

DVR RECORDS Member Agreement

Last updated on May 23, 2019. This Member Agreement is effective May 23, 2019 for all new members.

Welcome to DVR RECORDS provided by Trumarks LLC. This agreement (“Agreement”) describes your rights and responsibilities related to your use of DVR RECORDS’s website, mobile apps, and services as a registered DVR RECORDS member, and what you can expect from us. By creating your DVR RECORDS account, clicking “continue” or by otherwise indicating that you agree, you are agreeing to these terms, so please take a moment to read this legally binding Agreement. If you use any DVR RECORDS website or mobile app but are not a registered member (each, a “visitor”), by using the website or mobile app, you agree to be bound by the terms of this Agreement.

DVR RECORDS is designed by forensic video analysts with law enforcement officers and video recovery specialists in mind; we hope that law enforcement members and video analysts everywhere will use the DVR RECORDS platform. We use “DVR RECORDS” here to refer to the DVR RECORDS our iOS, Android and web-based apps (also referred to as our “Services”). We also use “DVR RECORDS”, “Trumarks LLC “we”, “us” and “our” to refer to the companies operating our Services.

If you live in the United States, the Services are operated and provided to you by Trumarks LLC 1104W Santa Fe Trail, Kansas City Missouri, 64145. If you live in the EU or elsewhere outside the United States, the Services are operated and provided to you by Trumarks LLC 1104W Santa Fe Trail, Kansas City Missouri, 64145.

IMPORTANT: US MEMBERS AND VISITORS, PLEASE REVIEW THE ARBITRATION AGREEMENT SET FORTH BELOW CAREFULLY, AS IT WILL REQUIRE YOU TO RESOLVE DISPUTES WITH DVR RECORDS ON AN INDIVIDUAL BASIS THROUGH FINAL AND BINDING ARBITRATION.

BY ENTERING INTO THIS AGREEMENT, YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND ALL OF THE TERMS OF THIS AGREEMENT.

1. Eligibility. Each person is limited to one account per individual, and you may not share your account password with anyone else (even a family member sharing your home) or allow someone else to use your personal account. **Specialized accounts** (such as Police Departments) are allowed to authorize more than one representative of their organization to utilize their account password for use in their official capacity.

When you register for DVR RECORDS you must use your real name, not a pseudonym, except in circumstances that, in DVR RECORDS’s sole judgment, warrant an exception.

You may not use our Services if: (1) you are a resident of the United States and are under 21 years old, or if you are a resident of the EU and are under 18 years old, (or do not meet applicable age requirements to use social media services where you live); (2) you are a registered sex offender or share a household with one; (3) we previously disabled your account for violations of our terms or policies; or (4) you are prohibited from receiving our Services or platform under applicable law. This means, for example, if you post a comment on DVR RECORDS, you give us permission to store, copy, and share it

with others (consistent with your settings), such as with service providers that support our Services. Do not provide us with any Content that you don't have the right to publish, or that is defamatory, infringing, illegal or otherwise tortious. We do not proactively moderate Content posted by members; however, we can remove Content posted by you, suspend, delete or deactivate your account or limit privileges, or otherwise refuse service to you, if you violate this Agreement or our other policies, or infringe intellectual property, or otherwise engage in behavior that we think harms a DVR RECORDS user, department or organization.

2. This Agreement includes our Community Guidelines on appropriate use of DVR RECORDS.
3. You may not:
 - a) share with a third party or post a neighbor's information (e.g. name, address, phone number, email address) without their permission;
 - b) repost information or Content posted on DVR RECORDS without the posting member's permission;
 - c) gather, collect or aggregate information from DVR RECORDS, either manually or by using automation (such as through scripts, robots, crawlers, spiders or similar technologies) for use outside of DVR RECORDS or attempt to access information you do not have permission to access.
4. You will at all costs attempt to input data as accurately as possible. "Tests" "Trial runs" "Practice" entries will be deleted and not saved. This will prevent inaccurate data being plotted into the geolocation database.
5. Calculated write-over times are approximate and are subject to accurate input of data (see 4.) any change in DVR system's owner/user setting and or DVR system HDD activity such as motion detection settings. Truemarks LLC accepts no responsibility for any loss of video evidence as a result of utilizing DVR RECORDS.
6. Feedback. Please feel free to share any feedback, suggestions, or ideas you have about DVR RECORDS with us, so long as you understand we may have already had the same idea, and you agree that we are free to use any feedback you voluntarily provide with no restriction or obligation (payment or otherwise) to you.
7. Copyright and DMCA. If you believe Content on DVR RECORDS infringes your copyright, you can reach our notification agent at Truemarks LLC 1104W Santa Fe Trail, Kansas City Missouri, 64145. Email: copyright@truemarks.org. If you are in the U.S., your notice must satisfy the requirements enumerated in 17 U.S.C. §512(c)(3).
8. Restrictions from Our Licensors. Some of the information and services available through DVR RECORDS are licensed from third parties and covered by these third-party terms and disclosures.

9. Using Our App. If you download and install the DVR REcords app, we give you a limited, revocable, non-transferable license to use it only to access and use DVR REcords on your own behalf through your iOS or Android product; additional terms may apply from the site you download it from (Apple App Store or Google Play store) or the manufacturers of your device or software.

10. Liability Limits. WE AND OUR SUPPLIERS SHALL NOT BE LIABLE FOR ANY LOST PROFITS OR SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (HOWEVER ARISING, INCLUDING NEGLIGENCE) ARISING OUT OF OR IN CONNECTION WITH DVR RECORDS, INCLUDING THE DVR RECORDS SERVICES, OUR SOFTWARE, YOUR USE OF DVR RECORDS OR ANY DVR RECORDS SERVICE, OR THIS AGREEMENT. IN NO EVENT SHALL DVR RECORDS OR OUR SUPPLIERS BE LIABLE TO YOU FOR MORE THAN \$100. Some jurisdictions do not allow damages exclusions, so such exclusions may not apply to you.

11. Governing Law. This Agreement is governed by California law, without giving effect to any conflict of law principles, except as may be otherwise provided in the Arbitration Agreement section of this Agreement. However, the governing law provision regarding the interpretation of this Agreement is not intended to create any other substantive right to non-Californians to assert claims under California law whether that be by statute, common law, or otherwise. This section is only intended to specify the use of California law to interpret this Agreement. Some jurisdictions (including the European Union but specifically excluding the United States) provide consumers with mandatory rights that cannot be excluded via choice of law; if you are in such a jurisdiction, the preceding sentence does not affect those rights.

12. Venue and Jurisdiction for Non-U.S. Members and Visitors. If you are a member or visitor based in the EU, then Irish courts shall have exclusive jurisdiction to hear disputes arising in relation to the Agreement. Despite this, your local laws in your EU Member State may allow you to sue DVR REcords in your Member State and to invoke certain local laws against DVR REcords.

13. Dispute Resolution. If you have a dispute with DVR REcords, you agree to contact us and try to resolve the dispute informally before pursuing other avenues.

14. Arbitration Agreement for U.S. Members and Visitors: If you are a member or visitor based in the U.S., you and DVR REcords agree to the arbitration and dispute resolution terms in this section (the "Arbitration Agreement"). For the purposes of this Arbitration Agreement, references to "DVR REcords," "you," "we" and "us" include our respective subsidiaries, affiliates, agents, employees, employers, partners, shareholders, predecessors in interest, successors, assigns, and heirs. We encourage you to read these important terms, which include an arbitration requirement (except for small claims) and require claims to be brought individually and include instructions for how to opt out if you do not agree.

a) Applicability. You agree that any dispute or claim relating in any way to your access or use of the DVR REcords's website, mobile apps, and service, or to any aspect of your relationship with DVR REcords, will be resolved by binding arbitration, rather than in court, except that you may assert claims in small claims court if your claims qualify.

b) **Arbitration Rules and Forum.** The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim to DVR RECOrcs, Inc., Truemarks LLC 1104W Santa Fe Trail, Kansas City Missouri, 64145 attn: Legal Department. The arbitration will be conducted by JAMS, an established alternative dispute resolution provider. Disputes involving claims and counterclaims under \$250,000, not inclusive of attorneys' fees and interest, shall be subject to JAMS's most current version of the Streamlined Arbitration Rules and procedures available at <https://www.jamsadr.com/rules-streamlined-arbitration/>; all other claims shall be subject to JAMS's most current version of the Comprehensive Arbitration Rules and Procedures, available at <https://www.jamsadr.com/rules-comprehensive-arbitration/>. JAMS's rules are also available at <https://www.jamsadr.com> or by calling JAMS at 800-352-5267. If JAMS is not available to arbitrate, the parties will select an alternative arbitral forum. If the arbitrator finds that you cannot afford to pay JAMS's filing, administrative, hearing and/or other fees and cannot obtain a waiver from JAMS, DVR RECOrcs will pay them for you. In addition, DVR RECOrcs will reimburse all such JAMS's filing, administrative, hearing and/or other fees for claims totaling less than \$10,000 unless the arbitrator determines the claims are frivolous. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person or at another mutually agreed location. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

c) **Authority of Arbitrator.** The arbitrator shall have exclusive authority to (i) determine the scope and enforceability of this Arbitration Agreement and (ii) resolve any dispute related to the interpretation, applicability, enforceability or formation of this Arbitration Agreement including, but not limited to, any claim that all or any part of this Arbitration Agreement is void or voidable. The arbitration will decide the rights and liabilities, if any, of you and DVR RECOrcs. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the arbitral forum's rules, and the Agreement (including the Arbitration Agreement). The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and us.

d) **Waiver of Jury Trial.** YOU AND DVR RECORDS HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. There is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

e) **Waiver of Class or Other Non-Individualized Relief.** ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS OR COLLECTIVE BASIS, ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If a decision is issued stating that applicable law precludes enforcement of any of this subsection's limitations as to a given claim for relief, then the claim must be severed from the arbitration and brought into the federal or state court located in San Francisco, California. All other claims shall be arbitrated.

f) 30-Day Right to Opt Out. You have the right to opt out of the provisions of this Agreement that mandate arbitration by sending written notice of your decision to opt out to: legal@truemarks.org, within 30 days after first becoming subject to a version of this Agreement containing an arbitration provision. Your notice must include your name and address, your DVR RECOards username (if any), the email address you used to set up your DVR RECOards account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of arbitration, all other parts of this Agreement will continue to apply to you. Opting out of arbitration has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.

g) Survival of Agreement. This Arbitration Agreement will survive the termination of your relationship with DVR RECOards.

h) Modification. Notwithstanding any provision in this Agreement to the contrary, we agree that if DVR RECOards makes any future material change to this Arbitration Agreement, you may reject that change within thirty (30) days of such change becoming effective by writing DVR RECOards at the following address: legal@truemarks.org

15. Integration. To the extent applicable to you, this Agreement includes our terms of service addendum for public agencies, our community guidelines, and our business addendum. This Agreement constitutes the entire agreement between you and us with respect to our Services, and supersedes any other agreements or understandings (oral or written). We can amend this Agreement and any additional terms by notifying you of the changes (for example, by emailing you).

If you keep using DVR RECOards after the amendment is effective, you accept and are bound by the new terms; if you disagree with the new terms, you should stop using DVR RECOards and delete your account.

16. No Warranty. DVR RECORDS AND THE ASSOCIATED SOFTWARE AND SERVICES ARE PROVIDED "AS IS." We do not promise that any aspect of our software or service will work properly or continuously. We may add, change, or discontinue product features; if you are dissatisfied, your only remedy is to stop using DVR RECOards or the affected feature. Some jurisdictions do not allow warranty exclusions, so they may not apply to you.

17. Indemnity. If someone brings a claim against DVR RECOards (whether against the company or any of its employees, directors, or officers) based on a harm you caused, you agree to reimburse us for any costs we incur in defending against that claim, including reasonable attorneys' fees as well as damages.

18. Waiver of Claims Against DVR RECOards. Individual members inaccurate data entry may result in inaccurate time calculations, calculated write-over times, geolocation mapping points and or similar services. DVR RECOards is not responsible for the actions of its members; each member is responsible for their own actions and accurate input of data, Accordingly, to the maximum extent permitted by applicable law, you release us (and our officers, directors, agents, subsidiaries, joint ventures and employees) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with any members inaccurate data entry. If you are a California resident, you hereby waive California Civil Code §1542, which says: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that, if known by him or her, would have materially affected his or her settlement with the debtor or releasing party."

19. General. This agreement does not create any agency, partnership, joint venture, joint controllership, employment or franchise relationship. To the extent allowed by applicable law, the English version of this Agreement is binding and other translations are for convenience only. Except as provided in subsection (e) of this Arbitration Agreement, if any part or parts of this Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Agreement shall continue in full force and effect. Our failure to act in a particular circumstance does not waive our right to act with respect to that or other circumstances. We shall be excused for any problem due to a circumstance beyond our reasonable control. You represent and warrant that you are not (i) located in a country that is subject to a U.S., Irish or EU, Government embargo or has been designated by the U.S. Government as a “terrorist supporting” country; and (ii) listed on any U.S., Irish, or EU Government list of prohibited or restricted parties.

© Truemarks LLC 2019