

## TrackR, Inc. Terms of Use

Effective Date: May 25, 2018

IMPORTANT — THIS AGREEMENT (“**AGREEMENT**”) IS A LEGAL AGREEMENT BETWEEN YOU (“**YOU**” or “**YOUR**”) AND TRACKR, INC. (HEREINAFTER “**COMPANY**,” “**WE**,” “**US**” OR “**OUR**”) THAT SETS FORTH THE LEGAL TERMS AND CONDITIONS FOR YOUR USE OF (1) [WWW.THETRACKR.COM](http://WWW.THETRACKR.COM) AND ANY OTHER WEBSITE OWNED AND OPERATED BY COMPANY (THE “**SITE(S)**”), (2) ANY COMPANY HARDWARE DEVICES (THE “**HARDWARE**”), AND (3) ANY COMPANY SERVICES, INCLUDING ANY BACK-END SOFTWARE OR OTHER SOFTWARE, COMPANY MOBILE APPLICATIONS (THE “**APP(S)**”) OR OTHER PRODUCTS OR SERVICES OFFERED BY COMPANY FROM TIME TO TIME (COLLECTIVELY, ALL SUCH PRODUCTS OR SERVICES, INCLUDING ANY SERVICES OFFERED THROUGH THE SITES OR APPS SHALL BE REFERRED TO AS THE “**SERVICE(S)**”).

By accessing or using any of the Sites, Apps, Hardware, or Services or clicking an “I accept” or similar button, you represent that (1) you have read, understand, and agree to be bound by the terms of this Agreement, (2) you are of legal age to form a binding contract with Company, and (3) you have the authority to enter into the Agreement. **IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, YOU MAY NOT ACCESS OR USE THE SITES, APPS, HARDWARE, OR SERVICES.**

1. Agreement. PLEASE BE AWARE THAT SECTION 17 OF THIS AGREEMENT, BELOW, CONTAINS PROVISIONS GOVERNING HOW CLAIMS THAT YOU AND WE HAVE AGAINST EACH OTHER ARE RESOLVED, INCLUDING, WITHOUT LIMITATION, ANY CLAIMS THAT AROSE OR WERE ASSERTED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT. IN PARTICULAR, IT CONTAINS AN ARBITRATION AGREEMENT WHICH WILL, WITH LIMITED EXCEPTIONS, REQUIRE DISPUTES BETWEEN US TO BE SUBMITTED TO BINDING AND FINAL ARBITRATION. UNLESS YOU OPT OUT OF THE ARBITRATION AGREEMENT: (1) YOU WILL ONLY BE PERMITTED TO PURSUE CLAIMS AND SEEK RELIEF AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING; AND (2) YOU ARE WAIVING YOUR RIGHT TO SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL ON YOUR CLAIMS.

ANY DISPUTE OR CLAIM RELATING IN ANY WAY TO THIS AGREEMENT, YOUR ACCESS OR USE OF THE SITES, APPS, HARDWARE, OR SERVICES, OR TO ANY ASPECT OF YOUR CONSUMER RELATIONSHIP WITH THE COMPANY WILL BE GOVERNED AND INTERPRETED BY AND UNDER THE LAWS OF THE STATE OF CALIFORNIA, CONSISTENT WITH THE FEDERAL ARBITRATION ACT, WITHOUT GIVING EFFECT TO ANY PRINCIPLES THAT PROVIDE FOR THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXPRESSLY EXCLUDED FROM THIS AGREEMENT.

Our Hardware and Services may be subject to additional rules, policies, and procedures (“**Additional Terms**”). Where Additional Terms apply, we will make them available for you to read through in connection with your use of that Hardware and Service. By agreeing to this Agreement and/or using that Hardware or Service, you agree to the Additional Terms. An example of such additional terms is our limited Hardware warranty, which can be found [<https://www.thetrackr.com/warranty>] and is incorporated herein by reference (“**Limited Warranty**”).

The App(s) are proprietary software of Company and its licensors and you agree not to take any action or enter any agreement that would result in any contractual requirement that Company or its licensors make available to any third party the source code of the App(s).

We reserve the right to change the terms and conditions of this Agreement or to modify or discontinue the Hardware or Services offered by Company at any time. Those changes will go into effect on the effective date shown in the revised Agreement. If we change this Agreement, we will give you notice by posting a

notice and the revised Agreement on the applicable Site(s) or App(s). If we make any material changes, and you have provided us with your e-mail address, we will also send an e-mail to you at the last e-mail address you provided to us. We also encourage you to check the this Agreement from time to time to see if it has been updated. The revised Agreement will be noted with a new effective date above.

We may require you to provide consent to the updated Agreement before further use of the Hardware or Services is permitted. By continuing to use any Sites, Apps, Hardware, or Services after the new effective date, you agree to be bound by such changes. If the modified terms are not acceptable to you, your only recourse is to cease using the Sites, Apps, Hardware, and Services.

2. Service Description/Account Creation/Eligibility/Support. The Company provides a service that allows you to track and find lost or misplaced items.

In order to use certain Services, you may be required register to create an account ("**Account**"). As a user of the Services, you agree to provide us with complete and accurate information and to update such information to keep it accurate, current and complete. You represent that you are not a person barred from using the Sites, Apps, or Services under the laws of the United States, your place of residence or any other applicable jurisdiction. You are responsible for all activities that occur under your Account. You may not share your Account or password with anyone, and you agree to notify Company immediately of any unauthorized use of your password or any other breach of security. If you provide any information that is untrue, inaccurate, not current or incomplete, or Company has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Company has the right to suspend or terminate your Account and refuse any and all current or future use of the Sites, Apps, Hardware or Services (or any portion thereof). You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself. You agree not to create an Account or use Sites, Apps, Hardware or Services if you have been previously removed or banned by Company.

You understand that the Sites, Apps, Hardware and Services are evolving. You acknowledge and agree that Company may update the Sites, Apps, Hardware or Services with or without notifying you. You may need to update the firmware on the Hardware and/or third-party software from time to time in order to use the Sites, Apps, Hardware or Services. Company may also require you to accept updates to the Apps or Services.

You must provide all equipment and software necessary to connect to Sites, Apps, Hardware or Services, including but not limited to, a mobile device that is suitable to connect with and use the Apps, Hardware and Services. You are solely responsible for any fees, including Internet connection or mobile fees, that you incur when using the Hardware or accessing the Sites, Apps, or Services. Mobile phone carrier data rates may apply so you agree to check with your provider.

3. Free Trial of Services. If you receive an opportunity for any free trial of Services, the free trial will only last for the duration presented to you at the time of your registration. Company reserves the right, in its absolute discretion, to determine your free trial eligibility. At the end of the free trial period, we may cancel or limit your ability to access and use the Services and/or you may need to purchase the Services.

4. Fees and Payments.

- a. We may charge fees for our Hardware and Services. We may change the fees we charge for our Hardware and Services and such changes are effective when we post the change on the applicable purchase page.

- b. You agree to pay all charges at the amounts in effect when such charges are incurred. You must provide a valid credit, debit card (Visa, MasterCard, or any other accepted issuer) or other specified payment or financial mechanism (e.g. PayPal) (collectively, "**Payment Provider**") as a condition to making any payments. Your Payment Provider agreement governs your use of the designated credit or debit card or other mechanism, and you must refer to that agreement and not this Agreement to determine your rights and liabilities. You hereby consent to provide and

authorize Company and its service providers (including Payment Providers) to share any information and payment instructions you provide to the extent required to complete the payment transactions in accordance with this Agreement, including personal, financial, credit card payment, and transaction information.

c. By providing your payment and financial information, you agree that Company, its service providers, and any of their third party payment processors are authorized to immediately charge your account for all applicable fees and charges and that no additional notice or consent is required. Company reserves the right at any time to change its prices and billing methods. All information that you provide must be accurate, current and complete. **YOU REPRESENT AND WARRANT THAT YOU HAVE THE LEGAL RIGHT TO USE ANY PAYMENT CARD(S), PAYMENT MEANS OR OTHER FINANCIAL INFORMATION THAT YOU PROVIDE.**

d. Company's fees are net of any applicable Sales Tax. If any Hardware or Services, or payments for any Hardware or Services, under this Agreement are subject to Sales Tax in any jurisdiction and you have not remitted the applicable Sales Tax to Company, you will be responsible for the payment of such Sales Tax and any related penalties or interest to the relevant tax authority and you will indemnify Company for any liability or expense we may incur in connection with such Sales Tax. Upon our request, you will provide us with official receipts issued by the appropriate taxing authority, or other such evidence that you have paid all applicable taxes. For purposes of this section, "**Sales Tax**" will mean any sales or use tax, and any other tax measured by sales proceeds, that Company is permitted to pass on to its customers that is the functional equivalent of a sales tax where the applicable taxing jurisdiction does not otherwise impose a sales or use tax.

e. We may, in our sole discretion, create discounts and promotional codes that may be redeemed for credit in your Account, or other features or benefits, subject to any additional terms that we establish on a per promotional code basis ("**Promo Codes**"). Promo Codes may only be used once per person. Only Promo Codes sent to you through official Company communications channels are valid. You agree that Promo Codes: (i) must be used for the intended audience and purpose, and in a lawful manner; (ii) may not be duplicated, sold, or transferred in any manner, or made available to the general public (whether posted to a public form or otherwise), unless expressly permitted by us; (iii) may be disabled by us at any time for any reason without liability to us; (iv) may only be used pursuant to the specific terms that we establish for such Promo Code; (v) are not valid for cash; and (vi) may expire prior to your use. We may also, in our sole discretion, give away free Hardware devices as part of a promotion. We reserve the right to limit use of these devices to one Hardware device per customer household.

f. You must notify us in writing if you dispute any of our charges. Billing disputes should be sent to the following address: TrackR, Inc., 7410 Hollister Avenue, Santa Barbara, CA 93117, Attn: Billing Department.

5. Refunds. Payments made to Company are subject to refund in accordance with Company's refund policy which is described in our Limited Warranty. Excepts as set forth in the refund policy or this Agreement, all fees are non-refundable.

6. Order Cancellations.

a. Company reserves the right at its discretion to cancel or reverse any payment, even if it has been previously confirmed by Company, as a result of any mistake or error, including any mistaken pricing, description error, or other error.

b. Although it is unlikely that Company would refuse to accept an order, Company reserves the right to deny any order for any reason, including where the following situations arise: (i) insufficient information or errors in billing, payment, and/or shipping information; (ii) orders that cannot be processed due to erroneous information that you have provided, which includes, but is not limited to incorrect credit card or debit card number, expiration date, security value, or other

incorrect information regarding payment types; (iii) suspected fraudulent information; or (iv) unavailability of a merchandise due to discontinuance or otherwise.

c. Company may refuse to accept any order if fraudulent activity is suspected. Company may refuse to process any subsequent order from a customer who has a history of placing fraudulent orders.

d. Company may refuse any order that is connected with a previous credit card dispute.

e. If any Hardware is discontinued or otherwise becomes unavailable prior to delivery, Company reserves the right to cancel your order and provide you a refund for the amount paid for the Hardware. If this occurs, then Company will contact you so that you are aware of the situation.

f. In order to protect the intellectual property rights of Company and its licensors and suppliers, any suspected resale of Hardware for personal and/or business profit is strictly prohibited. Company will not accept any order that is deemed to possess characteristics of reselling. Company reserves the right to cancel any subsequent order from a customer who has been suspected of reselling.

7. Acceptable Use. You are responsible for your use of the Sites, Apps, Hardware, and Services, and for any use of the Sites, Apps, Hardware, and Services made using your Account. Our goal is to create a positive experience in connection with our Sites, Apps, Hardware, and Services. To promote this goal, we prohibit certain kinds of conduct that may be harmful to other users or to Company. When you or any users of your Account use the Sites, Apps, Hardware, and Services, you agree on behalf of yourself and those users not to:

- violate any law or regulation;
- violate, infringe, or misappropriate other people's intellectual property, privacy, publicity, or other legal rights;
- transmit any viruses or other computer instructions or code whose purpose is to disrupt, damage, or interfere with the use of computers or related systems;
- stalk, harass, or harm another individual;
- impersonate any person or entity or perform any other similar fraudulent activity, such as phishing;
- use any means to scrape or crawl any Web pages or content contained in the Sites or Apps (although Company may allow operators of public search engines to use spiders to index materials from the Sites for the sole purpose of creating publicly available searchable indices of the materials, and Company reserves the right to revoke these exceptions either generally or in specific cases);
- attempt to circumvent any technological measure implemented by Company or any of Company's providers or any other third party (including another user) to protect the Sites, Apps, Hardware, or Services;
- attempt to decipher, decompile, disassemble, or reverse engineer the Sites, Apps, Hardware, or Services pursuant to Section 8; or
- advocate, encourage, or assist any third party in doing any of the foregoing.

If you elect to download mobile Apps, the following also applies: Company grants you a personal, revocable, non-exclusive, non-transferable license (without a right to sublicense) to download, install and

use a copy of the App on a single mobile device or computer that you own or control solely for your personal and professional use, subject at all times to this Agreement, including the restrictions on use and the acceptable use provisions. Furthermore, with respect to any App accessed through or downloaded from an App Store such as the Android Market or Apple App Store (an “**App Store Sourced Application**”), you will only use the App Store Sourced Application: (i) on a product that runs the operating system for which it was intended and (ii) as permitted by the “Usage Rules” set forth in the corresponding App Store. Use of Apps from a third party App Store is also subject to the provisions of Section 18.

8. Ownership & Copyright Restrictions. The Sites, Apps, and Services are owned and operated by Company. The Sites, Apps, and Services, including but not limited to data, content, images and the compilation as a whole (“**Content**”), are copyrighted under U.S. copyright and other laws by Company or its licensors, unless otherwise noted. You must abide by all additional copyright notices or restrictions contained on or in the Sites, Apps, Hardware, or Services. You may not delete, remove, alter, or obscure any legal or proprietary notices in the Sites, Apps, Hardware, or Services.

Except as noted in Section 9 below: (1) the Sites, Apps, Hardware, and Services may not be used, displayed, copied, distributed, republished, downloaded, transmitted, mirrored or modified; and (2) you may not redistribute, sell, translate, modify, reverse-engineer or reverse-compile or decompile, disassemble or make derivative works of the Sites, Apps, Hardware, Services or any Content or components that are available on the Sites, Apps, Hardware, or as part of the Services except to the extent the foregoing restriction is prohibited by applicable law.

You agree not to interfere or take action that results in interference with or disruption of the Sites, Apps, Hardware, or Services or servers or networks connected to the Sites, Apps, Hardware or Services. You agree not to attempt to gain unauthorized access to other computer systems or networks connected to the Sites, Apps, Hardware, or Services. Company reserves all other rights. Except as expressly provided herein, nothing on the Sites, Apps, Hardware, or as part of the Services will be construed as conferring any license under Company’s and/or any third party’s intellectual property rights, whether by estoppel, implication or otherwise. Notwithstanding anything herein to the contrary, Company may revoke any of the foregoing rights and/or your access to the Sites, Apps, Hardware, and Services, or any part thereof, at any time without prior notice.

9. Copyright Permission. The Sites, Apps, and Services and the content and information available on the foregoing are protected by copyright laws throughout the world. Subject to this Agreement, Company grants you a limited license to reproduce portions of Sites, Apps, and Services for the sole purpose of using the Sites, Apps, and Services for your personal purposes.
10. Ownership: Trademarks. You agree that Company and its licensors and suppliers own all rights, title and interest in the Sites, Apps, and Services and the content and information available on the foregoing. You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Sites, Apps, Hardware, or Services. Company’s stylized name (TrackR) and other related graphics, logos, service marks and trade names used on or in connection with Sites, Apps, Hardware, or Services are the trademarks of Company and may not be used without permission in connection with any third-party products or services. Other trademarks, service marks and trade names that may appear on or in the Sites, Apps, Hardware, or Services are the property of their respective owners.
11. Idea Submissions. If you submit any ideas, suggestions or testimonials to Company, we have, and you hereby grant us, the right to use your submission without charge in any manner that we deem appropriate.
12. Privacy Policy. Company has customer information and privacy policies as set forth in its online Privacy Policy found [<https://www.thetrackr.com/privacy-policy>], which is fully incorporated herein by reference. You hereby agree to be bound by Company’s Privacy Policy.

13. DISCLAIMER. ASIDE FROM THE LIMITED WARRANTY REFERENCED IN SECTION 1, COMPANY DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. COMPANY DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE COMPATIBILITY, SECURITY, ACCURACY, OR USEFULNESS OF THE SITES, APPS, HARDWARE, OR SERVICES.

ASIDE FROM THE LIMITED WARRANTY REFERENCED IN SECTION 1, THE SITES, APPS, HARDWARE, AND SERVICES ARE PROVIDED "AS IS" AND YOU RELY ON THE SITES, APPS, HARDWARE, AND SERVICES SOLELY AT YOUR OWN RISK. WE DO NOT WARRANT THAT THE SITES, APPS, HARDWARE, OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, AND THERE MAY BE DELAYS, OMISSIONS, INTERRUPTIONS AND INACCURACIES IN THE SITES, APPS, HARDWARE, OR SERVICES. YOU ASSUME FULL RESPONSIBILITY AND RISK OF LOSS RESULTING FROM YOUR USE OF THE SITES, APPS, HARDWARE, OR SERVICES, INCLUDING WITHOUT LIMITATION, ANY LOSS OF ANY ITEM THAT YOU ATTEMPTED TO TRACK OR THE LOSS OF DATA. ALTHOUGH WE INTEND TO TAKE REASONABLE STEPS TO PREVENT BREACHES OF SECURITY OR THE INTRODUCTION OF VIRUSES AND OTHER DESTRUCTIVE MATERIALS TO THE SITES, APPS, HARDWARE, OR SERVICES, WE DO NOT GUARANTEE OR WARRANT THAT THE SITES, APPS, HARDWARE, OR SERVICES WILL NOT BE SUBJECT TO SUCH BREACHES AND/OR DO NOT CONTAIN SUCH DESTRUCTIVE FEATURES. YOU AGREE THAT WE ARE NOT LIABLE FOR ANY DAMAGES OR HARM ATTRIBUTABLE TO THE FOREGOING.

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE FOREGOING DISCLAIMERS, EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

14. LIMITED LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS, YOU AGREE THAT COMPANY, ITS AFFILIATES, AGENTS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS WILL NOT BE LIABLE FOR ANY PERSONAL INJURY OR FOR ANY INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES OR LOST PROFITS OR LOST ITEM OR DATA, ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT, YOUR USE OF THE SITES, APPS, HARDWARE, OR SERVICES.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS, THE CUMULATIVE LIABILITY OF COMPANY, ITS AFFILIATES, AGENTS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS TO YOU FOR ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT OR YOUR USE OF THE SITES, APPS, HARDWARE, OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY CAUSE OF ACTION SOUNDING IN CONTRACT, TORT, OR STRICT LIABILITY, WILL NOT EXCEED THE GREATER OF (A) THE TOTAL AMOUNT RECEIVED BY COMPANY FROM YOU DURING THE SIX-MONTH PERIOD PRIOR TO THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY, OR (B) \$50. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE OR IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW FOR LIMITED LIABILITY OR EXCLUSION OF IMPLIED WARRANTIES, SO NOT ALL OF THE ABOVE LIMITATIONS MAY APPLY TO YOU. YOU ACKNOWLEDGE AND UNDERSTAND THAT THE DISCLAIMERS, EXCLUSIONS AND LIMITATIONS OF LIABILITY SET FORTH HEREIN FORM AN ESSENTIAL BASIS OF THE AGREEMENT BETWEEN THE PARTIES HERETO, THAT THE PARTIES HAVE RELIED UPON SUCH DISCLAIMERS, EXCLUSIONS AND LIMITATIONS OF LIABILITY, AND THAT ABSENT SUCH DISCLAIMERS, EXCLUSIONS AND LIMITATIONS OF LIABILITY, THE TERMS AND CONDITIONS OF THIS AGREEMENT WOULD BE SUBSTANTIALLY DIFFERENT. THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 14 SHALL NOT EXTEND TO CLAIMS FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE BY USERS WHO RESIDE IN THE STATE OF NEW JERSEY OR TO CLAIMS BY NEW JERSEY RESIDENTS FOR ANY DAMAGES CAUSED BY THE COMPANY'S FRAUD, DECEPTION, FALSE PROMISE, MISREPRESENTATION, OMISSION OF ANY MATERIAL FACT OR INTENTIONAL OR RECKLESS MISCONDUCT.

15. **INDEMNIFICATION.** YOU AGREE TO INDEMNIFY AND HOLD HARMLESS COMPANY, ITS AFFILIATES, AGENTS, INDEPENDENT CONTRACTORS, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS FROM ANY AND ALL LIABILITIES, CLAIMS, EXPENSES AND DAMAGES, INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS, ARISING OUT OF OR IN ANY WAY RELATED TO YOUR BREACH OF THIS AGREEMENT.
16. **Exclusive Venue.** To the extent the parties are permitted under this Agreement to initiate litigation in a court, both you and Company agree that all claims and disputes arising out of or relating to the Agreement, your access or use of the Sites, Apps, Hardware, or Services, or to any aspect of your consumer relationship with the Company will be litigated exclusively in the state courts serving Santa Barbara County, California or federal courts located in the Central District of California (Western Division).
17. **DISPUTE RESOLUTION.** *Please read the following arbitration agreement in this Section ("Arbitration Agreement") carefully. It requires you to arbitrate disputes with the Company and limits the manner in which you can seek relief from us.*
- a. **Applicability of Arbitration Agreement.** You agree that any dispute or claim between you and us relating in any way to this Agreement, your access or use of the Sites, Apps, Hardware, or Services, or to any aspect of your consumer relationship with the Company, will be resolved by binding arbitration, rather than in court, except that (1) you and the Company may assert claims in small claims court if the claims qualify, so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis; and (2) you or the Company may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). This Arbitration Agreement shall apply, without limitation, to all claims that arose or were asserted before or after the Effective Date of this Agreement.

**IF YOU AGREE TO ARBITRATION WITH THE COMPANY, YOU ARE AGREEING IN ADVANCE THAT YOU WILL NOT PARTICIPATE IN OR SEEK TO RECOVER MONETARY OR OTHER RELIEF IN ANY LAWSUIT FILED AGAINST THE COMPANY ALLEGING CLASS, COLLECTIVE, AND/OR REPRESENTATIVE CLAIMS ON YOUR BEHALF. INSTEAD, BY AGREEING TO ARBITRATION, YOU MAY BRING YOUR CLAIMS AGAINST THE COMPANY IN AN INDIVIDUAL ARBITRATION PROCEEDING. IF SUCCESSFUL ON SUCH CLAIMS, YOU COULD BE AWARDED MONEY OR OTHER RELIEF BY AN ARBITRATOR. YOU ACKNOWLEDGE THAT YOU HAVE BEEN ADVISED THAT YOU MAY CONSULT WITH AN ATTORNEY IN DECIDING WHETHER TO ACCEPT THIS AGREEMENT, INCLUDING THIS ARBITRATION AGREEMENT.**

b. **Arbitration Rules and Forum.** The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim and the relief sought to our registered agent at GKL Corporate/Search, Inc., P.O. Box 1913, Sacramento, CA 95812. The arbitration will be conducted by JAMS, an established alternative dispute resolution provider. Disputes involving claims and counterclaims under \$250,000, not inclusive of attorneys' fees and interest, shall be subject to JAMS's most current version of the Streamlined Arbitration Rules and procedures available at <http://www.jamsadr.com/rules-streamlined-arbitration/>; all other claims shall be subject to JAMS's most current version of the Comprehensive Arbitration Rules and Procedures, available at <http://www.jamsadr.com/rules-comprehensive-arbitration/>. JAMS's rules are also available at [www.jamsadr.com](http://www.jamsadr.com) or by calling JAMS at 800-352-5267. If JAMS is not available to arbitrate, the parties will select an alternative arbitral forum. If the arbitrator finds that you cannot afford to pay JAMS's filing, administrative, hearing and/or other fees and cannot obtain a waiver from JAMS, the Company will pay them for you. In addition, the Company will reimburse all such JAMS's filing, administrative, hearing and/or other fees for claims with an amount in controversy totaling less than \$10,000 unless the arbitrator determines the claims are frivolous. Likewise, the Company will not seek attorneys' fees and costs in arbitration.

You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the country where you live or at another mutually agreed location. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

c. Authority of Arbitrator. The arbitrator, and not any federal, state or local court or agency shall have exclusive authority to resolve any dispute related to the interpretation, applicability, enforceability or formation of this Arbitration Agreement including, but not limited to any claim that all or any part of this Arbitration Agreement is void or voidable. The arbitrator will decide the rights and liabilities, if any, of you and the Company. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the arbitral forum's rules, and the Agreement (including the Arbitration Agreement). The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and us.

d. Waiver of Jury Trial. YOU AND THE COMPANY HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and the Company are instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement, except as specified in Section 17(a) above. An arbitrator can award on an individual basis the same damages and relief as a court and must follow this Agreement as a court would. However, there is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

e. Waiver of Class or Consolidated Actions. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS OR REPRESENTATIVE BASIS. ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. Notwithstanding anything to the contrary in this Agreement, in the event that this subparagraph is deemed invalid or unenforceable with respect to a particular claim or dispute, neither you nor we are entitled to arbitration for such claim or dispute and instead the applicable claim or dispute shall be resolved by a court as set forth in Section 16.

f. 30-Day Right to Opt Out. You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to the following address: TrackR, Inc., 7410 Hollister Avenue, Santa Barbara, CA 93117, Attn: Legal Department or [legalteam@thetrackr.com](mailto:legalteam@thetrackr.com), within 30 days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, your username (if any), the email address you used to set up your account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of this Agreement will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.

g. Severability. Subject to subsection 17(e), if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.

h. Survival of Agreement. This Arbitration Agreement will survive the termination of your relationship with the Company.

i. Modification. Notwithstanding any provision in this Agreement to the contrary, we agree that if the Company makes any future material change to this Arbitration Agreement, it will not apply to any individual claim(s) that you had already provided notice of to us.

18. App Store. When you download our mobile Apps, you may do so through a third party's App Store. You acknowledge that the terms of this Agreement are between you and us and not with the owner or operator of the App Store ("**App Store Owner**"). As between the App Store Owner and us, we, and not the App Store Owner, are solely responsible for the Services, including the App, the content, maintenance, support services, and warranty, and addressing any claims relating thereto (e.g., product liability, legal compliance or intellectual property infringement). In order to use the App, you must have access to a wireless network, and you agree to pay all fees associated with such access. You also agree to pay all fees (if any) charged by the App Store Owner in connection with the Services, including the App. The following applies to any App Store Sourced Application (as such term is defined in Section 7):

(a) Your use of the App Store Sourced Application must comply with the App Store's "Terms of Service" or equivalent terms.

(b) You acknowledge that the App Store Owner has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.

(c) In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify the App Store Owner, and the App Store Owner will refund the purchase price for the App Store Sourced Application to you (if any) and to the maximum extent permitted by applicable law, the App Store Owner will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between Company and the App Store Owner, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Company.

(d) You and we acknowledge that, as between Company and the App Store Owner, the App Store Owner is not responsible for addressing any claims you have or any claims of any third party relating to the App Store Sourced Application or your possession and use of the App Store Sourced Application, including, but not limited to: (i) product liability claims; (ii) any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

(e) You and we acknowledge that, in the event of any third-party claim that the App Store Sourced Application or your possession and use of that App Store Sourced Application infringes that third party's intellectual property rights, as between Company and the App Store Owner, Company, not the App Store Owner, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement.

(f) You and we acknowledge and agree that the App Store Owner, and the App Store Owner's subsidiaries, are third-party beneficiaries of this Agreement as related to your license of the App Store Sourced Application, and that, upon your acceptance of this Agreement, the App Store Owner will have the right (and will be deemed to have accepted the right) to enforce the terms of this Agreement as related to your license of the App Store Sourced Application against you as a third-party beneficiary thereof.

(g) Without limiting any other terms in this Agreement, you must comply with all applicable third-party terms of agreement when using the App Store Sourced Application.

19. Investigation; Legal Compliance. If we become aware of any possible violations by you of the Agreement, we reserve the right to investigate such violations. In the event that we determine, in our sole discretion, that you have breached any portion of the Agreement, or have otherwise demonstrated inappropriate conduct, we reserve the right to (i) warn you via e-mail (to any e-mail

address you have provided to us) that you have violated the Agreement; (ii) notify and/or send any information you have provided to us to and/or fully cooperate with the proper law enforcement authorities for further action; and/or (iii) pursue any other action which we deem to be appropriate. If, as a result of the investigation, we believe that illegal activity has occurred, we reserve the right to refer the matter to, and to cooperate with, any and all applicable legal authorities. We are entitled, except to the extent prohibited by applicable law, to disclose any information or materials on or in the Sites, Apps, or Services in our possession in connection with your use of the Sites, Apps, Hardware or Services, to (i) comply with applicable laws, legal process or governmental request; (ii) enforce this Agreement; (iii) respond to your requests for customer service; or (iv) protect the rights, property or personal safety of Company, its users or the public, and to comply with the requests of all law enforcement or other government officials, as we in our sole discretion believe to be necessary or appropriate. We reserve the right, in our sole discretion, to immediately take any or all of the actions set forth herein without any notice or warning to you.

20. Termination. We may, in our discretion and without liability to you, with or without cause, with or without prior notice and at any time: (a) discontinue the Services (in whole or in part), (b) terminate this Agreement or your access to the Services, and/or (c) deactivate or cancel your Account. In the event Company terminates this Agreement or your access to the Services or deactivates or cancels your Account, you will remain liable for all amounts due hereunder up to the date of termination. You agree that all terminations shall be made in our sole discretion and that we shall not be liable to you or any third-party for enforcing this provision. If you want to terminate your Account, you may do so by (a) notifying Company at any time and (b) closing your Account. Your notice should be sent, in writing, to TrackR, Inc., 7410 Hollister Avenue, Santa Barbara, CA 93117, Attn: Legal Department or e-mailing [legalteam@thetrackr.com](mailto:legalteam@thetrackr.com). Termination of Services (in whole or in part) may include deletion of your password and all related information, files and content associated with or inside your Account (or any part thereof). Upon termination of any Service, your right to use such Service will automatically terminate immediately. Company will not have any liability whatsoever to you for any suspension or termination. All provisions of this Agreement which by their nature should survive, shall survive termination of this Agreement, the Sites, Apps, Hardware or Services, including without limitation, ownership provisions, warranty disclaimers, and limitation of liability.
21. Waiver. No delay or omission by either party hereto to exercise any right or power occurring upon any noncompliance or default by the other party with respect to any of the terms of this Agreement shall impair any such right or power or be construed to be a waiver thereof. Unless stated otherwise, all remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity, or otherwise.
22. Unenforceability. Subject to subsection 17(e), if any provision of this Agreement or any word, phrase, clause, sentence, or other portion thereof should be held to be unenforceable or invalid for any reason, then such provision or portion thereof shall be modified or deleted in such manner as to render this Agreement as modified legal and enforceable to the maximum extent permitted under applicable laws.
23. Authority. The party entering into this Agreement hereby acknowledges, represents and warrants that he or she is expressly and duly authorized to enter into this Agreement and to legally bind said party to this Agreement.
24. Electronic Communications. The communications between you and Company use electronic means. For contractual purposes, you (1) consent to receive communications from Company in an electronic form; and (2) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Company provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights.

25. Release. You hereby release Company, its affiliates, agents, and their respective officers, directors, employees, and agents and their successors from claims, demands, any and all losses, damages, rights, and actions of any kind, including personal injuries, death, and property damage, that is either directly or indirectly related to or arises from third-party websites or your use of the Sites, Apps, Hardware or Services in violation of this Agreement. If you are a California resident, you hereby waive California Civil Code Section 1542, which states, "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which, if known by him or her must have materially affected his or her settlement with the debtor."
26. Force Majeure. Company shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.
27. Compliance. If you believe that Company has not adhered to this Agreement, please contact Company by emailing us at [legalteam@thetrackr.com](mailto:legalteam@thetrackr.com). We will do our best to address your concerns. If you feel that your complaint has been addressed incompletely, we invite you to let us know for further investigation.
28. Notice. Where Company requires that you provide an e-mail address, you are responsible for providing Company with your most current e-mail address. In the event that the last e-mail address you provided to Company is not valid, or for any reason is not capable of delivering to you any notices required/ permitted by this Agreement, Company's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to Company at the following address: TrackR, Inc., 7410 Hollister Avenue, Santa Barbara, CA 93117, Attn: Legal Department. Such notice shall be deemed given when received by Company by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.
29. Assignment. This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Company without restriction.
30. Export Control. You may not use, export, import, or transfer the Sites, Apps, Hardware, or Services, or any content therein except as authorized by U.S. law, the laws of the jurisdiction in which you obtained Sites, Apps, Hardware, or Services, or any content therein, and any other applicable laws. In particular, but without limitation, Sites, Apps, Hardware, or Services, or any content therein may not be exported or re-exported (a) into any United States embargoed countries; or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using Sites, Apps, Hardware, or Services, or any content therein, you represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. You also will not use the Sites, Apps, Hardware, or Services, or any content therein for any purpose prohibited by U.S. law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You acknowledge and agree that products, services or technology provided by Company are subject to the export control laws and regulations of the United States. You shall comply with these laws and regulations and shall not, without prior U.S. government authorization, export, re-export, or transfer any products, services or technology provided by Company, either directly or indirectly, to any country in violation of such laws and regulations.
31. Notice to California Users. Under California Civil Code Section 1789.3, users of the Services from California are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.

32. International Users. The Sites, Apps, Hardware, and Services can be accessed from countries around the world and may contain references to Sites, Apps, Hardware, and Services that are not available in your country. These references do not imply that Company intends to introduce such Sites, Apps, Hardware, or Services in your country. The Sites, Apps, and Services are controlled and offered by Company from its facilities in the United States of America. Company makes no representations that the Sites, Apps, Hardware, or Services are appropriate or available for use in other locations. Those who access or use the Sites, Apps, Hardware, or Services from other jurisdictions do so at their own volition and are responsible for compliance with local law.
33. Translations of Terms. If the Company has provided you with a translation of the English language version of its Terms of Service or any other terms appearing on the Company's Sites, Apps, Hardware or Services, you agree that the translation is provided for your convenience only and that the English language version will govern your relationship with the Company. If there is any conflict or contradiction between what the English language version of the terms and the translation of the terms, then the English language version shall control and take precedence.
34. Entire Agreement. The terms of this Agreement are the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.

PLEASE PRINT A COPY OF THIS AGREEMENT FOR YOUR RECORDS AND PLEASE CHECK BACK FREQUENTLY FOR ANY CHANGES TO THIS AGREEMENT.