

Terms and Conditions

Customer Agreement

We, ANYTRACK PTY LTD (ACN 678 048 194), a registered company incorporated in the State of NSW, Australia, will provide you with the Location Tracking Service “ANYTRACK” in accordance with the terms and conditions, set forth in this document

This agreement constitutes a valid and binding agreement between ANYTRACK and You, as a user, for the use of the ANYTRACK website and software

Your access to and use of the ANYTRACK website and software is conditional based on you agreeing to the terms and conditions set in this agreement

By installing and using, the ANYTRACK software and accessing the ANYTRACK location tracking service you agree to be bound by the terms of this Agreement and any new versions hereof

Definitions

Contract	means this agreement
ANYTRACK	means ANYTRACK PTY LTD (ACN 678 048 194) PO BOX 828, Surry Hills, NSW 2010
Information	means all material delivered by us through the Website
Locator, Tracking Hardware, Locating unit, Unit, Device	means the location tracking device
GPS	means the Global Positioning System
Service	means the ANYTRACK Location tracking service
We, Us, Our	means ANYTRACK
SMS, messages	means a text message from the service to you or a message received by the service for you
Location, Position	means a latitude and longitude corresponding with the physical location of a location tracking device
Software, Mobile software	collectively all or any software provided by ANYTRACK service that provides the user access to ANYTRACK location tracking service
Map, plot	means a graphical representation of a geographical map
Website	means the relevant website situated at www.anytrack.com.au or https://live.anytrack.com.au/
You, Your, Yourself	means you, the Service end user
Term	means starting on the date that you activate the Service (the "Term")
Renewal	means automatically renews at the end of billing cycle
Cancellation	means 30 days' notice

1. Your Agreement with Us

- (a) By using the Service, you agree to be bound by the terms of this Agreement
- (b) This Agreement begins on the date on which:
 - (i) you create an account with ANYTRACK location tracking service that is linked to an active location tracking unit or software bought from us
 - (ii) you renew the monthly subscription service from us for a tracking unit/s or mobile device registered with us

2. Pre-requisites to using the ANYTRACK Services

- (a) You need to have an active account on the ANYTRACK website, and a location tracking device programmed specifically to the ANYTRACK tracking service
- (b) You need to have a valid SIM card that does not have a PIN protection for the tracking unit we provide you. We may require you to use a SIM card from a specific telecom provider as not all telecom providers may be able to provide the quality of service required by this tracking service. The cost of SIM card reactivations at charged at \$5 ex GST each.
- (c) You have an Internet connection available to you to access the location reports
- (d) You are responsible for ensuring compliance with the SIM card provider's terms and conditions, and you indemnify us for any loss or damage that we may suffer as a result of your breach of this clause 2
- (e) You have a compatible mobile phone with a compatible telecom provider to access location data and system alerts

3. Restrictions on use

- (a) You must not:
 - (i) use the ANYTRACK service in any way that would violate any applicable law
 - (ii) collect any information or communication about the Service or users of the Service or the ANYTRACK Software by monitoring or intercepting any process of the Service or the ANYTRACK Software
 - (iii) remove any proprietary notices from the Service, ANYTRACK Software, or any copy
 - (iv) cause permit or authorise the modification, creation of derivative works, translation, or copying of the ANYTRACK Software or the Service
 - (v) you will not sell, assign, rent, lease, distribute, act as an intermediary or provider, or otherwise grant rights to third parties with regard to the ANYTRACK Service or Software, to any other person without our prior written consent

- (vi) decompile, disassemble, reverse engineer or hack the ANYTRACK Software or to overcome any encryption, technical protection or security methods implemented by us with respect to the ANYTRACK Software and/or data transmitted, processed or stored by us or other users of the ANYTRACK Software
- (vii) use location tracking illegally to track anybody without his/her consent
- (viii) attempt to do anything referred to in this clause
- you indemnify us for any loss or damage we may suffer as a result of you breaching any of your obligations under clause 3(a)
- (b) We reserve the right to investigate occurrences which may involve violations referred to in, or breaches of, clauses 3(a). We may involve, and cooperate with, law enforcement authorities in prosecuting users who have participated in such violations or breaches

4. Our Service

- We will use reasonable endeavours to make our Service available to you. However, the quality and availability of our Service may be affected by factors outside of our reasonable control (for example, without limitation, weather, power services and fault in phone networks). As a result, the ANYTRACK Software and the Service are provided “as is” and we do not represent or warrant that the ANYTRACK Software or the Service will always be available, accessible, uninterrupted, timely, secure, accurate, complete, error-free, or will operate without data loss, nor do we warrant any particular quality of messages sent to or through the ANYTRACK Software or the Service
- We as a location service provider, contract with several third parties including mobile telephony service providers, digital map providers, and Internet hosting providers for facilities to enable the provision of the Service to you
- SMS is a store and forward technology. Network bandwidth and congestion can affect the delivery time of SMS communication and sometimes the SMS may never reach the destination
- GPS is a line-of-sight technology. Physical placement of the tracking device, tall buildings, signal reflection and electronic jamming will affect the accuracy or acquisition of a GPS signal by the tracking device
- As such components of the Service are supplied to us by third parties, we can make no promises or warranties, express or implied as to the Service, including without limitation, its accuracy, relevance, or quality
- The Service is subject to the limitations of the enabling technology on which it relies and may be adversely affected by operational factors beyond our control such as network congestion, network coverage, undelivered SMS messages, GPS availability, Internet connections and the performance of your location tracking device or mobile phone

- You acknowledge that:
 - (a) Due to transient nature of the Internet, the Service may be unavailable temporarily
 - (b) SMS text messages, or email messages may be delayed and sometimes not delivered
 - (c) There may be location errors either because of the GPS data or because of typographic errors in map data
 - (d) The Service is dependent on tracking unit having access to the GSM network. If you are in an area where you cannot obtain GSM coverage, then you will not be able to use the service to locate the unit in such areas
 - (e) We are not liable to you or any other person for faults or defects that arise in telecommunication services not provided under this Agreement even if they are connected with our consent, to the Service which we have arranged under this Agreement which are due to incompatibility with the Service
 - (f) You agree that you are responsible for monitoring your own tracker battery percentage and runtime remaining and replacing your own batteries when and if required. We are not responsible for devices that have no power due to battery life.

5. Your account

- (a) If you change the SIM card of the locating device you must let us know before you do that, as it may make the tracking service unavailable to you for the duration in which the system is reset
- (b) You may have one or more accounts with one or many locating tracking devices associated with each account
- (c) If you have more than one account we may, at our option, suspend or terminate all your accounts with us if you are in breach of your obligations under any account and that breach is not rectified
- (d) Without limiting clause 5(c), if you have more than one account with us and you are in arrears in payment of any of your accounts, we may, at our option, recover any amounts outstanding on any of your accounts from any of your accounts that have positive balances or charge you for the use of our Service on your other account
- (e) You must tell us about any change in your address or other details you supply us. If we ask you for information about you or your account for the purpose of operating the Service, then you must provide it
- (f) The security of your Username and Password we allocate you is your responsibility

6. Charges and payment

- (a) Goods and services tax (“GST”) is included in the Charges, where applicable. All other taxes (if any) are payable by you and will be added to all applicable Charges
- (b) Term: The minimum duration of each Service Plan is 30 days, starting on the date that you activate the Service (the “Term”)
- (c) Renewal: At the end of the Term, each Service Plan automatically renews at the end of each month for an additional month unless you cancel your Service
- (d) Timely Payments: You agree to pay, on time, any applicable activation fees for your Service Plan, usage, and cancellation fees, plus any applicable taxes, surcharges, and fees as provided in your Service Plan. ANYTRACK will bill your payment method in accordance with the terms of your Service Plan. This bill is due and payable in the currency specified in your Service Plan. Recurring charges are billed Monthly in advance
- (e) You are responsible for all Charges on your account, regardless of whether they have been incurred by you personally
- (f) You will be liable for all Charges relating to use of your account until you notify us and request us to suspend the Service to that account within minimum 30 day notice period
- (g) Late Payments You agree to pay a late charge of 1.5% per month if your bill is not paid by the due date. This late charge is applicable to the unpaid balance as of the due date and will be billed on subsequent invoices and statements. You agree to pay ANYTRACK all costs associated with the collection of any outstanding fees owed by you, including without limitation the standard fees of any collection agency, reasonable attorney and legal fees, and any other costs incurred by ANYTRACK in exercising any of its rights under this Agreement. ANYTRACK may suspend the Services in the event of late or non-payment. ANYTRACK may charge a fee for the reactivation of any suspended Service Plan
- (h) Credit Approval/Credit Card Trial/Pre-Authorization Initiation or continuation of the Services is subject to credit approval by ANYTRACK and requires direct payment by credit card or an authorized guarantee of payment by a valid accepted credit card. Verification of credit cards issued by banks outside of Australia or New Zealand may delay order processing. ANYTRACK may decline any credit card transaction. ANYTRACK may seek authorization of your credit card account prior to your first activation/purchase to validate that you can charge the applicable fees to access the Services. By authorizing ANYTRACK to charge a credit card trial/pre-authorization for the fees associated with your subscription, you are authorizing ANYTRACK to automatically continue charging that card (or any replacement card if the original card is renewed, lost, stolen, or changed for any reason by the card issuer, and you or the issuer informs ANYTRACK of the new replacement card account) for all fees or charges associated with your subscription including any renewal fees as described herein. You authorize the card issuer to pay any amounts described herein and authorize ANYTRACK, or any other company that acts as a billing agent for ANYTRACK, to continue to attempt to charge all sums described herein to your credit card account until such amounts are paid in full. This trial/pre-authorization amount is typically the equivalent of \$1.00 (one dollar). It is not a charge but may appear to reduce your available balance by the authorization amount until your card’s next billing cycle. Please contact your card issuer if

you have additional questions regarding when this amount will be removed from your statement

- (i) Credit Card Authorization: By authorizing ANYTRACK to debit your credit card, you represent that you are the authorized owner or user of your credit card and that you are a responsible party for that card
- (j) Our price list (which may be updated from time to time) is available upon request and contains all Charges for our Service. If any update or change is made you will be advised with 30 days prior written notification
- (k) You will be charged for sending location tracking messages and status messages at the time the message is sent, regardless of when or whether the message reaches the ANYTRACK control or database
- (l) The customer may terminate this agreement by giving ANYTRACK at least 30 days prior written notice
- (m) Should written notice not be received the contract will automatically be extended and payment will be due

7. Liability

- (a) The Service and the ANYTRACK Software is intended for location tracking use only and accordingly, subject to clause 7(c) below, we (which term includes our affiliates, related bodies corporate, officers, directors, employees, agents or service providers) accept no liability under or in relation to this Agreement or its subject matter whether in contract, tort (including negligence), under statute or otherwise for any loss of or damage to business or reputation, loss of revenue, loss of profits, loss of opportunity, loss of advantage, loss of use of any software or data, loss of use of any other equipment, loss of use of the system on which the Service or the ANYTRACK Software is used, or indirect special or consequential loss or damage. In this clause the term “loss” includes a partial loss or reduction in value as well as a complete or total loss
- (b) Subject to clause 7(c) below, to the extent permitted by law we exclude all liability to you or any other person claiming through you, for any costs, loss, expenses, liability, or damage, regardless of the form of action, whether in contract, tort (including negligence), under statute or otherwise, and whether arising from our (or our agents’) performance or non-performance of our obligations under this Agreement
- (c) Nothing in this Agreement excludes your rights as a consumer arising from the terms implied by the Trade Practices Act 1974 or similar legislation, however, our liability for breach of those implied terms will be limited to
 - (i) In the case of goods supplied
 - (a) the replacement of the goods or the supply of equivalent goods;
 - (b) the repair of the goods;
 - (c) the payment of the cost of replacing those goods or of acquiring equivalent goods; or

- (d) the payment of the cost of having the goods repaired; or
- (ii) In the case of services supplied
 - (a) the supplying of those services again, or
 - (b) the payment of the cost of having those services supplied again
 - (c) We are not liable to you or any other person for faults or defects in the Service or the ANYTRACK Software which are caused by your own conduct or misuse. Our liability to you in contract, tort (including negligence), under statute or otherwise, will be reduced by the extent (if any) to which you caused or contributed to the loss or damage
 - (d) This clause will apply even after this Agreement is terminated

8. Indemnity

- You agree to indemnify us and our affiliates, related bodies corporate, officers, directors, employees, agents, and service providers at your expense, against any claims, actions, proceedings, and suits and all related liabilities, damages, settlements, penalties, fines, costs and expenses (including, without limitation, reasonable legal fees and other dispute resolution expenses) incurred by us arising out of or relating to your:
 - (a) breach of any term of this Agreement or any policy or guidelines referred to in it, or
 - (b) use or misuse of the ANYTRACK location tracking Service or Software

9. Suspending our Service

- We may suspend your use of the Service, at our sole discretion without notice, if:
 - (i) we decide that the Service needs maintenance or upgrading
 - (ii) you are in breach of this Agreement

10. Termination

- (a) You can terminate this Agreement at any time for any reason by notifying us in writing in accordance with Paragraph 6(I) above
- (b) We may terminate this Agreement immediately if:
 - (i) you do not pay a subscription by the due date as required under clause 6;
 - (ii) you become bankrupt, a trustee is appointed over, or warrant issued against your assets, or if you enter into any composition with your creditors
 - (iii) your SIM card telecom provider or Network is no longer compatible with our Service
 - (iv) we are ordered by a government agency to cancel the Service

- (c) If this Agreement is terminated for any reason, you will not be able to use the Service and you will forfeit any payments made for the service already paid for
- (d) Upon termination of this Agreement for any reason
 - (i) the provisions of clauses 7, 8, and 13 and any other clauses which by their nature should survive, will survive the termination of this Agreement

11. Your information and privacy

- (a) The Privacy Policy on our Website explains how we will handle your personal information
- (b) Your password, code or personal identification number (PIN) we give you to use our service must be kept confidential

12. License to use ANYTRACK mobile Software

- Subject to the terms of this Agreement, we grant you a limited, non-exclusive, non-sub licensable, non-assignable license to download, install and use the ANYTRACK Software onto a Mobile Phone for your sole use and for the sole purpose of using the ANYTRACK Service supplied by us. The ANYTRACK Software may only be used in connection with the ANYTRACK location tracking Service

13. Intellectual Property Rights

- (a) You acknowledge that we retain all intellectual property rights (including, without limitation, rights protected by laws relating to copyright, patents, trade secrets and trademarks) relating to the Service and the ANYTRACK Software, the design or operation of the Service and the ANYTRACK Software, any modification or enhancements to the ANYTRACK Software, and any other technical information relating to the provision of the Service and the ANYTRACK Software (“Intellectual Property Rights”). Except for the limited license granted to you, we reserve all rights, title, and interest in and to the ANYTRACK Software and the Service
- (b) You must keep any information you receive relating to our Intellectual Property Rights confidential, and you must not allow any written or electronically recorded material to be copied or disclosed to another person, including after termination of this Agreement
- (c) You will not use information which you acquire from us for any purpose that is not authorised by us in writing
- (d) You must not do anything that would jeopardise, damage, limit or interfere with our Intellectual Property Rights or our interest in them

14. Acts beyond our reasonable control

- Without limitation to clause 7, we are not liable for
- (a) any delay in correcting any fault in the Service

- (b) failure or incorrect operation of any Service, or
- (c) any other delay or default in performance under this Agreement,
- if it is caused by an event beyond our reasonable control, including but not limited to war, accident, act of God, industrial action, embargo, delay or failure or default by your Mobile Phone Provider or any other supplier of goods or services to us or you

15. Service failures

- The client accepts that neither ANYTRACK, its agents nor employees will be held liable for any service failures resulting from any failure of the telecommunications network, Internet Service Provider network that acts as the carrier of the ANYTRACK service, failure of the mobile handset, device or related equipment including mobile handset or device batteries
- ANYTRACK, its agents, employees and partners cannot be held liable for any failure to the system where that failure is outside of the control of ANYTRACK as described in relation to networks, ISP's and devices not supplied by ANYTRACK

16. General

- (a) We can vary the terms of this Agreement at any time, including, without limitation, by changing the Service. If we do this and the change is to your detriment, we will place a notice on our Website or by other means permitted by law. Your continued use of the Software and/or the Service constitutes your acceptance of these revised terms. Please contact us for an up to date copy
- (b) You must not transfer your account or assign any of your rights and responsibilities under this Agreement without our prior written approval. We may assign any of our rights and obligations at any time
- (c) If any term of this Agreement is invalid or unenforceable, it will be severed from this Agreement and the remainder of this Agreement will remain valid and effective
- (d) You acknowledge that you enter into this Agreement entirely as a result of your own enquiries and that you do not rely on any statement, representation or promise by us or on our behalf not expressly set out in this Agreement
- (e) Any failure or delay by us at enforcing a provision of this Agreement does not affect our right at a time to enforce that or any other provision