

# Terms of Service Agreement



This Trackers Terms of Service Agreement was made and entered into on \_\_\_\_\_ [Date] \_\_\_\_\_ between Trackers (Company) and \_\_\_\_\_ [Client] \_\_\_\_\_ heretofore referred to as the client.

**Purpose:** The client requests Trackers services for the purpose of genealogical research.

**Eligibility:** The client declares to be the required 18 years old/the legal age of majority in their jurisdiction or older, and possess the legal authority, right and freedom to enter into these terms as a binding agreement and to purchase Trackers services. Authorization to use Tracker's website or services is not permitted if doing so is prohibited in the client's country or under any law or regulation applicable to the client.

**Client Materials:** Prior to the commencement research by Trackers, the client agrees to provide copies of the following: (1) A brief outline of the genealogical problem to be researched, and (2) Copies of previous research, pertinent documents, correspondence, and other materials that relate to the genealogical problem to be researched. This will help to eliminate a duplication of effort and allow Trackers to direct efforts towards previously unused sources and/or research strategies. The client agrees to Trackers storage and processing of the personal data submitted. All materials submitted by the client become property of Trackers.

**Retainer:** An initial retainer equivalent to the maximum number of research hours (Note: No less than 10 hours) requested by the client multiplied by the current hourly wage payable to Trackers must accompany the completed contracts. In the event the completed services total less than number of requested hours, unused funds will be reimbursed to the client, less miscellaneous fees, and expenses.

**Additional Research:** Should the client request research continue beyond the initial agreed upon hours, Trackers will require an additional retainer for the maximum number of hours (Note: No less than 10 hours) requested by the client.

**Fees: Hourly Wage:** An hourly rate (\$75) will be billed in quarter-hour fractions and apply to consultations, interviews, analysis of materials provided by client, formulation of a research plan, research, analysis of information collected, and writing of report(s). The client understands and agrees that hourly rates are subject to future review and adjustment without prior notice.

**Costs and Expenses:** The client shall reimburse Trackers for all costs and expenses incurred by Trackers that are in any way related to Trackers' services including, but not limited to:

**Digital Copies:** Trackers utilizes online digital systems to deliver documents to clients. Should alternative methods of delivery be preferred, charges for copies (i.e.: photographs and other printed materials), computer storage devices (i.e.: flash drives), postage, etc., will be chargeable to the client at a rate to be agreed upon by both parties before such materials are printed or downloaded to devices.

**Parking Fees:** Parking fees incurred by Trackers while conducting research for the client will be paid by the client.

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**Admission Costs:** Admission costs to historical societies, libraries, archives, etc. will be paid by the client.

**Travel:** Travel beyond a twenty-mile radius of Tracker's headquarters in St. George, Utah will be billable at the federal mileage rate (IRS.gov). All travel expenses will be charged to the client. Any travel of this nature will only be carried out and chargeable after written approval is received from the client.

**Billing:** Trackers will submit regular billings to the client which are due and payable upon receipt. Sales tax is charged to the client. Rates per transaction vary depending upon the payment method and are charged to the client. All amounts the client fails to pay within thirty days are subject to an interest rate of one percent (1%) per month. The client shall be liable for all collection costs, including but not limited to costs of court, and reasonable attorney's fees. Research results will not be provided until payment is made in full.

**Refunds:** If the client requests a refund, remaining funds will be returned minus the retainer, time spent on the project, costs accrued and a 5% payment processing fee.

**Communications:** Trackers will use electronic communications (i.e.: e-mail, text messages and phone) to communicate with the client. If necessary, physical mailing will occur with postal fees charged to the client.

**Account Access:** The client agrees to provide access to accounts (i.e.: FamilySearch and AncestryDNA) that would further the genealogy research objective. For example, DNA testing results for the client may assist in locating ancestors. Trackers assumes no responsibility for consequences that may arise as a result of having log in and password information. The client can decline

access by not revealing access information and supplying the required information directly to Trackers.

**DNA Projects:** The client acknowledges and agrees to the following:

**Representation:** Trackers is authorized to perform any DNA research on their behalf to include, but not limited to, (1) contacting DNA matches (i.e.: 3<sup>rd</sup> cousins or more distant) for collaboration and correspondence purposes. The client will contact close relationships (i.e.: 1<sup>st</sup> and 2<sup>nd</sup> cousins), (2) join group projects and upload test results to public data bases, (3) download DNA data from applicable testing companies, (4) study DNA data using third party websites, and (4) transfer autosomal test results to other companies' websites.

**DNA results:** The client is responsible to obtain permissions from any test takers whose DNA results the client provides to Trackers. Test takers must be the required 18 years or older.

**Misattributed Parentage/Unexpected Results:** There have been cases where genetic testing revealed parents were not biologically related to their children. Trackers will notify the client when misattributed parentage or other unexpected results occur unless the client provides a written request to have this information withheld.

**No Guarantee:** It should be clearly understood by the client that genealogical research, by its very nature, does not always result in positive information to the benefit of the client. Although Trackers will diligently strive to accomplish the research in the time

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allotted by the client, the information obtained may not be conclusive or solve the genealogical problem at hand. The client understands that the fees charged are remunerative for the researcher's time and efforts, but not for a guaranteed body of information.

**Disclosure of Client Information:** *Refer to the Trackers Privacy Statement Agreement*

**Trackers use of Research:** The client acknowledges research reports, biographical narratives and other materials may be used in the following manner:

*Education:* Trackers may use the research report and associated materials for educational purposes to include, but not limited to, lectures, conferences, trainings, and publications. \*

*Professional Reviews and Certifications:* Trackers may use the research report and associated materials for professional reviews and genealogical certification to improve research skills and promote a high standard of excellence in the genealogical field. \*

*Future Research:* To eliminate duplications of effort and direct efforts towards previously unused sources and/or research strategies, Trackers may use the research report and associated materials for future research projects and for use by other family history researchers. Shared information often results in new discoveries. \*

*Additional Uses:* Submission for acquisition of career position in genealogy field.

\* Personal information of living persons will be redacted. The client can submit a written authorization requesting acknowledgement for the client's contributions and inclusion as a source.

**Data Entries:** FamilySearch and Ancestry are used as a data entries for relatives/ancestors.

**Assumption of Risk:** The client agrees to assume all risks associated with the use of the Trackers services and not hold Trackers liable for any social, emotional, or legal consequences which may result from information discovered during the research (i.e.: unexpected results), the client's disclosures to other parties regarding the research, and any other unforeseen negative consequence.

**Remedies.** This Agreement is governed by the law of the State of Utah and to the extent applicable, the Federal law of the United States of America. Any action to enforce this Agreement shall be brought in the state courts located in Salt Lake City.

**Limited Use License:** Tracker's research reports contain copyrighted or licensed materials (i.e.: documents, photographs, etc.), which must be copied in accordance with current copyright laws, if applicable. The Trackers research report sent to the client as part of the service is copyrighted material and cannot be reproduced in its entirety without written permission from Trackers. The client may use the contents of the Trackers report only for personal use or professional family research and with the appropriate source citations referencing Trackers as the source of the information.

**Liability:** The client knowingly and voluntarily waives, releases, exculpates, and discharges Trackers and their respective successors, assigns, directors, officers, employees, agents, affiliates from and against any and all potential

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liabilities--any and all loss, damages, injury, death, claims, actions, suits, proceedings, settlements, damages, costs, fees, and expenses, at law or equity, known and unknown, foreseen and unforeseen, including, but not limited to, attorney fees and costs of litigation, and liabilities arising out of, connected with, or resulting from the client's involvement with Trackers, such as medical expenses, other costs, injury, sickness, or death--connected with the client's involvement with Trackers. By signing this form, the client voluntarily agrees to discharge Trackers in advance from all such potential liabilities. If the client is dissatisfied with any portion of the Trackers services or with any statement in these Terms, the client's sole remedy is to stop using Trackers services.

**Indemnity:** The client agrees to indemnify Trackers and their respective successors, assigns, directors, officers, employees, agents, affiliates harmless from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs, and expenses [of or by a third party OR whether or not involving a claim by a third party], including but not limited to reasonable attorneys' fees and costs, actually or allegedly, directly or indirectly, arising out of or related to (1) any breach of any representation or warranty of Trackers contained in this Agreement; (2) any breach or violation of any covenant or other obligation or duty of Trackers under this Agreement or under applicable law; and (3) any third party claims which arise out of, relate to or result from any act or omission of Trackers, in each case whether or not caused in whole or in part by the negligence of Trackers, or any other Indemnified Party, and whether or not the relevant Claim has merit.

**No Obligation/Cancellation:** Nothing in this Agreement will obligate either party to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement. The client is responsible for notifying Trackers of their decision to terminate discussions or cancel this agreement.

**Terms of Service Agreement Changes and Modifications:** Trackers reserves the right to occasionally change or modify these Terms. The client should periodically review these Terms. When Trackers' changes these Terms in a material manner, the client will be notified. The client's continued use of Trackers' website or services after any such change constitutes acceptance of the new Terms. If the client does not agree to any of these Terms or any future version of the Terms, the client should discontinue use or access (or continued access) of the website and services.

**Services:** Trackers may, without prior notice, change the services or stop providing the services or any features of the services offered. We may permanently or temporarily terminate or suspend access to the services without notice and liability for any reason, or for no reason.

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# Terms of Service Agreement

Acknowledgment and agreement Terms of Service conditions listed in this document is indicated by the affixed digital signatures.

**Client:**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Trackers Representative:**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_