

# **Customer Agreement**

## **1. This Is an Enforceable Legal Agreement.**

This Customer Agreement ("Agreement") states the terms and conditions pursuant to which 911TRACKER®, Inc. ("911Tracker"), agrees to provide Customers with Vehicle Security Tracker (the "Tracker"), which uses wireless carrier services (the "Services"). By clicking on the box on the [www.911Tracker.com](http://www.911Tracker.com) website purchasing page that is next to the statement "I have read and agree to the terms and conditions of the Customer Agreement," Customer agrees to be bound by the terms and conditions stated in this Agreement. Customer also agrees to the terms and conditions of this Agreement by paying for and using the Services. If Customer does not agree to the terms and conditions of this Agreement, Customer may not access or otherwise use the Services.

## **2. Customer Agrees that 911Tracker device may Monitor, Collect, Use, Communicate, and Retain Location Data.**

2.1. Customer agrees that location data from the Tracker device together with 911Tracker's communication technologies, may monitor, collect, use, communicate, and retain Global Positioning Satellite ("GPS") coordinates showing the location of the vehicle chosen by Customer.

2.2. Customer agrees that the Tracker may communicate location data to Customer through communication technologies and networks chosen by 911Tracker, using Short Message Service ("SMS") messages sent to Customer's mobile phone. Customers can register to receive location data and Tracker alerts through SMS messages in accordance with information provided in 911Tracker Vehicle Security Tracker User Guide.

2.3. Customer agrees that the Tracker device may monitor, collect, use, communicate, and retain location data as described in this Agreement and in 911Tracker's Privacy Policy, available at [www.911tracker.com/privacy.html](http://www.911tracker.com/privacy.html) (the "Privacy Policy"), which is incorporated by reference in this Agreement.

## **3. Customer Is Prohibited From Using the Services for Illegal Purposes.**

Customer shall not use, and shall not allow any person to use, the Services in any way that violates a federal, state, or local law, regulation, or ordinance, or for any tortuous or illegal purpose, including but not limited to harassing, slandering, defaming, or improperly conducting surveillance of any person.

## **4. Customer Agrees to Certain Warranties.**

Customer warrants to 911Tracker that:

4.1. Customer will use the Services only as provided in this Agreement;

4.2. Customer is at least 18 years old and has the right or has obtained any required authorization (a) to monitor the location of the vehicle, and (b) to agree that the Tracker may monitor, collect, use, communicate, retain, and disclose location data as described in this Agreement;

4.3. Any information Customer provides or discloses to 911Tracker will be accurate, complete, and current; and

4.4. Customer will notify 911Tracker regarding any material change to information Customer provides by using the methods for contacting 911Tracker stated in the "Contact Us" section of [www.911tracker.com](http://www.911tracker.com).

## **5. 911Tracker May Amend this Agreement at Any Time.**

5.1 911Tracker reserves the right, at its sole discretion, to change, modify, add to, or remove any portion of this Agreement, in whole or in part, at any time. 911Tracker will include such Amendments on the version of this Agreement that is posted on 911Tracker's website ([www.911tracker.com](http://www.911tracker.com)) and will notify Customer by e-mail that the Agreement has been amended.

5.2 Amendments to the Agreement will take effect immediately upon being posted to the website. Customer's continued use of the Services after 911Tracker posts an Amendment constitutes Customer's acceptance of and consent to the Amendment. If Customer does not accept such an Amendment, Customer must notify 911Tracker within 30 days after 911Tracker notifies Customer of the Amendment that Customer has elected to cancel the Services rather than accept the Amendment.

## **6. Customer Must Use the Tracker with the Wireless Carrier Chosen by 911Tracker.**

The Tracker communicates Information using a network of a third party wireless service carriers to provide 911Tracker Service Plans as chosen by 911Tracker. Customer shall not use a Tracker with any other service.

## **7. Customer Is Responsible for All Charges Incurred to Use the Services.**

7.1. Customer is responsible for all charges incurred in connection with the Services regardless of who incurs the charges. If Customer believes there is an error in any charge posted to Customer's account, Customer must contact 911Tracker concerning the disputed charges within 15 days of receiving the bill for those charges, at which time 911Tracker will investigate Customer's claim.

7.2. Customers who wish to purchase the Services must do so for a period of one month or one year. Customer must provide a valid and chargeable credit card ("payment card") to 911Tracker as part of the registration process, which 911Tracker will charge for the Services. When a Service Plan reaches the expiration date, 911Tracker shall automatically renew that Service Plan at the current rate for that Plan.

7.3. Customer must pay for the Services in advance on a yearly or monthly basis. In the event that Customer's payment card company declines to process Customer's monthly payment, 911Tracker may retry the charge on the payment card. If payment is again declined, 911Tracker may terminate the Services immediately, and without penalty or liability to 911Tracker.

7.4 Customer is responsible for any and all taxes and expenses that may be incurred related to use of the Services.

## **8. Customer Must Use 911Tracker-Supplied Security Information.**

911Tracker will provide Customer a Tracker phone number or other security information ("Security Information"), which Customer must use to access and use the Services. Customer shall maintain the confidentiality of the Security Information and shall be responsible for all activities performed using Customer's Security Information. Customer shall notify 911Tracker immediately of any unauthorized use of Customer's Security Information.

## **9. 911Tracker and Customer May Terminate this Agreement and the Services.**

9.1. The term of this Agreement shall commence when the Customer first purchases the Services; provided, however, that 911Tracker may decline to activate the Services if (a) Customer fails to provide all required information through the reservation page on the [www.911tracker.com](http://www.911tracker.com) Website; (b) 911Tracker determines in its sole discretion that the SIM card in the Tracker has been or will be used improperly; or (c) 911Tracker determines in its sole discretion that Customer will use the Tracker in a manner that will violate this Agreement.

9.2. 911Tracker may, with or without cause, immediately terminate this Agreement at any time, and deny Customer access to or use of the Services. Without limiting the foregoing, 911Tracker has the right to immediately terminate or suspend Customer's account or use of the Services in the event that Customer breaches this Agreement or engages in conduct that 911Tracker, in its sole discretion, considers unacceptable. If this Agreement is terminated, Customer will no longer be authorized to access or use the Services.

9.3. Customer may cancel the Services at any time. If Customer cancels the Services prior to the expiration date of their 911Tracker Service Plan: (a) 911Tracker will credit the Customer's account for the days following the Customer's cancellation date and (b) 911Tracker will terminate services on the cancellation date and Customer will no longer be authorized to access or use the Services.

9.4. Customer may begin a new monthly or annual 911Tracker Service Plan at any time by logging into their MyTracker account and purchasing the Plan of their choice.

9.5. All provisions of this Agreement that by their nature are intended to survive the expiration or termination of this Agreement, including but not limited to obligations with respect to disclaimers of warranties, limitations of liability, indemnification, and intellectual property rights, shall survive any expiration or termination.

## **10. 911TRACKER Disclaims All Warranties.**

**TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, 911TRACKER, ITS SUPPLIERS, AND LICENSORS PROVIDE THE SERVICES "AS IS" AND WITH ALL FAULTS. 911TRACKER DOES NOT WARRANT UNINTERRUPTED USE OR OPERATION OF THE SERVICES OR THAT ANY DATA SENT BY OR TO CUSTOMER, OR SENT BY A TRACKER, WILL BE TRANSMITTED IN UNCORRUPTED FORM, WITHIN A REASONABLE AMOUNT OF TIME, OR WITHOUT BEING INTERCEPTED. 911TRACKER, ITS SUPPLIERS, AND LICENSORS DISCLAIM ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, WRITTEN, ORAL, CONTRACTUAL, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES, DUTIES, OR CONDITIONS OF OR RELATED TO: MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR THAT MAY ARISE FROM A COURSE OF DEALING OR USAGE OF TRADE.**

## **11. Additional Tracker Warranty Disclaimers May Apply.**

Certain additional warranty disclaimers and limitations may apply with respect to a Tracker purchased by Customer. Customer should carefully read the materials accompanying the Tracker.

## **12. 911Tracker's Potential Liability Is Limited.**

**12.1. 911TRACKER SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST PROFITS (REGARDLESS OF WHETHER 911TRACKER HAS BEEN NOTIFIED THAT SUCH LOSS MAY OCCUR) BY REASON OF ANY ACT OR OMISSION IN ITS PROVISION OR FAILURE TO PROVIDE THE SERVICES, PRODUCTS, OR TRACKERS. 911TRACKER SHALL NOT BE LIABLE FOR ANY ACT OR OMISSION OF ANY THIRD PARTY THAT FURNISHES ANY PART OF THE SERVICES, OR THAT FURNISHES A PRODUCT OR TRACKER USED IN CONNECTION WITH THE SERVICES, INCLUDING BUT NOT LIMITED TO THIRD PARTIES PARTICIPATING IN OFFERS MADE THROUGH 911TRACKER. 911TRACKER SHALL NOT BE LIABLE FOR ANY DAMAGES THAT RESULT FROM ANY SERVICE PROVIDED BY, OR PRODUCT OR DEVICE MANUFACTURED BY, THIRD PARTIES.**

**12.2. NOTWITHSTANDING ANY DAMAGES THAT CUSTOMER MAY SUFFER FOR ANY REASON, THE ENTIRE LIABILITY OF 911TRACKER AND ITS SUPPLIERS AND LICENSORS UNDER ANY PROVISION OF THIS AGREEMENT OR IN CONNECTION WITH THE SERVICES OR TRACKER, AND CUSTOMER'S EXCLUSIVE REMEDY FOR ALL OF THE**

**FOREGOING, SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR THE SERVICES DURING THE 12 MONTHS PRIOR TO THE EVENT THAT CUSTOMER CLAIMS CAUSED THE DAMAGES.**

12.3. 911Tracker shall not be liable for any damages Customer or others may incur as a result of Customer's loss, disclosure, or a third party's use of Customer's Security Information, regardless of whether such disclosure or use is with or without Customer's knowledge or consent.

12.4. In no event shall 911Tracker have any liability for any damages arising out of or in connection with: (a) Customer's own actions, negligence, or willful misconduct, (b) acts or omissions of any third party, including but not limited to any telecommunications service provider, or (c) events or causes beyond 911Tracker's reasonable control, including but not limited to acts of God, war, terrorism, criminal or tortious acts by third parties, riots, or natural disasters.

12.5. The limitations, exclusions, and disclaimers set forth in this Agreement shall apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose.

**13. Customer Agrees to Indemnify 911Tracker.**

13.1. Customer agrees to defend, to indemnify, and to hold harmless 911Tracker and its affiliates, suppliers and licensors (and each entities' respective officers, directors and employees) from any and all liabilities, penalties, claims, causes of action, and demands brought by third parties (including the costs, expenses and attorneys' fees on account thereof) resulting from or relating to Customer's use of the Services and a Tracker or to Customer's inability to use the Services or a Tracker.

13.2. Customer's agreement to defend, to indemnify, and to hold 911Tracker harmless applies whether a claim against 911Tracker is based in contract or tort (including strict liability), and regardless of the form of action, including but not limited to any claims resulting directly or indirectly from Customer's intentional or inadvertent misrepresentation of: (a) Customer's identity; (b) the identity of persons authorized to access location data; (c) Customer's right to monitor the location of vehicle using the Services; or (d) Customer's relationship to any of these persons or claims resulting from or relating to Customer's breach of this Agreement.

**14. Process for Returning Trackers.**

Trackers purchased directly from 911Tracker may be returned for a refund of the cost of the Tracker within 30 days of purchase, subject to the terms of 911Tracker's 30-Day Risk-Free Guarantee. The Guarantee is available at [www.911tracker.com/return-policy/](http://www.911tracker.com/return-policy/).

**15. If a Tracker Is Lost or Stolen.**

15.1. If a Tracker is lost or stolen, Customer is responsible for charges incurred until Customer notifies 911Tracker of the loss.

15.2. Once Customer informs 911Tracker that a Tracker has been lost or stolen 911Tracker will suspend Customer's account. After Customer purchases a new Tracker, any money left in Customer's account will be applied to their new 911Tracker Service Plan. If Customer decides to cancel the account, 911Tracker will handle the cancellation as defined in Section 9 of this Agreement.

**16. Customer May Not Export Trackers or Software.**

Customer shall comply with all trade regulations and export control laws, both domestic and foreign. Trackers, software and any underlying information accessed or transferred using the Services may be subject to U.S. export controls, including the Export Administration Act (50 U.S.C. § 2401, et seq.) and the Export Administration Regulations (50 C.F.R. § 730-774), as well as the import regulations of other countries. Except as authorized by 911Tracker and the U.S.

export control laws, Customer agrees not to export or re-export any Tracker or software to any foreign country. Any information transferred by Customer using the Services to any foreign country, entity, or person must comply with the U.S. Export Administration Act and the Export Administration Regulations.

### **17. 911Tracker and Its Licensors Own All Intellectual Property Rights.**

17.1. 911Tracker grants Customer, during the term of this Agreement, a revocable, non-transferable and non-exclusive license to use any software provided by 911Tracker (the "Software") solely in connection with Customer's use of the Services and in a manner that is consistent with this Agreement.

17.2. Customer shall not (a) distribute, rent, loan, lease, sell, sublicense, or otherwise transfer all or part of the Software, any access to it, or any rights granted under this Agreement to any other person; (b) reverse engineer, decompile, or disassemble the Software; (c) modify, translate, adapt, arrange, or create derivative works based on the Software for any purpose; (d) use the Software outside of the country of purchase or in a manner inconsistent with or in violation of this Agreement.

17.3. The Software is protected by patents, copyright, trade secret and other intellectual property laws and treaties and will remain the exclusive property of 911Tracker or its suppliers or licensors. All rights not expressly granted in this Agreement are reserved by 911Tracker.

17.4. The "911TRACKER" name and logo and all other trademarks, service marks, and trade names used in connection with the Products and Services are owned by 911TRACKER, Inc. or its licensors and may not be used by Customer without the written consent of 911Tracker.

### **18. 911Tracker May Use Customer Information.**

18.1. 911Tracker handles Customer information in a manner consistent with federal customer privacy laws and the Privacy Policy. Except as contemplated by the Privacy Policy and as necessary to deliver the Services, 911Tracker shall not intentionally share Personal Information obtained through 911Tracker's Services to third parties not related to 911Tracker without Customer's written permission. As described in the Privacy Policy, 911Tracker may, from time to time, use Customer information to market 911Tracker's and its affiliates' services to Customer.

18.2. Customer agrees that any and all information provided by Customer in the course of using the Services becomes the property of 911Tracker. 911Tracker may use this information for any lawful purpose, subject to the Privacy Policy.

18.3. Customer acknowledges that communications from a Tracker to Customer and Customer's communications to Tracker are handled by regulated Wireless Carriers using their sophisticated security technologies, however it cannot be guaranteed that these communications are totally secure and may be intercepted and read by others. Customer therefore acknowledges that the information provided by 911Tracker Services are not guaranteed to be confidential.

18.4. To comply with appropriate legal process, 911Tracker may disclose any Customer information or content to law enforcement authorities, including Customer's name, account history, account information or other transmission data requested by law enforcement. 911Tracker may also disclose any Customer content to third parties as is necessary to respond to claims that any content violates the rights of third parties or to protect the rights and property of 911Tracker.

### **19. Customer's Use of Content and Services Is Restricted.**

19.1. 911Tracker may send messages, data, or other information ("Content") to Customer as part of the Services. All Content is owned by 911Tracker. Customer shall not upload or transmit Content to public places. Customer is responsible for any unauthorized use of the Content.

19.2. Customer shall not upload, post or transmit to or distribute or otherwise publish through the Services any materials that (a) restrict or inhibit any other customer from using the Services, (b) are unlawful, threatening, harassing, abusive, libelous, defamatory, obscene, vulgar, offensive, pornographic, profane, sexually explicit or indecent, (c) constitute or encourage conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any local, state, national or international law, (d) violate, plagiarize, or infringe the rights of third parties, including copyright, trademark, patent, rights of privacy or publicity or any other proprietary rights, (e) contain any viruses, Trojan horses, worms, time bombs, cancelbots, or other harmful components that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data, or information, (f) contain advertising of any kind, or (g) constitute or contain false or misleading indications of origin or statements of fact.

19.3. If 911Tracker determines in its sole discretion that Customer is using an excessive amount of 911Tracker's network resources, 911Tracker may adjust, suspend or terminate the Services 911Tracker provides to Customer at any time, without notice.

19.4. 911Tracker reserves the right to limit, remove, or delete any information that Customer uploads, downloads, posts, distributes, or otherwise transmits through the Services for any reason at any time.

## **20. Additional Terms and Conditions.**

20.1. This Agreement, including the Privacy Policy incorporated in the Agreement, supersedes all oral or written communications and understandings between Customer and 911Tracker (the "Parties") with respect to the Services and the terms under which the Services are offered and provided.

20.2. Any cause of action Customer may have with respect to the use of the Services must be commenced within one (1) year after the claim or cause of action arises.

20.3. Both Parties waive the right to a jury trial in any dispute arising out of this Agreement or the Services.

20.4. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion of the Agreement, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to give effect to the intent of the Agreement, and the remainder of this Agreement shall continue in full force and effect.

20.5. The headings contained in this Agreement are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section.

20.6. Customer may not assign his or her rights or delegate his or her obligations under this Agreement.

20.7. There shall be no third party beneficiaries under this Agreement, except for 911Tracker's affiliates, suppliers, and licensors or as required by law.

20.8. Any legal action concerning this Agreement or the Services shall be interpreted under the laws of the State of California.

20.9. Any dispute arising from or relating to this Agreement, regardless of theory of action, shall be resolved exclusively in the state and federal courts of the State of California.

20.10. Use of the Services is unauthorized in any jurisdiction that does not give effect to all provisions of this Agreement, including without limitation this paragraph.

20.11. The failure of 911Tracker to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.

## **21. Terms Regarding Receiving 911Tracker Location Data Via SMS.**

21.1. Customers must agree to these additional terms.

21.2. When the Customer purchases a 911Tracker Service Plan at the [www.911tracker.com](http://www.911tracker.com) website the, Customer agrees to receive Tracker location data and Tracker alerts via SMS.

21.3. Customers must enter the mobile phone number of their mobile phone where prompted by the 911Tracker User Guide. This number is for the mobile phone to which the Customer wants to have mobile notifications sent. This process enables the Customer to receive SMS notifications.

21.4. All terms of the 911Tracker Customer Agreement apply regarding 911Tracker's use of SMS messages to send location data and Tracker alerts to Customers.

21.5. Once a Customer has registered at [www.911tracker.com](http://www.911tracker.com) to receive location data and Tracker alerts via SMS, he or she can query the location of his or her Tracker using SMS commands defined in the 911Tracker User Guide.

21.6. Fees and Rates for Tracker location data SMS Messaging

21.6.1. Customers must pay their mobile phone service carriers for SMS messages received from Tracker pursuant to the terms of their mobile phone agreements with their mobile phone service provider. 911Tracker Customers should check with their mobile phone service providers for the SMS rates their mobile phone carrier will charge.

21.7. Mobile Phone Service Providers

21.7.1. The Tracker location data notification service via SMS is available only to authorized 911Tracker Customers who have registered an active mobile phone.

21.7.2. The SMS service is available on most mobile phones from most U.S. mobile phone service providers (Verizon, T-Mobile, AT&T, Sprint, etc.). If the SMS service does not work on Customer's phone, please contact 911Tracker Customer Support at [customersupport@911tracker.com](mailto:customersupport@911tracker.com).

Copyright © 2015, 911Tracker, Inc