may, during the term, provide Automile with oral feedback and/or written feedback related to your use of the Services, including, but not limited to, a report of any errors which you may discover in the Services or related documentation. Such reports, and any other materials, information, ideas, concepts, feedback and know-how provided by you to us concerning the Services and any information reported automatically through the Services to us (“Feedback”) will be the sole and exclusive property of Automile. You agree to assign, and hereby assign, all right, title and interest worldwide in the Feedback, and the related intellectual property rights, to Automile and agree to assist Automile, at Automile’s expense, in perfecting and enforcing such rights.

### **Data Use Policy**

Automile is committed to data privacy in the collection and processing of our customer and user data. We have taken measures to meet the legal and regulatory standards of data privacy for our customers, as well as compliance with local and legal tax regulations in the trips logged

in vehicles using Automile. Automile will not sell, rent, or lease any personal data that could identify a specific individual to any third party. We use encryption to protect all communication within our platform and have established internal processes to regulate how Automile personnel use the system. We save and maintain a full audit trail of actions taken in the system, which may be used to assess and improve data privacy over time. Automile may create and/or use aggregated or statistical anonymous data (which cannot be used to identify a specific individual or user) internally, with other users of Automile or with third parties who meet both data privacy regulation laws and Automile's own Terms and Conditions. The intended use of this data is, but is not limited to, improving or proposing new features to the Automile platform or service. Automile takes comprehensive measures to ensure our platform, our customers, and their user data are safe from all cyber security threats. Even so, we cannot guarantee that such a data breach will never occur. Any personally identifying information you choose to share on our platform as a user will be at your own discretion. In the event of a data privacy concern or security breach, please e-mail us at [privacy@automile.io](mailto:privacy@automile.io). For the latest version of our Privacy Policy, please visit <https://automile.com/privacy-policy>.

### **Data Protection**

Each party will at all times comply with its respective obligations, if any, under the provisions of the General Data Protection Regulation (2016/679/EC) (GDPR) and other applicable data protection laws.

To the extent Automile processes personal data in capacity of data processor on your behalf, and GDPR is applicable on this processing of personal data, the following will apply unless otherwise agreed between the parties:

1. Automile will process personal data only in accordance with your instructions as set out in these Terms and any other written agreement between the parties.
2. Automile will process the personal data (and the categories of personal data subjects) that you choose to add to the Services from time to time.
3. The purpose of the processing is to give you and your organization access to the Services.
4. Automile will merely store and transfer the personal data on behalf of you and use it in order to provide you and your organization with the Services.
5. Automile will apply appropriate security measures to protect personal data from unauthorized access, alteration and destruction.
6. Automile will without delay notify the relevant organization if Automile becomes aware that personal data has been subject of unauthorized access, alteration or destruction.
7. Automile will not transfer, and will ensure that any sub-contractor does not transfer, personal data to third countries without first obtaining your approval, unless Automile can ensure that such transfer or provision of access is lawful and meets the security requirements provided for in applicable data protection regulations in the EU (General Data Protection Regulation (EU) 2016/679).

8. Automile may assign subcontractors to process your personal data provided that (i) such subcontractors are imposed obligations equivalent to the obligations imposed under this section, (ii) Automile in relation to the organization is liable for the subcontractor's acts or omissions as if performed by Automile, and (iii) Automile at all times has up to date information as regards which subcontractors are involved in processing of personal data, accessible for you if necessary to fulfil its legal obligations.

9. We will process the personal data you choose to incorporate into the Service until it is deleted by you, until the Service cease to be delivered or as otherwise instructed by you as controller. When we cease to process personal data on your behalf, we will, as decided by you as controller, either provide you with all personal data (in a generally readable format) or permanently delete and erase all personal data, provided this is not prohibited by law.

We will reasonably assist you to respond to requests from individuals in relation to their rights of data access, rectification, erasure, restriction, portability and objection. In the event that any such request is made directly to Automile, we will not respond to such communication directly without your prior authorization unless required by applicable data protection laws.

### **Confidential Information**

**GENERAL.** "Confidential Information" will mean confidential or other non-public proprietary information that is disclosed by either party to the other under the Terms, including without limitation, Software, software code and designs, hardware, product specifications and documentation, financial data, business, marketing and product plans, or technology, and customer information.

**OBLIGATIONS OF CONFIDENTIALITY.** Each party agrees that it will hold in strict confidence and not disclose the Confidential Information of the other party to any third party and to use the Confidential Information of the other party for no purpose other than the purposes expressly permitted by the Terms. Each party will only permit access to the other party's Confidential Information to those of its or its Affiliates' employees, contractors and advisors having a need to know and who have signed or are bound by confidentiality obligations or agreements containing terms at least as restrictive as those contained in the Terms. Each party will maintain the confidentiality and prevent accidental or other loss or disclosure of any Confidential Information of the other party with at least the same degree of care as it uses to protect its own Confidential Information, but in no event with less than reasonable care.

**EXCLUSIONS FROM OBLIGATIONS.** A party's obligations of confidentiality under the Terms will not apply to information which such party can document the information (i) is in the public domain without the breach of any agreement or fiduciary duty or the violation of any law, (ii) was known to the party prior to the time of disclosure without the breach of any agreement or fiduciary duty or the violation of any law, (iii) is proven by contemporaneous records to be independently developed by the party prior to receiving such Confidential Information and without use or reference to the Confidential Information.

**LEGALLY REQUIRED DISCLOSURE.** In the event either party is required to disclose, pursuant to a judicial order, a requirement of a governmental agency or by operation of law, any Confidential

Information provided to it by the other party then such party will provide the other party written notice of any such requirement immediately after learning of any such requirement, and take commercially reasonable measures to avoid or limit disclosure under such requirements and to obtain confidential treatment or a protective order and allow the other party to participate in the proceeding. Any disclosure will be the minimum disclosure as recommended by a party's legal counsel and no disclosure will remove the obligations of confidentiality to any remaining Confidential Information nor permit any other disclosure of the Confidential Information in other circumstances.

**INJUNCTIVE RELIEF.** Each party recognizes and acknowledges that any use or disclosure of the Confidential Information of the other party in a manner inconsistent with the provisions of the Terms will cause the other party irreparable damage for which remedies at law may be inadequate. Accordingly, the non-breaching party will have the right to seek an immediate injunction in respect of any breach of these confidentiality obligations to obtain such relief. Notwithstanding the foregoing, this paragraph will not in any way limit the remedies in law or equity otherwise available to the non-breaching party.

**RETURN OF CONFIDENTIAL INFORMATION.** Upon written request by either party hereto, the other party will promptly return all documents and other tangible materials representing the requesting party's Confidential Information and all copies thereof, except for any archived materials that are required to be retained by law or that are not easily retrievable from secured archival systems, or records created in the ordinary course of business that are kept by a party and used only for contract compliance and enforcement purposes subject to continuing confidentiality.

### **Termination**

If you wish to terminate your agreement with Automile, you may do so at any time by following the instructions on the Site or through the Services, or by contacting us at [billing@automile.com](mailto:billing@automile.com). Your termination will be effective as from the last day of the ongoing subscription period. Any fees already due or paid are non-refundable. You will still be liable to pay the subscription fees for any ongoing subscriptions. All provisions of these Terms which by their nature should survive termination will survive termination.

You can stop using our Services anytime (regardless of whether you still need to pay for it or not). We reserve the right to suspend or end the Services at any time, with or without cause, and with or without notice. For example, we may suspend or terminate your use if you are not complying with these Terms, or use the Services in any way that would cause us legal liability or disrupt others' use of the Services. If we suspend or terminate your use, we will try to let you know in advance and help you retrieve data, though there may be some cases (for example, repeatedly or flagrantly violating these Terms, a court order, or danger to other users) where we may suspend immediately.

Upon termination of the agreement, and unless you have purchased the Hardware or otherwise agreed, you will immediately, and in no case later than ten (10) business days after the expiration or termination of your subscription, return the Hardware to Automile using the free return label

we provide you or pay us the then current Hardware fee as set out on [www.automile.com](http://www.automile.com). If we do not receive the Hardware or payment within ten (10) days after the termination or expiration of your subscription, we reserve the right to charge your credit card for the applicable fee.

### **User Representations and Warranties**

You represent and warrant to Automile that: (a) you have full power and authority to enter into these Terms; (b) you own all your Content or have obtained all permissions, required to engage in your data collection using the Hardware, posting and other activities (and allow Automile to perform its obligations) in connection with the Services without obtaining any further releases or consents; and (c) your Content and other activities in connection with the Service, and Automile's exercise of all rights and license granted by you herein, do not and will not violate, infringe, or misappropriate any third party's trademark, copyright, right of privacy or publicity, or other personal or proprietary right, nor does your Content contain any matter that is unlawful, threatening, abusive, harassing, defamatory, deceptive, fraudulent, invasive of another's privacy or tortious.

### **Automile Warranty**

Automile warrants that Hardware will be free from defects in materials and workmanship for a period of one (1) year from the date of delivery to the original user ("Warranty Period"). If a defect in the Hardware arises within the Warranty Period, Automile will, at its sole option and subject to applicable laws, repair or replace it with a new or refurbished product or component. This warranty does not apply (a) where the Automile written instructions for use and activation of the Hardware are not complied with; (b) where the Hardware is used with a jailbroken or rooted mobile device; or (c) where the Hardware is damaged as a result of abuse, accident, unauthorized modification or attempted repair, or any other causes beyond our reasonable control. We will use commercially reasonable efforts to make the Services available at all times, except for any scheduled downtime for maintenance and repairs. We will not replace Hardware which was stolen.

### **Claims Process**

To obtain remedies under this warranty, Automile must receive your claim before 10 days after the end of the Warranty Period. You must obtain a return shipment label from Automile and return the defective Hardware to the address specified by Automile in connection with the return shipment label. By returning the Hardware to us you agree to transfer ownership of the Hardware to Automile. Automile may not return the original Hardware to you. Automile warrants that any repaired or replaced Hardware is covered for the remainder of the original Warranty Period. If the claim is justified based on this Warranty, Automile will bear the cost of shipping the repaired or replacement Hardware to you. Any product returned to Automile without a valid warranty claim or without a return shipment label may be rejected, returned at sender's cost (subject to prepayment) or disposed of in Automile's sole discretion. To obtain a return shipment label from Automile, please contact [support@automile.se](mailto:support@automile.se).

### **Disclaimer of warranties**

Except as expressly set forth in these terms, automile hereby disclaims all representations and warranties regarding these terms, hardware or services or the transactions contemplated hereby, including any implied warranties of merchantability, noninfringement, title, fitness for a particular purpose, and implied warranties arising from course of dealing or performance. In particular, automile takes no responsibility for the legal implications of the use of automile field services. The services, and site provided by automile are provided “as is” and “as available” without representations or warranties of any kind. Automile and its suppliers, licensors and agents do not warrant that the services, site or the functions contained in any of the foregoing in will be correct, uninterrupted, error-free, completely secure, free of viruses or other harmful components, or that defects will be corrected. The services and site may be subject to limitations, delays and other problems inherent in the use of the internet, electronic communications and third party systems such as gps services or mobile carrier networks. Automile is not responsible for any delays, delivery failures or other damages resulting from such problems. The services may not be functional in all vehicles and/or in all environments. Automile does not warrant the results of use of the services or the site. Each party acknowledges that it has relied on no representations or warranties other than the express warranties in this agreement.

### **Limitation of liability**

**DISCLAIMER OF CONSEQUENTIAL DAMAGES ETC.** In no event will automile and/or its suppliers or licensors be liable for any indirect, punitive, incidental, special, consequential damages or any damages whatsoever including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the services, the use or performance of the services, the delay or inability to use the services, or for any information, third party content, your applications, submissions obtained through the site(s), or otherwise arising out of the use of the site(s), whether based on contract, tort, negligence, strict liability or otherwise, even if automile or any of its suppliers or licensors has been advised of the possibility of damages. Automile, its suppliers and/or licensors will only be liable for property damage or bodily injury if and to the extent such liability is covered by a valid liability insurance.

**LIMITATION OF LIABILITY.** If you are dissatisfied with any portion of the hardware or services, or with any of these terms, your sole and exclusive remedy is to discontinue using the services. This sole and exclusive remedy is separate and independent of any other provision that limits automile’s liability or your remedies. Notwithstanding the foregoing, in no event will automile’s and/or its suppliers or licensors total cumulative liability for all damages, losses and causes of action (whether in contract, tort, including negligence and strict liability, or otherwise) exceed the greater of (a) the purchase price of the services purchased in the six months prior to the date of the initial claim made against automile; or (b) one hundred dollars (usd \$100); or (c) what is covered by automile’s liability insurance.

**ALLOCATION OF RISK AND MATERIAL TERM.** The provisions of this section allocate the risks under these terms between the parties and are an intrinsic part of the bargain between the parties. The fees provided for in the terms reflect this allocation of risks and the limitation of liability and such limitation will apply notwithstanding a failure of essential purpose of any limited remedy and to the fullest extent permitted by law.

### **Indemnification**

For purposes of this Section on indemnity, the following terms will have the meanings defined herein:

**CLAIMS** means all claims, actions, demands, investigations and legal proceedings of any kind made or initiated by any person or entity that is not a party to this agreement.

**DAMAGES** means all liabilities, damages, losses, judgments, authorized settlements, fines, costs and expenses including, without limitation, reasonable legal support costs and expenses and attorneys' fees.

You agree to defend, indemnify, and hold harmless Automile and its affiliates and each of their respective directors, officers, employees, representatives, agents, successors, assigns, customers and distributors from and against any and all Claims and Damages arising out of or in connection with: (i) any Claim arising solely from your use of the Hardware or Services or any Authorized User Content; (ii) any violation by you of any regulatory statutes, laws, rules, ordinances, or regulations of any government or regulatory agency; or (iii) any breach of these Terms.

**PROCEDURE FOR INDEMNIFICATION.** Automile will: (a) promptly notify you in writing of the Claim for which indemnification is sought; and (b) provide you with all non-monetary assistance, information, and authority reasonably required for the defense and settlement of such Claim. You may select counsel for defense of the Claim reasonably acceptable to Automile, and direct the course of any litigation or other disputed proceedings concerning the Claim. Automile may select its own counsel and direct its own defense of a Claim if it chooses to do so, and will bear the costs of its own counsel and any activities in any disputed proceeding conducted by counsel of its choosing. You may settle any Claim, to the extent it seeks only a money payment, with or without the consent of Automile, providing the settlement is a full and complete settlement of all claims of any kind against Automile. You must obtain Automile's prior written consent to any settlement to the extent it consents to injunctive relief, or requires any admission of fault or any public statement, or contains contract terms governing future activities that could materially affect Automile's business or interests, said consent not to be unreasonably withheld, conditioned, or delayed.

**Notices**

Any notice provided for or permitted under the Terms will be in writing and will be treated as having been given (a) when delivered personally, (b) when sent by confirmed electronic mail, or telecopy, (c) one (1) business day after being sent by nationally recognized overnight courier with written verification of receipt, or (d) three (3) business days after being mailed postage prepaid by certified or registered mail, return receipt requested, to the party to be notified, at the address stated at the time of ordering the Services.

**No Third-Party Beneficiaries**

No third-party beneficiaries are created and this agreement will not be construed to provide any person or entity not a signatory hereto with any remedy, claim or other right exceeding those existing without reference to these Terms.

**Force Majeure**

Neither party will be liable for failure to perform any of its respective obligations hereunder if such failure is caused by an event outside its reasonable control, including but not limited to, an act of God, insurrection, war, communications failure, Internet outage, natural disaster or act of a third party not under contract with the failing party (including the failure or refusal of Automile's Affiliates or suppliers to provide Automile with access to information required to provide the Services).

**No waiver**

No delay or failure in exercising any right hereunder and no partial or single exercise thereof will be deemed a waiver of such right or any other rights hereunder. No consent to a breach of any term of the Terms will constitute a consent to any prior, subsequent or other breach

**Severability**

If any provision hereof is declared invalid by a court of competent jurisdiction, such provision will be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of these Terms will be valid and enforceable to the fullest extent permitted by applicable law.

**Assignment**

Automile may assign an agreement under these Terms in whole to an affiliate or to a successor in interest as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets. You may not assign your rights or delegate your duties under these Terms either in whole or in part, by operation of law or otherwise, without the prior written consent of Automile, and any attempted assignment or delegation without such consent (with such consent not to be unreasonably withheld) will be void. This Terms will bind and inure to the benefit of each party's successors and permitted assigns.

**US Government Rights**

The Services are a "commercial item" as that term is defined at FAR 2.101. If Automile is the US Federal Government (Government) Executive Agency (as defined in FAR 2.101), Automile provides

the Services, including any related software, technology, technical data, and/or professional services in accordance with the following: If acquired by or on behalf of any Executive Agency (other than an agency within the Department of Defense (DoD), the Government acquires, in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Computer Software), only those rights in technical data and software customarily provided to the public as defined in these Terms. If acquired by or on behalf of any Executive Agency within the DoD, the Government acquires, in accordance with DFARS 227.7202-3 (Rights in commercial computer software or commercial computer software documentation), only those rights in technical data and software customarily provided in these Terms. In addition, DFARS 252.227-7015 (Technical Data – Commercial Items) applies to technical data acquired by DoD agencies. Any Federal Legislative or Judicial Agency will obtain only those rights in technical data and software customarily provided to the public as defined in these Terms. If any Federal Executive, Legislative, or Judicial Agency has a need for rights not conveyed under the terms described in this Section, it must negotiate with Automile to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement to be effective. This U.S. Government Rights clause in this Section is in lieu of, and supersedes, any other FAR, DFARS, or other clause, provision, or supplemental regulation that addresses Government rights in computer software or technical data under these Terms.

### **Local Laws; Export Control**

Automile controls and operates the Site(s) from its offices in Sweden, Norway and the United States of America and the Authorized User Content and/or third party content may not be appropriate or available for use in other locations. If you use the Services outside Sweden, Norway or the United States of America, you are solely responsible for following applicable local laws.

### **Dispute Resolution and Binding Arbitration Provision ONLY FOR US RESIDENTS**

**DEFINITIONS.** As used in this Arbitration Provision, the terms “Automile,” “we,” “us,” and “our” refer to Automile Inc., including its subsidiaries, affiliates and agents; the terms “you” and “your” refer to you as an individual as well as other individuals you allow to access or use the Services, and any legal entity you control, work for, or represent when you access or use the Services. The word “Services” means your access to and/or use of any Automile website, advertisement or promotion and any product, service, or software that you obtain from or through Automile. The word “Claims” means all claims, disputes, or controversies between you and us of any nature or kind, whether pre-existing, present, or future, that arise from or relate to the Services. This includes but is not limited to disagreements about the validity, enforceability, or scope of this Arbitration Provision.

**INFORMAL EFFORTS TO RESOLVE DISPUTE.** If a dispute arises between you and Automile, you should first attempt to resolve it by contacting our Customer Service Center at support@automile.com or by sending the details of your complaint, including your contact information for a response, to the address listed below. We will attempt in good faith to promptly resolve all Claims submitted this way.

**AGREEMENT TO ARBITRATE; RIGHT TO OPT OUT.** If informal efforts to resolve Claims fail or are not used, you agree that any and all Claims will be resolved exclusively by binding arbitration as described herein, except that: (i) you may assert Claims in a small claims court in the United States if your Claims meet the court's jurisdictional requirements; and (ii) either party may pursue Claims and relief in a court of competent jurisdiction regarding the validity and/or infringement of a party's intellectual property rights.

There is no judge or jury in arbitration, and court review of an arbitration award is very limited. However, an arbitrator can award to you on an individual basis the same damages and forms of relief as a court could (including injunctive and declaratory relief as well as statutory damages), and must follow the law and terms of these Terms as a court would. Any arbitration under this agreement will take place on an individual basis; class arbitrations and class actions and private attorney general actions are not permitted.

**If you do not wish to be bound by this arbitration provision, you must notify automile in writing within 30 days from the date that you first accept or have access to these terms by e-mailing or mailing an opt-out request to our customer service center listed below. Your written notification must include your name, address, the email address you used to register with automile, and a clear statement that you do not wish to resolve disputes with us through arbitration. Your decision to opt out of this arbitration provision will have no adverse effect on your relationship with us or the delivery of services to you by us. If you have previously notified us of your decision to opt out of arbitration, you do not need to do so again.**

**ARBITRATION FEES.** The allocation and payment of all filing, administration and arbitrator fees will be governed by the JAMS's ("JAMS") rules which limit the amount a consumer is required to pay.

**ARBITRATION RULES.** The arbitration will be conducted by JAMS under its rules if you are a resident of the United States; if your use of the Services has been principally for personal or household use, the JAMS' procedures for consumer-related disputes including the minimum fairness standards will also apply. If you are a resident of a country other than the United States, the arbitration will be conducted by the JAMS in San Francisco, California, under its rules for international arbitration, and you and we agree to submit to the personal jurisdiction of the U.S. federal court in San Francisco, California in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate or enter judgment on the award entered by the arbitrator. In the event of a conflict or inconsistency between the applicable arbitration rules and this Arbitration Provision, this Arbitration Provision shall govern and control.

The arbitration will be conducted in the English language by a single arbitrator who is an attorney-at-law with at least fifteen years' experience in consumer and technology transactions and who is also a member of the JAMS roster of arbitrators. If you and we can't agree on a mutually acceptable arbitrator within fifteen (15) days after the arbitration is initiated, then the JAMS will pick a neutral arbitrator who meets the qualifications. The JAMS rules are available at <http://www.jamsadr.com> or by calling 1- 800 – 352- 5267 from inside the United States or +44 207 583 9808 from outside the United States.

**INITIATING ARBITRATION.** To begin an arbitration proceeding, you must follow the procedures specified by the applicable JAMS rules as described on their website at <http://www.jamsadr.com>.

**TIME RESTRICTION.** You must file a complaint with jams or a permitted court within one (1) year of the date of the occurrence of the event or facts giving rise to a claim, or you waive the right to pursue any claim based upon such event, facts or dispute.

**ARBITRATION PROCESS.** Because appearing in person for arbitration can be unduly burdensome in the circumstances, arbitration under this Arbitration Provision shall not require any personal appearance by the parties or witnesses unless mutually agreed. Either or both parties may participate by written submissions, telephone calls, or other means of remote communication as allowed by the arbitrator. The arbitration proceedings will be conducted in the English language at a location designated by the JAMS that is the most convenient for you.

The arbitration can only decide Claim(s) between you and us, and may not consolidate or join the claims of other persons that may have similar claims. There shall be no pre-arbitration discovery except as provided for in the applicable JAMS rules. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect customer account information and other confidential or proprietary information.

In conducting the arbitration proceeding, the arbitrator will apply the law of the State of California (without regard to its conflicts of law provisions) including U.S. federal law for matters covered by federal law (e.g. the Federal Arbitration Act). The confidentiality provisions of these Terms will be enforceable under the provisions of the California Uniform Trade Secrets Act, California Civil Code Section 3426, as amended. At the request of any party, the arbitrator shall provide a brief written explanation of the basis for the decision and award. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator's decision will be final and binding on the parties except for any right to appeal under the JAMS rules or the Federal Arbitration Act.

**RECOVERY AND ATTORNEYS' FEES.** If the arbitrator rules in your favor on the merits of any Claim you bring against us and issues you an award that is greater in monetary value than our last written settlement offer made to you before written submissions are made to the arbitrator, then we will your attorneys, if any, the amount of attorneys' fees, and reimburse any expenses (including expert witness fees and costs) that you or your attorney reasonably incurred for investigating, preparing, and pursuing your Claim in arbitration. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of such fees, expenses, and the alternative payment and the attorney premium at any time during the proceeding and upon request from either party made within fourteen (14) days of the arbitrator's ruling on the merits. The right to attorneys' fees and expenses discussed above supplements any right to attorneys' fees and expenses you may have under applicable law, although you may not recover duplicative awards of attorneys' fees or costs. If your use of the Services was principally for personal or household use, neither party will be entitled to any award of punitive or special damages and Automile waives any right it may have to seek an award of attorneys' fees and expenses from you in connection with any arbitration of Claims between us.

**CONFIDENTIALITY.** You and we shall keep confidential any information exchanged during the arbitration as well as the decision of the arbitrator made with respect to any Claim(s) arbitrated under this Arbitration Provision and, with the exception of disclosure to your or our attorneys, accountants, auditors, and other legal or financial advisors, neither party shall disclose such information or decision to any other person unless required to do so by law.

**CONTINUING OBLIGATION TO ARBITRATE; SEVERABILITY.** This Arbitration Provision shall survive termination of your access to or use of any Services and related agreements. If any portion of this Arbitration Provision is deemed invalid or unenforceable at law, such invalid or unenforceable provision will be interpreted, construed or reformed to the extent required to make it valid and enforceable, and this shall not invalidate the remaining portions of this Arbitration Provision.

#### **Automile Customer Service Center Address**

Automile, Inc.  
ATTN: Legal  
2100 W Pleasant Grove Blvd Suite 300  
Pleasant Grove, UT 84062

#### **Electronic Communications**

The information communicated on the Site constitutes an electronic communication. When you communicate with Automile through the Site or other forms of electronic media, such as e-mail, you are communicating with Automile electronically. You agree that Automile, on behalf of itself and others who may be involved with delivering the Services (as applicable), may communicate electronically by e-mail and/or may make communications available to you by posting them on the Site, and that such communications, as well as notices, disclosures, agreements and other communications that we provide to you electronically, are equivalent to communications in writing and will have the same force and effect as if they were in writing and signed by Automile. Notices and communications to Automile must be sent to the applicable address given in these Terms or to [support@automile.se](mailto:support@automile.se).

#### **Consumer Notice**

The headquarters of Automile Inc is currently located at 2100 W Pleasant Grove Blvd Suite 300 Pleasant Grove, UT 84062. The charges for access and use of the products and services are specified on the Site. If you have a complaint regarding the products or services or want to request a paper copy of these Terms, please contact Automile by writing to the address above, or by e-mail to the consumer information center in your state of residence.