



GENERAL TERMS AND CONDITIONS CABLE TRACKS NEDERLAND B.V.

June 3rd 2014

1.1. Definitions

In these general terms and conditions the following terms mean:

Subscription: an agreement between Cable Tracks and the Customer in which the latter gains access to specified Prevention data and/or log data in the System.

Credit: an agreement between Cable Tracks and the Customer in which the latter gains access to Prevention data or Log data in the System.

General Terms and Conditions: these General Terms and Conditions of Cable Tracks that are part of the Agreement.

Cable Tracks: the private company Cable Tracks Nederland B.V., an enterprise that delivers a Product to the Customer based on an Agreement.

Semi-finished product: a Product that only functions after having been installed in another device.

I-Box: portable hardware to obtain log data and transmit them wirelessly to the System.

App: software application for smartphones and tablets, such as log field situations, prevention and/or incidents and transmit them wirelessly to the System.

Customer: the party who has an Agreement with Cable Tracks to obtain a Product delivered by Cable Tracks.

Agreement: any Agreement on the basis of which Cable Tracks delivers a Product to the Customer.

Product: a Product or service that is delivered to the Customer by Cable Tracks on account of the Agreement.

Log data: visualized information about field situations and incidents, including the GPS based position, date, timing and sender information, as generated by the I-box or the CableTracks app.

Prevention data: information about where, when and how long research has been done into the position of cables, pipes and wires.

System: the database of Cable Tracks in which Log data and/or Prevention data are received, processed and saved.

1.2. Applicability

1.2.1. The General Terms and Conditions apply to all offers of Cable Tracks and to every Agreement between Cable Tracks and the Customer.

1.2.2. Accepting an offer of Cable Tracks or placing an order also means accepting the applicability of the General Terms and Conditions.

1.2.3. Deviation from the General Terms and Conditions is only possible if both parties explicitly mutually agree on that in detailed writing.

1.2.4. Additional and/or deviating conditions, such as delivery conditions of the Customer, are no part of the Agreement between Cable Tracks and the Customer and therefore do not bind Cable Tracks, unless Cable Tracks has explicitly accepted these conditions in writing.

1.2.5. When the General Terms and Conditions conflict with those of the Customer, including their delivery conditions, these General Terms and Conditions prevail, unless Cable Tracks has confirmed in writing with the Customer that his conditions prevail.

1.3. Realisation

1.3.1. All offers of Cable Tracks are without obligations and do not commit Cable Tracks to enter into an Agreement.

1.3.2. After the Customer has accepted an offer or bid by Cable Tracks, Cable Tracks has the right to



withdraw this offer within two working days after having been informed of the acceptance by the Customer, without stating any reason.

- 1.3.3. The Agreement is realized either by an electronic or written confirmation of the order by Cable Tracks or by payment.
- 1.3.4. Cable Tracks can annually postpone the Agreement with immediate effect without further proof of default or judicial intervention and without the Customer being entitled to compensation and/or restitution, if the Customer does not meet (or partially meets) the obligations of the Agreement or the General Terms and Conditions and/or if Cable Tracks has valid reasons to assume that the Customer will not (or partially) meet his obligations and/or if the Customer has issued false personal data and/or if the Customer has discontinued his business activities, has applied for a moratorium, has filed his petition in bankruptcy, has been placed under control or legal restraint or has in any other way lost management of the capital and/or if the Customer has neglected to inform Cable Tracks of relevant changes.
- 1.3.5. Possible consequences of input errors by the Customer into the System are for the Customer's account and risk.

1.4. **Delivery and retention of title**

- 1.4.1. The delivery periods stated by Cable Tracks can never be considered as fatal deadlines, unless a different agreement is reached explicitly. In the case of non-delivery or late delivery the Customer will be informed in writing. Exceeding delivery time does not give the Customer the right to not follow up or adjourn any entered obligation to Cable Tracks or the right to damage restitution.
- 1.4.2. Delivery takes place at the moment the Product is received by or on behalf of the Customer.
- 1.4.3. Cable Tracks is entitled to postpone delivery if the Customer has not yet met earlier payment obligations to Cable Tracks.
- 1.4.4. The risk on account of the Product is transferred to the Customer at the moment of delivery.
- 1.4.5. Ownership of delivered Products is transferred to the Customer after Cable Tracks has been paid the amount due as stated in the Agreement.
- 1.4.6. In case of omission by the Customer to pay the amount due as meant in 1.9.1 and 1.9.3 Cable Tracks is irrevocably entitled to take back (have taken back) the products delivered under retention of title without any judicial intervention, summons or notice of default. The Customer is obliged to cooperate under penalty of a € 1000 fine (one thousand euro's) for every day he remains in default in this. By taking back the Product the Agreement is not annulled unless Cable Tracks has informed the Customer of this.
- 1.4.7. If the delivery consists of semi-finished products, the Customer is responsible for professional installation of the semi-finished product and for an adequate inspection immediately after installation.

1.5. **Right to recover and Warranty**

- 1.5.1. During a period of one year after receipt of a Product with an invoice price of at least € 50 Cable Tracks will repair or have repaired possible defects in material or manufacturing to the best of their ability, if these have been reported clearly in writing to Cable Tracks within this period. All replaced parts become property of Cable Tracks. There is no obligation to repair defects that are the consequence of incorrect, inaccurate or inexperienced use by the Customer, of outside causes such as for example damage caused by fire or water, or that are caused because the Customer makes changes or has changes made to the Product without permission of Cable Tracks.
- 1.5.2. Work and costs of repair outside the scope of the warranty will be charged by Cable Tracks.



1.5.3. The Customer must report any failures and/or complaints to Cable Tracks within two weeks after discovery of the defect. Exceeding this time period cancels all claims against Cable Tracks in this.

1.6. **Obligations Cable Tracks**

1.6.1. Cable Tracks does what is reasonably necessary to deliver the Product in agreement with the Agreement and to execute their obligations adequately.

1.6.2. Cable Tracks does what is reasonably necessary to prevent failures in the Product or the System.

1.7. **Obligations Customer**

1.7.1. The Customer is obliged to use the Product with due observance of the law and the instructions (for use) provided by Cable Tracks.

1.7.2. The Customer will not injure Cable Tracks and/or third parties while using the Product and/or the System.

1.7.3. The expenses Cable Tracks has to pay and/or the damage that the Customer or Cable Tracks incur or have to compensate to third parties as a consequence of acts that conflict with 1.7.1 and/or 1.7.2 are entirely for account of the Customer.

1.7.4. The Customer agrees that his/her personal data, that are provided to Cable Tracks, are recorded in the registry of persons – in the sense of applicable legislation – of Cable Tracks. The data recorded by Cable Tracks will only be used within the scope of the business management of Cable Tracks, namely for administration and management tasks. The registry of persons contains both customer data and information about data traffic. The registry of persons is only accessible to Cable Tracks and is not given to third parties, unless the Customer authorizes these third parties for this and Cable Tracks is obliged to this in accordance with the law or a court order. If the Customer finds that data about him are incorrect, he will inform Cable Tracks of this immediately.

1.8. **Liability and indemnity**

1.8.1. The presence of a defect in a Product or the System never gives the Customer the right to postpone or deduct his obligations to pay for a Product supplied by Cable Tracks.

1.8.2. The complete liability of Cable Tracks due to an accountable defect in a Product is limited to payment of direct damage to a maximum of the amount of the stipulated price (excl. turnover tax) for that performance. If the agreement is (mainly) a long-term agreement with a duration of more than one year, the amount meant previously is set at the total of the payment (excl. turnover tax) stipulated for one year. On no account will the total payment for direct damage exceed € 1.000.000 (one million euro's). By direct damage in the sense of this article is only meant reasonable costs that the customer has made in consultation with Cable Tracks to (a) make the Product correspond to the Agreement; (b) determine the cause and the extent of the direct damage and (c) prevent or limit the direct damage in a demonstrable way.

1.8.3. The Customer indemnifies Cable Tracks against all claims, including claims by third parties, arising from having or using (having others use) Semi-finished products.

1.8.4. The total liability of Cable Tracks for damage from death, bodily harm or material damaging of goods will on no account exceed the amount that is paid out by the insurance of Cable Tracks, with a maximum of € 1.000.000 (one million euro's) per occurrence. A sequence of connected damaging occurrences is regarded as one occurrence for the application of this article.

1.8.5. Cable Tracks is not liable to the Customer for other damage than stated in articles 1.8.2 and 1.8.4, consequently not for subsequent damage such as foregone profit/turnover, missed economies, damage as the result of business stagnation and/or loss of data.

1.8.6. Cable Tracks is not liable for damage from circumstances outside the control of Cable Tracks, such as industrial unrest (at third parties or at Cable Tracks), measures imposed by supervisory or



public authority, shortcomings of suppliers and/or other third parties, incomplete functioning of position determining systems, incomplete functioning of telecommunications infrastructure, incomplete functioning of the internet, incomplete access to the System, incomplete functioning and/or availability of digital maps, the influence of electronic viruses and actions by other Customers. In these situations Cable Tracks can appeal to circumstances beyond their control without owing to the Customer damage restitution and/or restitution of paid expenses.

- 1.8.7. Cable Tracks is not liable for damage of the Customer (including employees of the Customer) or any damage suffered by third parties due to incorrect, illegal and/or inexpert use by the Customer or any third party of goods, products or work and/or services delivered or disposed by Cable Tracks.
- 1.8.8. Apart from the situations mentioned in articles 1.8.2 and 1.8.4 Cable Tracks has no liability whatsoever to pay damages, regardless of the basis of an action for damage restitution, only unless it is established by rights that these claims are a direct consequence of gross fault or malice of Cable Tracks, and the Customer furthermore proves that he is not to blame in any way.
- 1.8.9. The Customer safeguards Cable Tracks against claims due to absence, theft, embezzlement or complete loss of goods delivered by Cable Tracks and its consequences.
- 1.8.10. Requests for damage restitution, as meant in articles 1.8.2, 1.8.4 and 1.8.8, can only be filed if the Customer declares Cable Tracks in default in detailed writing within 30 days after the defect has arisen and if Cable Tracks remains inadequate even after the time period specified as reasonable has ended.

1.9. **Rates, invoicing and payment**

- 1.9.1. The Customer owes payment to Cable Tracks for the delivered Product as stated in the Agreement.
- 1.9.2. All prices quoted by Cable Tracks are exclusive turnover tax (VAT), administrative costs, possible legal charges and/or rights and costs of transport, unless explicitly stated differently. Cable Tracks has the right to charge the Customer with all price increasing factors that arose after offers have been made c.q. the realization of the Agreement, after which the Customer has the right to annul the Agreement within two weeks.
- 1.9.3. The Customer must pay an invoice to Cable Tracks within fourteen days after date of invoice, unless agreed on differently in writing. The term of payment is a deadline. When exceeding the term of payment the Customer is in default without further proof of default and he owes Cable Tracks the legal commercial interest on the amount of the invoice from the moment of exceeding until the moment of total payment.
- 1.9.4. If after failure to pay Cable Tracks proceeds to collection, the Customer owes a supplementary payment for collection charges of 15% of the amount due or – if they are higher – the costs that have been made.
- 1.9.5. The business administration of Cable Tracks is decisive in determining the obligation to pay of the Customer, barring refutation supplied by the Customer.
- 1.9.6. The Customer is not authorized to proceed to payment by means of settlement and is not entitled to postpone his obligation to pay, on any grounds whatsoever.

2. **Subscription, Credit**

2.1. **Applicability**

Unless stated otherwise, the definitions stated in paragraph 2 are applicable, together with the definitions of paragraph 1 in these General Terms and Conditions, to every subscription and/or credit entered upon by Cable Tracks and the Customer.



2.2. **Contents and supply**

- 2.2.1. A Subscription and/or Credit gives access to the System, but this right is not exclusive and not transferable. The Customer can transfer Prevention data and/or Log data to its own computer system, but the Customer cannot derive rights of ownership from this.
- 2.2.2. The Prevention data and/or Log data entered and saved in the System remain the property of Cable Tracks. The customer cannot derive rights of ownership from this.
- 2.2.3. Cable Tracks takes care of adequate security of the System based on their own assessment.
- 2.2.4. Cable Tracks is entitled, without right of payment and/or restitution and without announcement in advance, to temporarily suspend access to the System for maintenance, adaptations and/or improvements of the System. Cable Tracks will consider the interests of the Customer as much as possible when carrying out maintenance, adaptations and/or improvements.

2.3. **Duration, continuation, suspension and termination**

- 2.3.1. The Subscription is taken out for a definite period of time and is renewed automatically at the end of each period. Before the end of the current period Cable Tracks sends the Customer an invoice for the subscription fees of the automatic renewal.
Credits are taken out for the equivalent of cable locator or app for the period of one year. Customers are warned of a low level of remaining credits.
- 2.3.2. If an invoice has not been paid to Cable Tracks within the term of payment, the Subscription and/or Credit can be suspended at the end of the current period without further notice and without damage restitution until the invoice has been paid.
- 2.3.3. The Customer can discontinue the Subscription in writing with due observance of a two months' term of notice before the end of the current period.
- 2.3.4. After the discontinuation of the Subscription no new Prevention data and/or Log data will be registered in the System.
- 2.3.5. The Prevention data and/or Log data of the Customer with a Subscription will be retained by Cable Tracks for five years.

3. **Alterations**

- 3.1. Cable Tracks is at all times entitled to alter these General Terms and Conditions. The alterations are published on the web pages of Cable Tracks at the latest two months before they are valid.
- 3.2. If the Customer does not agree with the alterations as meant in 3.1, he has the right, up to the time the alterations take effect, to cancel an Agreement for which these alterations are valid as of the date these alterations become valid.

4. **Other stipulations**

- 4.1. Dutch law applies to the Agreement.
- 4.2. The judge in Utrecht is exclusively authorized to hear any disputes between Cable Tracks and the Customer.
- 4.3. If one or more stipulations of the Agreement and/or the General Terms and Conditions appear to be void or voidable, this does not affect the validity of the other stipulations.
- 4.4. The Customer is not allowed to transfer rights and/or obligations arising from the Subscription and/or the Credits and/or the Agreement respectively, to third parties without written permission by Cable Tracks.