

## **Terms of Service for Adminitrack.com**

**This Agreement between the subscriber and/or organization subscribing for AdminiTrack.com services ("Subscriber") and AdminiTrack Inc. ("Provider") sets forth the following terms and conditions governing the delivery of services by Provider and the payment for and use of such services by Subscriber. Provider and Subscriber agree as follows:**

### **1. ACCESS TO SERVICE.**

Provider grants to Subscriber a limited, nontransferable, nonexclusive license to access, during the term of this Agreement, AdminiTrack's defect tracking service ("Service") located on the AdminiTrack.com web site, subject to and provided that, Subscriber complies with all of the terms and conditions of this Agreement.

Provider reserves the right at any time and without prior notice to Subscriber to limit Subscriber's access to the Service in order to perform repairs, make modifications, or as a result of circumstances beyond Provider's reasonable control.

### **2. BILLING AND PAYMENT.**

Subscriber shall pay Provider the charges described on the fee schedule published online on the AdminiTrack.com web site for the Provider services selected by Subscriber unless other payment terms are agreed to in writing by Provider. All charges are exclusive of local sales, use, personal property and similar taxes, which will be paid by Subscriber.

### **3. MODIFICATIONS.**

Provider may modify the terms of this Agreement at any time upon written notice to Subscriber, including without limitation, by posting it on the AdminiTrack.com web site.

### **4. OWNERSHIP.**

Subscriber acknowledges that it obtains only license rights under this Agreement and acquires no ownership rights, title or interest of any kind, including without limitation copyrights to the Service, its contents or programming.

### **5. DISCLAIMER OF WARRANTIES.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PROVIDER DISCLAIMS ALL WARRANTIES (WHETHER EXPRESS OR IMPLIED), INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THIRD PARTY RIGHTS. THE ENTIRE RISK ARISING OUT OF USE OF THE SERVICE REMAINS WITH THE SUBSCRIBER.

### **6. PROVIDER'S LIABILITY.**

IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES TO OTHER GOODS OR EQUIPMENT, LOST PROFITS, DOWNTIME COSTS, LABOR COST, OVERHEAD COSTS OR CLAIMS OF CUSTOMERS OR CLIENTS OF SUBSCRIBER FOR SUCH COSTS. IF, NOTWITHSTANDING THE FOREGOING, LIABILITY CAN BE IMPOSED ON PROVIDER, THEN SUBSCRIBER AGREES THAT THE AGGREGATE LIABILITY OF PROVIDER FOR ANY AND ALL LOSSES OR INJURIES ARISING OUT OF ANY ACT OR OMISSION OF PROVIDER IN CONNECTION WITH ANYTHING TO BE DONE OR FURNISHED UNDER THIS AGREEMENT, REGARDLESS OF THE CAUSE OF THE LOSS OR INJURY (INCLUDING NEGLIGENCE) AND REGARDLESS OF THE NATURE OF THE LEGAL OR EQUITABLE RIGHT CLAIMED TO HAVE BEEN VIOLATED, SHALL NEVER EXCEED THE FEES ACTUALLY PAID BY SUBSCRIBER TO PROVIDER FOR THE SERVICE.

## **7. TERM OF AGREEMENT; EFFECTS OF TERMINATION.**

(a) This Agreement shall remain in effect until terminated by either party upon fifteen (15) days prior notice, or as otherwise provided herein.

(b) In the event of any other default by either party, and a failure to cure such default within ten (10) days after receipt of notice thereof, the non-defaulting party may immediately terminate this Agreement. Except for the indemnification rights set forth herein, cancellation shall be the sole remedy available to either party in the event of a default.

(c) The Provider may restrict access to any part or all of the Service and/or related service(s) without notice as necessary to satisfy applicable statute, regulation, or legal requirement. Access to the Subscriber's service can also be temporarily restricted in the event the Provider's intrusion detection security systems or security staff detects an immediate or potential security breach or threat such as a Denial of Service (DoS) attack from any of the Subscriber's related IP address(s). Access to the Subscriber's service will be restored in a timely manner once the breach or threat has been identified and resolved.

(d) Should either party decide to voluntarily terminate the Service, the Provider will provide sufficient and reasonable time for the Subscriber to export the Subscriber's issue data or alternatively can provide the data to the Subscriber within 10 business days, if Subscriber data export is not possible. At no time will the Provider withhold the Subscriber's data or prevent access to the Subscriber's data except if in a dispute unless required by applicable statute, regulation or legal process.

(e) To terminate the Service, Subscriber must provide notice in writing by email, fax, or letter. Send termination notices to support@adminitrack.com, (404) 806-9571 fax, or mailing address: AdminiTrack Inc., 2221 Peachtree Road N.E., Suite D-629, Atlanta, Georgia 30309. The Provider will respond with confirmation the Subscriber's request was received and provide additional details as appropriate.

## **8. INDEMNIFICATION.**

(a) Subscriber will indemnify and hold harmless Provider, its officers, directors, employees and agents against any and all direct or indirect losses, claims, demands, expenses (including attorneys' fees) or liabilities of whatever nature or kind arising out of Subscriber's access to or use of the Service.

(b) Provider will indemnify and hold harmless Subscriber, its officers, directors, employees and agents against any claim that the Service infringes upon a United States copyright, United States registered patent or United States registered trademark provided Subscriber immediately notifies Provider in writing of the existence of such claim, permits Provider to assume the defense of such claim, and cooperates with any reasonable requests of Provider in connection with such defense.

## **9. PRIVACY.**

Provider respects the privacy of its Subscribers. Subscriber agrees Provider may access the Subscriber's account, including its contents, to respond to service requests or technical issues. The Privacy Policy is available at <http://adminitrack.com/docs/AdminiTrack-Privacy-Policy.pdf>.

## **10. GENERAL.**

(a) The servers housing data provided hereunder are located in the United State and services performed pursuant to this Agreement are performed in the United States. This Agreement shall be governed by Georgia law and may not be assigned by Subscriber in whole or in part without the prior written consent of Provider.

(b) All notices required or permitted under this Agreement will be posted on the AdminiTrack.com site.

(c) The terms and conditions set forth in this Agreement constitute the entire agreement of the parties on the subject matter hereof, and any additional or different terms or conditions set forth in any other document, including without limitation any Subscriber purchase order, shall be of no effect.

(d) Subscriber will not name Provider or refer to the use of Provider services in any publication, press release, advertisements, promotional or marketing materials, or other publicity statements without Subscriber's written permission.

(e) The headings in this Agreement are for convenience of reference only and are not intended to have any substantive significance in the interpretation of this Agreement.

(f) Sections 5, 6, and 8 shall survive termination of this Agreement.

#### **11. ACCOUNT OWNER RESPONSIBILITY.**

It is the responsibility of Subscriber to ensure the following:

(a) Subscriber must identify a user as the local account System Administrator. This user becomes the technical contact between the Subscriber and Provider and must be reachable by providing an active email and phone number while the Subscriber's subscription is active. This user's name and email may appear in the application as a local contact person visible to anyone using the Subscriber account. Any questions about the Subscriber account that Provider's support staff cannot address will be forwarded to this person.

(b) SUBSCRIBER MUST ENSURE ALL EMAIL ADDRESSES USED IN THE APPLICATION THAT MAY RECEIVE EMAIL NOTIFICATIONS GENERATED BY THE SUBSCRIBER ACCOUNT ARE OPERATIONAL AND ABLE TO ACCEPT EMAILS FROM THE PROVIDER BY CONFIRMING THE "ADMINITRACK.COM" DOMAIN IS WHITELISTED WITH THE SUBSCRIBER'S EMAIL APPLICATION. Because the Service has the potential to produce a significant number of notification emails, some email servers for recipients may reject the emails assuming they are SPAM. This condition can cause Provider's servers undue stress as well as delay critical business information to the Subscriber. Subscriber may be required to resolve this matter by working with the Subscriber's local email administrator to establish the Provider as a trusted source allowing emails from the Subscriber account to be identified as "business" email and readily accepted by the Subscriber's servers without delay. Failure to comply may force Provider's technical staff to turn off the Subscriber's email notifications capability until the issue is addressed.