



51 Swellendam str  
Brentwoodpark  
Benoni

[www.trackingsa.com](http://www.trackingsa.com)  
email: [info@trackingsa.com](mailto:info@trackingsa.com)  
Tel: 0861-EYESON / 0861 – 393766  
Fax: 086 641 4307

P.O. BOX 14350  
Bredell  
1623

## STOLEN VEHICLE RECOVERY SERVICE MANDATE TO PERFORM DUTIES

Welcome to **Eyes On Vehicle Tracking and Stolen Vehicle Recovery Service**. These terms and conditions are the agreement between us. They replace any earlier agreements between us and apply to *all* your **Eyes On** services, past, present, and future, until changed or replaced by new terms and conditions.

**You can contact us at any time by calling us on 0861 393 766 or by writing us at P.O. Box 14350, Bredell, 1623.**

PLEASE READ THIS AGREEMENT BEFORE USING ANY **EYES ON** SERVICE. KEEP A COPY OF IT IN A SAFE PLACE. READ AND KEEP A COPY OF ANY ADDITIONAL **EYES ON** DOCUMENTS GIVEN OR SENT TO YOU. ANY **EYES ON** DOCUMENTS THAT SAY THEY BECOME PART OF YOUR **EYES ON** AGREEMENT ARE PART OF THIS AGREEMENT IF YOU ACCEPT ANY OF THE SERVICES THEY DESCRIBE.

### **1. YOUR RECOVERY SERVICE**

Eyes On will provide recovery services in respect to the theft or hijacking of the vehicles of any of its clients or to those who this service is contractually provided to as subcontractor within the legal boundaries of the Republic of South Africa.

A 365/24/7 command centre is provided from where all these services are coordinated. This command centre is also a bureau centre. A dedicated number is provided for the call centre.

### **2. CLIENT OBLEGATION**

Clients that do not have their equipment routed to our server will provide us with the necessary software or means from where their clients can be monitored in our command centre.

Any other hardware that is required to perform specific duties such as RF Beacon signal receivers must be provided by the client. The necessary NDA documents will be put in place.

### **3. ENDING YOUR SERVICE.**

A sixty (60) day written notice with reasons for service termination must be sent to us via registered post. Should there be any problems with service delivery or dissatisfaction the client must notify us in writing via Fax, Post or E Mail and telephone.

#### **4. SERVICE COSTS.**

Our costs are calculated depending on vehicle quantities and bureau service requirements. Each client has unique needs thus also different service tariffs.

Our standard recovery fee is calculated on 100 vehicles and more at R40 per vehicle per month. A minimum charge of R4000 per month is charged for less than 100 vehicles. There after it is charged in additions of 10 till 399 vehicles.

400 and more vehicles are charged at R35 per vehicle and single vehicles can be added. Any clients that wish to have more than 600 vehicles qualify for rates that may be more favourable.

False panics and teams that are deployed on false info will be charged at R4500 and R4.80 per kilometre together with any other reasonable expenses that the recovery team may have during the recovery ops.

This does not include air support. When we make use of air support it is for the client account at the rate charged by the air support service provider.

#### **5. AUTOMATIC RENEWAL OF YOUR SERVICE**

The service is based on annual escalation of 10% as per the agreed tariff.

The service will automatically renew itself at the beginning of every year for another year or the period specified in the agreement unless terminated as per clause 6.

#### **6. CHANGES BY US TO YOUR SERVICE.**

We can change your service at any time. This includes changing any or all of this agreement, even the prices and services provided. IF YOU DON'T CANCEL YOUR SERVICE WITHIN 30 DAYS AFTER WE GIVE YOU NOTICE OF A CHANGE, YOU'RE AGREEING TO THE CHANGE AND IT BECOMES PART OF THE AGREEMENT BETWEEN US.

#### **7. HOW THE SERVICE WORKS.**

The service works using cellular or other wireless phone networks in the Republic of South Africa, as well as the Global Positioning System ("GPS") satellite network or RF (Radio Frequency) beacons with receivers and transmitters in various centres across the RSA. ALL SERVICES AREN'T AVAILABLE EVERYWHERE, PARTICULARLY IN REMOTE AREAS, OR AT ALL TIMES.

The service can't work unless your Car is in a place where we have an agreement with a wireless service provider for service in that area. The service also can't work unless you're in a place where the wireless service provider you've hired for that area has coverage, network capacity, and reception when the service is needed, and technology that's compatible with the service. The services that involves location information about your network can't work unless GPS satellite signals and GSM signals are unobstructed and available in that place as well.

YOUR CAR HAS TO HAVE A WORKING ELECTRICAL SYSTEM (INCLUDING ADEQUATE BATTERY POWER) FOR THE most Equipment TO OPERATE. The service may not work if your Equipment isn't properly installed (by someone authorized) or you haven't maintained it and your Car in good working order and in compliance with all government and industry regulations. (If you try to modify any equipment or software without notifying us, the service may not work and we may not be able to recover your vehicle. Your equipment needs to be compatible with the service and the wireless service provided by our wireless service provider, too.

There are other problems we can't control that may prevent us from providing the service to you at any particular time or place. Some examples are damage to important parts of your Car in an accident, hills, tall buildings, tunnels, weather, electrical system design and architecture of your Car, or wireless phone network congestion.

## **8. WHAT IF YOUR CAR IS STOLEN?**

If your Car is stolen, we can try to locate it. Before we try to locate it, you'll need to provide satisfactory identification, and the police must be treating the Car as stolen.

*(We understand that it is not always possible to get to a police station under certain circumstances. We will however respond and clause 4 will apply for false actions)*

We don't have to continue to try to locate your Car after 48 hours from the time you first report it stolen, and we can't guarantee that we'll find it. We also aren't required to try to find your Car for the purpose of locating someone.

*(The service of locating someone is done via the command centre and is only available to users whose hardware allow for this function on the bureau service)*

## **9. WHAT IF YOU NEED US TO UNLOCK YOUR DOORS?**

We can often unlock Car doors remotely if locked out. The client needs to call us and provide satisfactory identification before we can try. If we can't unlock the doors remotely, we'll contact roadside assistance to help. (SUBSCRIBED SERVICE) Vehicle must have central locking and remote door unlock hardware.

## **10. YOUR RESPONSIBILITY FOR SERVICE.**

It's your responsibility to make sure your client equipment is working. For test purposes call us first to advise us of the test. False panics may be charged at the prescribed rates and if a recovery team is dispatched the charge may escalate. Even if the equipment is activated and working, some services (such as remote door unlock ) may not be available until you install said hardware. You'll need to provide us with satisfactory identification before we'll provide some services.

Your clients may only use the emergency and roadside services for actual emergencies and roadside assistance needs. You promise not to use any service for any fraudulent, unlawful, or abusive purpose, or in any way that interferes with our provision of services to our other customers. You promise you won't abuse or do anything to damage our business operations, services, reputation, employees, facilities, or service providers. If you do any of these things, you agree you'll be responsible for any amount anyone else claims from us, plus any expenses, resulting in whole or in part from that use or your actions.

## **11. YOUR RESPONSIBILITY FOR INFORMATION RECEIVED THROUGH YOUR SERVICE.**

Certain information you receive through the service belongs to us or third parties who provide it through us. It may be covered by one or more copyrights, trademarks, service marks, patents, or other legal protections. You promise not to use any content you receive through us except as expressly authorized by us. You can't resell any of it or use it for commercial purposes. You can't copy, store, reproduce, distribute, modify, display, publish, perform, transmit, broadcast, or create derivative works from any of it.

## **12. YOUR RESPONSIBILITY TO PAY FOR YOUR SERVICE.**

Depending on the service you receive, you'll have different payment responsibilities, but you must always pay on time and (unless the law provides otherwise) in full. (If you make monthly payments, we'll prorate the amounts owed when your service starts or stops before the beginning or end of a monthly billing period.) You're responsible for paying directly to others (such as emergency service providers) all charges for services furnished by them that aren't expressly covered by our service to you.

### **13. HOW TO PAY FOR YOUR SERVICE.**

Payment is made to either bank account that is shown on the invoice. Payments are made via EFT (Electronic Fund Transfer) or by depositing into our bank account.

Payments must reflect in our bank account on the 7<sup>th</sup> of each month. You have to take weekends and public holidays into consideration. Late payments will lead to suspension of service and will carry a 2.5% interest rate on the outstanding balance.

If service is interrupted for any reason and we may not be able to render service to you, you are still responsible to pay your account as per the agreement.

### **14. YOUR RESPONSIBILITY TO TELL US RIGHT AWAY ABOUT BILLING DISPUTES**

If you object to any fees or charges for services billed by or through us, you must tell us in writing within 60 days after the fee or charge is incurred, or you're waiving the dispute. (PO BOX 14350, BREDELL, 1623)

### **15. YOUR RESPONSIBILITY TO PAY FOR TAXES, FEES, AND SURCHARGES.**

You promise to pay all taxes, fees, and surcharges set by the government and charged to you by us. We may not tell you in advance of changes to these items.

### **16. YOUR RESPONSIBILITY TO PAY FOR OTHER FEES AND CHARGES.**

For some services, we may charge additional fees related to our costs (or the costs of our wireless service providers) to comply with government regulations. These can include items such as SARS, ICASA, SIRA, SAIA, VESA Charges and other charges related to governmental costs. We or our wireless service providers set these charges. They aren't taxes, aren't required by law, are kept by us or our wireless service providers in whole or in part, and are subject to change.

### **17. YOUR RESPONSIBILITY FOR ALL TRANSACTIONS AND COMMUNICATIONS USING SERVICE.**

Any transaction with anyone but us that you carry out using the service, and any use that you make of any information received from or through any service, is entirely your responsibility. You act at your own risk. NDA documents signed.

### **18. OUR RIGHT TO TERMINATE OR SUSPEND YOUR SERVICE.**

We may terminate your service without prior notice to you for any good cause. This means, for example, we can terminate your service if you breach any part of this agreement, don't pay amounts that are due to us or one of our service providers, interfere with our efforts to provide service, interfere with our business, or if your service is used for illegal or improper purposes. You don't have any right to have the service reinstated, even if you cure any of these problems. Whether to allow you to have service again will be entirely up to us. We can also suspend it for network or system maintenance or improvement, or if there's network congestion, or if we suspect your service is being used for any purpose that would allow us to terminate it.

### **19. PRIVACY.**

We collect information about clients in several different ways in which the vehicles are used. This information is private and confidential.

You agree that we can, subject to applicable law, use any of this information to: (a) provide the services to you or your clients (including sharing that information with roadside assistance providers, emergency

service providers, or others, as needed); (b) check or maintain your equipment; (c) provide information to the maker of vehicles and to enable the makers of vehicles to comply with law; (d) help you or managers of fleets of Cars to maintain the Cars; (e) evaluate and improve our service; (f) enforce this agreement with you or others; (g) prevent fraud or misuse of the service; (h) comply with legal requirements, valid court orders and exigent circumstances; (i) protect the rights, property, or safety of you or others; (j) offer you new or additional products or services; or (k) perform market research.

Because Eyes On provides service through wireless networks, we can't promise that your communications won't be intercepted by others. You agree we won't be liable for any damages for any loss of privacy occurring in communication over such networks.

## **20. NO WARRANTIES ON EQUIPMENT, INFORMATION, OR SERVICES**

Warranties are special kinds of promises. WE DON'T MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, ABOUT the service. You may have a warranty on tracking equipment or other equipment from the maker of the Cars, but not from us. In addition, NEITHER WE, NOR ANY OF OUR SUPPLIERS, WIRELESS SERVICE PROVIDERS, VEHICLE MAKERS, DISTRIBUTORS, OR DEALERS (THE "SERVICE PROVIDERS") MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, ABOUT THE SERVICE OR ABOUT ANY DATA OR INFORMATION OR SERVICES PROVIDED THROUGH IT. THIS MEANS, AMONG OTHER THINGS, NO WARRANTIES OF QUALITY, ACCURACY, TIMELINESS, COMPLETENESS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. ALL SUCH WARRANTIES ARE EXPRESSLY EXCLUDED BY THIS AGREEMENT.

## **21. LIMITATIONS OF LIABILITY.**

YOU ARE WAIVING IMPORTANT RIGHTS. UNLESS FORBIDDEN BY LAW IN A PARTICULAR INSTANCE, WE EACH AGREE AS FOLLOWS:

1. WE AREN'T LIABLE FOR THE ACTIONS OR INACTIONS OF ANY SERVICE PROVIDER WE CONTACT FOR YOU OR YOUR CAR, OR FOR OUR INABILITY TO CONTACT ANY SERVICE PROVIDER IN ANY PARTICULAR SITUATION.
2. WE AREN'T LIABLE TO YOU FOR (1) ANY INJURIES TO PERSONS OR PROPERTY ARISING OUT OF OR RELATING TO YOUR USE OF THE SERVICE, OR (2) ANY DAMAGES ARISING OUT OF OR RELATING TO THE INSTALLATION, REPAIR, OR MAINTENANCE OF EQUIPMENT
3. OUR MAXIMUM LIABILITY TO YOU UNDER ANY THEORY (INCLUDING BUT NOT LIMITED TO FRAUD, MISREPRESENTATION, BREACH OF CONTRACT, PERSONAL INJURY, OR PRODUCTS LIABILITY) IS LIMITED TO AN AMOUNT EQUAL TO THE PORTION OF THE CHARGES TO YOU FOR THE SERVICES RELATING TO THE PERIOD OF SERVICE DURING WHICH SUCH DAMAGES OCCUR.
4. UNLESS OTHERWISE PROVIDED IN THIS AGREEMENT, YOUR MAXIMUM LIABILITY TO US UNDER ANY THEORY (INCLUDING BUT NOT LIMITED TO FRAUD, MISREPRESENTATION, BREACH OF CONTRACT, PERSONAL INJURY, OR PRODUCTS LIABILITY) IS LIMITED TO ANY CHARGES DUE AND OWING BY YOU TO US.
5. CAN RECOVER (1) PUNITIVE DAMAGES, (2) TREBLE, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES, OR (3) ATTORNEY'S FEES.

6. WE HAVE NO LIABILITY FOR SERVICE INTERRUPTIONS OF 48 HOURS OR LESS. TO RECEIVE SERVICE CREDIT FOR LONGER INTERRUPTIONS, YOU MUST NOTIFY US WITHIN 60 DAYS AFTER THE TIME WHEN THAT SERVICE INTERRUPTION STARTED. NO ONE IS LIABLE TO YOU FOR INTERRUPTED SERVICE, OR FOR PROBLEMS CAUSED BY OR CONTRIBUTED TO BY YOU, BY ANY THIRD PARTY, BY BUILDINGS, HILLS, TUNNELS, NETWORK CONGESTION, WEATHER, OR ANY OTHER THINGS WE OR OUR SERVICE PROVIDERS DON'T CONTROL.

7. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, YOU AGREE TO EXCUSE ANY NON-PERFORMANCE BY US OR ANY SERVICE PROVIDER CAUSED IN WHOLE OR IN PART BY AN ACT OR OMISSION OF A THIRD PARTY, OR BY ANY EQUIPMENT FAILURE, ACT OF GOD, NATURAL DISASTER, STRIKE, EQUIPMENT OR FACILITY SHORTAGE, OR OTHER CAUSES BEYOND THE CONTROL OF US OR OUR SERVICE PROVIDERS.

8. If another wireless service provider is involved in any problem (for example, because of roaming), you also agree to any limitations of liability that it imposes on its customers.

9. Neither we nor Service Providers who work with us to provide you with data or information can promise that any information or data supplied will be error-free. ALL DATA AND INFORMATION IS PROVIDED TO YOU ON AN "AS IS" BASIS. YOU AGREE THAT NEITHER WE NOR ANY SERVICE PROVIDER WHO SENDS YOU DATA OR INFORMATION, IS LIABLE FOR ANY ERRORS, DEFECTS, PROBLEMS, OR MISTAKES IN THAT DATA OR INFORMATION. THIS MEANS YOU CAN'T RECOVER ANY DAMAGES OF ANY KIND, INCLUDING CONSEQUENTIAL (such as lost revenues or lost contracts), INDIRECT, SPECIAL, OR PUNITIVE DAMAGES FOR THOSE ERRORS, DEFECTS, PROBLEMS, OR MISTAKES.

10. YOU HAVE NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH ANY OF OUR WIRELESS SERVICE PROVIDERS AND AREN'T A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN US AND ANY OF OUR WIRELESS SERVICE PROVIDERS. Unless you have a separate contract with them, NONE OF OUR WIRELESS SERVICE PROVIDERS HAS ANY LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO YOU. YOU WAIVE ANY AND ALL CLAIMS OR DEMANDS FOR SUCH LIABILITY.

11. Finally, you agree that the limitations of liability and indemnities in this agreement will survive even after the agreement has ended. These limitations of liability apply not only to you, but to anyone using the service under your authority, to anyone making a claim on your behalf, and to any claims made by your family, employees, customers, or others arising out of or relating to your.

## **22. YOUR RESPONSIBILITY FOR INSURANCE.**

The service **Eyes On** provides is intended as a convenience. The payments you make for the service aren't related to the value of a car or any property in it, or the cost of any injury to or damages suffered by you. We aren't an insurance company. Your clients must obtain and maintain appropriate insurance covering personal injury, loss of property, and other risks. FOR YOURSELF AND FOR ANYONE ELSE CLAIMING UNDER YOU, YOU HEREBY RELEASE AND DISCHARGE **Eyes On** AND ITS SERVICE PROVIDERS, THEIR PARENTS, AFFILIATES, AND SUBSIDIARIES, AND THE RESPECTIVE OFFICERS, DIRECTORS, AND EMPLOYEES OF ANY OF THEM FROM AND AGAINST ALL HAZARDS COVERED BY YOUR INSURANCE. NO INSURANCE COMPANY OR INSURER WILL HAVE ANY RIGHT OF SUBROGATION AGAINST **Eyes On** OR ITS SERVICE PROVIDERS.

### **23. YOUR RESPONSIBILITY FOR PAYMENT IN SOME CIRCUMSTANCES.**

In order to get the service, YOU AGREE THAT YOU'LL BE RESPONSIBLE FOR ANY AMOUNT ANYONE ELSE CLAIMS FROM US (OR OUR SERVICE PROVIDERS, THEIR OFFICERS, EMPLOYEES, AFFILIATES AND AGENTS) PLUS ANY EXPENSES, RESULTING FROM ANY CLAIM, DEMAND OR ACTION, REGARDLESS OF THE NATURE OF THE CAUSE OF THE CLAIM, DEMAND, OR ACTION ALLEGING LOSS, COSTS, EXPENSES, DAMAGES, OR INJURIES (INCLUDING INJURIES RESULTING IN DEATH) ARISING OUT OF OR IN CONNECTION WITH (1) THE ACTIVITIES CONTEMPLATED BY THIS AGREEMENT, WHETHER BROUGHT BY YOU, YOUR EMPLOYEES, OR THIRD PARTIES, EVEN IF DUE TO THE SOLE NEGLIGENCE OF ANY OF THE SERVICE PROVIDERS; (2) THE USE OR POSSESSION OF DATA OR INFORMATION PROVIDED IN CONNECTION WITH THE SERVICE; (3) CLAIMS FOR LIBEL, SLANDER, OR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH, ARISING OUT OF OR RELATED IN ANY WAY DIRECTLY OR INDIRECTLY TO THIS AGREEMENT; or (4) THE USE, FAILURE TO USE, OR INABILITY TO USE THE SERVICES, EXCEPT WHERE THE CLAIMS RESULT FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY OF THE SERVICE PROVIDERS.

### **24. HOW WE'LL RESOLVE DISPUTES BETWEEN US.**

If you and we have a disagreement related to the service, we'll try to resolve it by talking with each other. If we can't resolve it that way, WE BOTH AGREE, TO THE FULLEST EXTENT PERMITTED BY LAW, TO USE ARBITRATION, NOT LAWSUITS (except for small claims court cases) TO RESOLVE THE DISPUTE. Of course, either of us can always contact a government agency or regulatory authority for help, too. PSIRA.

### **25. THE LAW THAT GOVERNS OUR RELATIONSHIP.**

To the fullest extent permitted by law, and except as explicitly provided otherwise, this agreement and any disputes arising out of or relating to it will be governed by the laws of the RSA without regard to its conflict of law principles, and by any applicable tariffs, wherever filed.

### **26. HOW WE CAN COMMUNICATE WITH EACH OTHER.**

Any written notice from you required by this agreement will be considered given when we receive it at our address on the front of this agreement. Any written notice from us required by this agreement will be considered given two days after we mail it to you at the billing address or any electronic mail or fax we have on file for you at the time. Any oral notices will be considered given when we call you or when you call us at (0861393766) followed by a written letter.

### **27. OUR RELATIONSHIP WITH YOU.**

No matter what else it says, this agreement doesn't create any fiduciary relationships between you and us, or between you and any of the wireless service providers or other companies who help us provide the service, including our affiliates, suppliers, Car makers, distributors and our authorized dealers and others who provide you services through **Eyes On**. It doesn't create any relationship of principal and agent, partnership, or employer and employee, either.

### **28. WE CAN ASSIGN THIS AGREEMENT.**

We can assign this agreement or your obligations to pay under it in whole or in part to anyone we choose. You can't assign this agreement or your obligations to anyone else without our prior consent.

