

TERMS OF SERVICE SPOTNZ Ltd and TRACKME NZ Ltd

Introduction

Track Me NZ Limited and SpotNZ Limited ("we", "our", "us") provides satellite tracking for both personal and business use with customised lone worker plans and monitoring ("our service") as well as selling and leasing devices. By signing up or otherwise using our service, making online purchases and software applications, SAAS (together the "goods and services"), you are entering into a binding contract with us ("terms of service").

These terms of service apply to and govern your purchase of goods and services from the Websites and is subject to any applicable Product Terms and Conditions and our Shipping and Returns Policy, which you will be asked to accept when placing any on-line orders. These Terms of Service should be read in conjunction with our Privacy Policy. These together are referred to together as the "Agreements", which can be found on our website. If you do not agree or cannot comply with the Agreements, then you may not use our goods and services.

In order to use our goods or services, you must be 18 years of age or under the direct supervision of a guardian over the age of 18.

1) **The use of Our Content, Websites, goods and services.**

All copyright and other intellectual property rights in any material contained on the Websites, all goods and services available for purchase by way of the Websites and Our Content, is owned by us/our licensors.

We grant you a limited, non-exclusive, revocable licence to make use of our service (the "licence"). This licence will remain in effect until and unless terminated by us or you. You agree that you are using the service for the purpose for which you have subscribed to the service.

Our service and applications are not sold to you but are licenced and we retain all ownership of copies of our software applications and content even after installation on any device owned by you, including but not limited to personal computers, tablets, tracking devices and smartphones ("Device").

2) **Content made available by the User**

In consideration for the rights granted to you under the Agreements, you grant us the right allow our service to use the processor, bandwidth and storage hardware on your Device in order to facilitate the operation of the service.

The service has certain features, for example, live tracking which means that certain aspects of the service you subscribe to can be viewed by the public. You grant to us a non-exclusive, irrevocable, perpetual, worldwide, royalty-free, sub-licensable and transferable licence to use, reproduce, communicate, modify, create derivative works, communicate, publish, transmit and distribute that information collected by the service as we see fit, for the purposes of our business.

3) **Overseas Client**

The Websites are primarily intended for use by persons in Australia and New Zealand. We make no representation that the Websites or Our Content are appropriate or available for transmission to or from, or use in, locations outside of Australia and New Zealand. If you access the Websites from a location outside of Australia and New Zealand, you are responsible for compliance with all local laws.

4) **Amendments to the Websites or Our Content**

We may:

- terminate, change, suspend, restrict, discontinue any aspect of the Websites, any features of the Websites or Our Content;
- revoke or restrict your use, on any of the Websites, or features and services on any of the Websites; or
- terminate any rights or license given to you to use any of the Website or Our Content, from time to time, without notice or liability.

On any such termination, you must immediately destroy Our Content that you obtained from or through the Websites and that are in your possession or control. We are not responsible for any unauthorised changes to the Websites.

We may also, in the future, offer new services and/or features through the website (including, the release of new tools and resources). Such new features and/or services shall also be subject to these Terms of Service.

5) **Linked websites and Other Users**

The Websites may contain links or reference to other websites owned by third parties ("Third Party Websites"). These links and references are provided for your convenience only, and we do not specifically endorse any organisation, association or entity referred to in, or linked to, any Third-Party Websites. Views or recommendations provided in any Third-Party Websites do not necessarily reflect those of us and we have no responsibility for the content contained in any Third-Party Website.

We do not investigate or vet any users of the Third-Party Websites or any operators of the Third-Party Websites. You should not assume that any information you receive through any Third-Party Website is true, accurate, reliable, suitable or verified by anyone. To the maximum extent permitted under any law we are not, and will not be, liable to you for any Loss (as that term is defined below) suffered by you from your use of any material provided by or through the Third Party Websites, or resulting from any act or omission of any other person, whether a user or owner of any Third Party Websites.

6) **Third Party Intellectual Property and Materials**

The Websites and goods and services purchased by way of the Websites may contain:

- trademarks or other intellectual property right owned by third parties ("Third Party IP"); and/or
- third party software or other products which you may be able to download, access or use which are owned by third parties ("Third Party Materials").

Nothing on any of the Websites should be construed as granting any license or right of use of any Third-Party IP or Third-Party Materials contained on any of the Websites or contained within any goods and services purchased by way of the Websites. You may not use in any way the Third-Party IP or any Third-Party Material without the prior written consent of the owner of that Third-Party IP or Third-Party Material.

We do not endorse or make any representations in respect of Third-Party Materials or any results that may be obtained from their use. If you decide to download, access or use any Third-Party Materials you do this entirely at your own risk.

7) **Client or Guest Account – Check process**

You may access and/or use the Website as a guest or as a member. You may only make a purchase on products available on the Website as a member.

Where you elect to become a member, we may assign you a username and a password ("Password") and you may be required to provide information about yourself for the purposes of your use and access of the Websites (together, "User Account Information"). If you do not provide accurate and complete User Account Information, we may not be able to activate your membership or supply goods or services to you.

In relation to User Account Information, you agree:

- not to misrepresent your identity or impersonate any other person (including by using another person's name or any other personal identifier);
- to provide accurate, complete and current information; and
- to notify us immediately in the event that any of your User Account Information is compromised, subject to unauthorised use or you become aware of any of breach of security related to the Websites.

You remain fully responsible for all activity performed using your User Account Information. Unless you notify us otherwise, and we have had a commercially reasonable time to respond, we assume that every transaction entered into, every authorization received, and every act or omission undertaken using your User Account Information are fully authorised by you.

You agree to:

- keep your Password confidential;
- change your Password from time to time, or as directed by us;
- ensure your Password does not contain common words or names of pets, family members, celebrities, or other words that are easily guessed.

We reserve the right to terminate your account if you have breached these Terms of Use.

8) **Other Provisions**

Certain areas and features of the Websites may contain terms and conditions specific to those areas and features, such as where you download and purchase our goods and services. Such terms and conditions are in addition to these Terms of Service and prevail over these Terms of Service only to the extent it is not possible to construe these Terms of Service consistently with such other terms and conditions.

9) **Our Liability**

You acknowledge that the internet is an unsecure public network which means there are risks that information sent to or from the Websites may be intercepted, corrupted or modified by third parties. In addition, you acknowledge that goods and services purchased, or files obtained from or through the Websites may contain computer viruses, disabling codes, worms or other devices or defects. You acknowledge and agree that your access to, and use of, the Website, all goods and services purchased by way of the Websites and Our Content is at your own risk.

You bear the risks and responsibility for any Loss (as that term is defined below) caused, directly or indirectly, by these risks, and we accept no liability for any interference with, or Loss to, your computer system, software or data occurring in connection with the Websites and all goods and services purchased by way of the Websites.

Except as expressly set out in these Term of Service, and to the extent permitted by law, we exclude from these Terms of Service all representations, guarantees, conditions, warranties, rights, remedies, liabilities and other terms that may be conferred or implied by statute, general law or custom, except any guarantee, implied term or right conferred under any legislation, the exclusion of which would contravene legislation or cause all or part of this clause to be void.

Except for any liability, where applicable, under the Consumer Guarantees, we exclude all responsibility and liability arising from or in connection with your use of the Websites, all goods and services purchased by way of the Websites and Our Information, including, without limitation:

- any and all actual or anticipated loss of profits, revenue, goodwill, savings, data, business opportunity, or expectation, and any and all indirect, special, consequential, punitive or exemplary liabilities, losses, damages, costs and expenses (including legal costs and expenses, regardless of whether incurred or awarded) arising in contract, tort (including negligence) or otherwise ("Losses");
- Loss arising from your use of the goods otherwise than in accordance with the instructions for use (which accompany and/or are embedded in the goods); and
- any other losses.

Except for any liability under the Consumer Guarantees, in any event our liability to you in connection with any order of goods and services will not exceed the total price charged for the goods purchased.

10) **User Liability**

You agree to indemnify us and our officers, directors, employees, contractors, representatives and agents (indemnified persons) from, and to hold each indemnified persons harmless against any Losses or claims, actions or demands reasonably and properly suffers or incurred by any indemnified persons, resulting from your breach of these Terms of Service.

11) **Force Majeure**

We are not liable for any delay in performing an obligation if such delay is caused by circumstances beyond our reasonable control, including but not limited to, failure or interruption in the provision of essential services such as electricity supply, bank payment systems or postal deliveries, acts God, civil commotion, riots, flood, drought, fire and legislation, we shall not be deemed to be in breach of our contract with you.

12) **Governing Law**

Where the use of the Website is in New Zealand, this Licence is governed by the laws of New Zealand, the parties submit to the non-exclusive jurisdiction of the courts of New Zealand. Any arbitration will be facilitated in the City of Christchurch New Zealand.

13) **Revisions to Terms of Service**

We reserve the right, at our sole discretion and without any notice, to change, modify, add, or remove any portion of these Terms of Service at any time. Changes in these terms of Service will be effective when the revised terms of use are posted on the Websites. Your use or continued use of any of the Websites, any goods purchased by way of the Websites or Our Content after any changes will be deemed acceptance of those changes.

14) **Partial Invalidity**

If, for any reason, a court of competent jurisdiction finds any provision of these Terms of Service, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to affect the intent of these Terms of Service, and the remainder of these Terms of Service shall continue in full force and effect.

- 15) **Supply and Delivery**
Subject to our acceptance of your order, we will sell and supply the goods and/or services as shown on your order acceptance.
Products may not be available for immediate delivery. We will endeavour to deliver your order to you within 7 business days after we accept your order. Unforeseen circumstances may result in your order taking longer than expected to be delivered.
All delivery addresses must be within Australia or New Zealand and cannot be a freight forwarding location. Deliveries may be made to PO boxes if no other address is secure. Overseas purchasers, it is required for delivery to be verified before shipping will commence, the cost of delivery will be at the expense of the purchaser unless covered by a promotional advertisement.
If required, you may amend your preferred delivery address if we are notified in advance of us dispatching the relevant item. We cannot guarantee that this will be possible and will be subject to confirmation by us.
We are not responsible for failures in delivery by third party courier services or via the Post.

- 16) **Prices**
Prices for the goods and services available on our Websites are in New Zealand dollars and inclusive of Goods and Services Tax ('GST').
The prices do not include delivery and handling charges. Where delivery and handling charges apply these charges will be added to the price of the goods and services purchased.
The prices indicated apply only to on-line purchases and are not indicative of the price of identical goods and services purchased at any retailer or by any other means.
We reserve our right to change the prices quoted for goods and services on our Website. Please check the up to date pricing before you submit your order.

- 17) **Payment**
All payments must be made in full prior to shipping of any order by us.
You shall make payment for the goods and services by supplying your credit/debit card or PayPal details in the on-line order form, which will be subject to any terms and conditions of the relevant third-party payment processor. All purchases made are subject to authorisation by the issuing card authority or PayPal (as applicable). We take precautions to keep the details of your order and payment secure.
Security of your payment details is important to us and so we have made arrangements for your payment and credit card details to be handled by Payment Express® in NZD. Payment Express® have their own security arrangements which can be viewed at Payment Express's website (<https://www.paymentexpress.com/>)
The Internet is not a secure medium, and we are unable to accept any responsibility for any losses caused as a result of unauthorised access to credit card and payment related information you provide us when placing an order except where this is caused by our negligence.

- 18) **Orders**
You must be aged 18 or over before you can place an order via any of the Websites. We reserve the right to take legal action and seek compensation from the parent or guardian of a minor who causes an order to be placed, for any loss or damage we may suffer as a result of a transaction entered into by a minor.
When entering into a sale contract via the Websites, you will be taken to have communicated your offer to purchase any good(s) or service(s) only when:
a) any requirements set out in these terms have been met;
b) the electronic instruction containing the offer from you enters and is recorded in our database;
c) a record is created and stored in our database; and
d) we receive full payment from you for the good or service (including any applicable delivery and handling charges) and confirmation of that payment is received by our database.

You acknowledge that:

- a) the transmission of your offer or the confirmation of any payment, made through an electronic instruction may not be received by us for reasons beyond either parties' reasonable control including but not limited to, electronic failure, mechanical, software, computer, or telecommunications, or the omission or failure of third-party website providers or systems;
b) to the extent permitted by law, we are not liable to you in any way for any loss or damage at all and however caused, arising directly or indirectly in connection with the transmission of an electronic instruction through the website, or any failure to receive an electronic instruction for whatever reason;
c) we may act on and process all completed electronic instructions transmitted or issued through any of the Websites without further consent from or reference to you; and
d) we may treat an electronic instruction as authentic and are under no obligation to investigate the authenticity or authority of persons issuing or transmitting such electronic instructions, or to verify the accuracy and completeness of such electronic instructions.

We may, in our sole and absolute discretion, accept or reject any offer made by you for any reason (or no reason), including an error in the advertised price for, or description of, the goods and services on the Websites, or an error in your order.

We will send you an email to acknowledge receipt of your order. Please note that neither this acknowledgment nor receipt of your credit card details amounts to an acceptance of your order. Our acceptance of your order takes place upon us notifying you by email that the goods and services are available and will be dispatched to you at which point you are committed, and the purchase is made.

Occasionally, goods and services may go out of stock or be otherwise unavailable after payment has been debited from your account. If this happens, or where your order is not accepted by us, we will notify you by email and credit your account as soon as possible. You will have an opportunity to identify and correct any input errors you make until you press the confirm order button.

- 19) **Consumer Guarantee**

In these Terms of Service:

'Consumer' has the meaning given to that term in:

- a) where the *New Zealand Consumer Guarantees Act 1993* is applicable, section 2 of that Act.

New Zealand Consumer Guarantees Act 1993, certain statutory guarantees are conferred in relation to the supply of goods or services to a Consumer ('Consumer Guarantees').

Where you as a Consumer acquire goods and services from us under these Terms of Use by way of the Websites and:

- i) where the goods or services are of a kind ordinarily acquired for personal, domestic or household use or consumption ('PDH Goods or Services'), the operation of the applicable Consumer Guarantees cannot be, and are not in these Terms of Service, excluded, restricted or modified;
ii) we do not exclude or limit the operation of the Consumer Guarantees under any other provision of these Terms of Service or in any other manner and you agree it is fair and reasonable in all the circumstances for our liability to be so limited.

- 20) **Title and Risk in goods**

Title and risk in the goods, such as loss and damage, pass to you on delivery.

- 21) **Goods Specifications**

We do not sell goods and services on a trial basis. You must check the suitability and specifications of goods and services before ordering. Nothing in this section affects your statutory rights or any other rights set out in these Terms of Use.

We make every effort to supply the goods and services as advertised on the Websites but reserve the right to vary actual dimensions and specifications advertised on the Websites without prior notice, to reflect upgrades or improvements to our products from time to time.

- 22) **Availability**

If for any reason goods and services that you order are no longer available, we will notify you promptly and either:

- i) give you the option of receiving alternative goods and services of similar price and quality; or
ii) cancel the item from your order and refund you in full for that item.

If you do not wish to accept the alternative goods and services offered, you may cancel the order for those goods and services and require any money paid to us in respect of those goods and services to be refunded in full.

- 23) **Returns**

Please see the Shipping and Returns Policy for details of our returns procedure

- 24) **User Submissions, Comments and Feedback**

If, at our request, you send certain specific submissions (for example contest entries) or without a request from us you send creative ideas, suggestions, proposals, plans, or other materials, whether online, by email, by postal mail, or otherwise (collectively, 'comments'), you agree that we may, at any time, without restriction, edit, copy, publish, distribute, translate and otherwise use in any medium any comments that you forward to us.

We are and shall be under no obligation

- i) to maintain any comments in confidence;
ii) to pay compensation for any comments; or
iii) to respond to any comments.

We may, but have no obligation to, monitor, edit or remove content that we determine in our sole discretion are unlawful, offensive, threatening, libelous, defamatory, pornographic, obscene or otherwise objectionable or violates any party's intellectual property or these Terms of Service.

You are solely responsible for any comments you make and their accuracy. We take no responsibility and assume no liability for any comments posted by you or any third-party.

- 25) **Prohibited uses**

The user is prohibited from using the site or its content:

- a) for any unlawful purpose;
b) to solicit others to perform or participate in any unlawful acts;
c) to violate any international, federal, provincial or state regulations, rules, laws, or local ordinances;
d) to infringe upon or violate our intellectual property rights or the intellectual property rights of others;
e) to harass, abuse, insult, harm, defame, slander, disparage, intimidate, or discriminate based on gender, sexual orientation, religion, ethnicity, race, age, national origin, or disability;
f) to submit false or misleading information;
g) to upload or transmit viruses or any other type of malicious code that will or may be used in any way that will affect the functionality or operation of the Service or of any related website, other websites, or the Internet;
h) to collect or track the personal information of others;
i) to spam, phish, pharm, pretext, spider, crawl, or scrape;
j) for any obscene or immoral purpose; or
k) to interfere with or circumvent the security features of the Service or any related website, other websites, or the Internet. We reserve the right to terminate your use of the Service or any related website for violating any of the prohibited uses.

- 26) **Web addresses covered by these terms**

- a) Websites and entities covered by these terms and conditions include but is not limited to the following websites and their subdomains;
i) www.trackme.nz, www.spotnz.com, www.trackme.kiwi, www.trackme.life, www.trackme.bike, www.trackme.net.au, www.trackmyrace.info, www.trackmepro.com, www.trackmesolo.com, www.saluspro.co.nz, www.mytrack.co.nz, <https://www.facebook.com/trackmenz/>, <https://www.facebook.com/Hirespotnz/>

- 27) **Contact Information**

Questions about the Terms of Service should be sent to us at info@trackme.life.

