

STANDARD TERMS AND CONDITIONS OF THE SUBSCRIBER AGREEMENT FOR CARTRACK CAMERA SOLUTIONS

1. Definitions

- 1.1. "Agreement" – these standard terms and conditions which will manage the relationship between the Parties, together with the Subscriber Application Form and any appendices attached.
- 1.2. "Cartrack" – Cartrack (Pty) Ltd and any entities appointed by Cartrack to perform the Services and shall include references to the employees, agents, sub-contractors, service providers, suppliers and any independent contractors of Cartrack or such appointed entities.
- 1.3. "Client" – the party whose details appear on the Subscriber Application Form and who has signed after being requested to read this Agreement.
- 1.4. "Confidential Information" – information that is identified (orally or in writing) as confidential or of such a nature that a reasonable person would understand such information to be confidential.
- 1.5. "Cooling-Off" – the right of the Client to rescind the Agreement if it originated from Direct Marketing.
- 1.6. "Data" – any data, including, but not limited to, telematics data and/or personal data as defined in the Electronic Communications and Transactions Act of 2002 and any other legislation related to the protection of data, supplied by Cartrack and/or the Client or stored, collected, collated, accessed or processed on behalf of the Client.
- 1.7. "Day" – a business day which shall exclude a Saturday, Sunday or public holiday.
- 1.8. "Direct Marketing" – where Cartrack approached the client, either in person or by mail or electronic mail, for the direct or indirect purpose of promoting or offering to supply the Services to the Client.
- 1.9. "Fee" – the collective fees for providing the Service, and Rental (if applicable), together with any other charges specified on the Subscriber Application Form and/or which Cartrack is allowed to levy under this Agreement and which are set out in the Price Table.
- 1.10. "Installation Centre" – a centre approved by Cartrack for the installation or repair of a Unit.
- 1.11. "Intermediary" – a third party nominated by the Client.
- 1.12. "The Parties"/Party" – Cartrack and the Client; either Cartrack or the Client.
- 1.13. "Price Table" – an indicative price list, available to the Client on request, setting out the ruling retail price for the Units, the Service, the Rental and ancillary charges which may be updated from time to time and published on Cartrack's website.
- 1.14. "Rental" – the amount specified under "Rental Option" as "Monthly Subscription" on the Subscriber Application Form, payable monthly in advance to Cartrack up to the end of the Term.
- 1.15. "Service" – the provision by Cartrack to the Client of a camera system whereby the Client is able to monitor driving, review events and assess driver behaviour by accessing driver trip data, event-based video clips and ad hoc video clips. The services are rendered in the Territory and subject to the Product selected by the Client on the Subscriber Application Form.
- 1.16. "Subscriber Application Form" – the face of this Agreement and any schedules attached, containing details of the Client, the Unit/s and the Vehicle/s.
- 1.17. "Term" – where the Client has selected the Purchase Option, from and including the date of installation to 00:00 on the last day of the month; where the Client has selected Rental Option, from and including the date of installation to 00:00 on the last day of the Rental Period of 36 (thirty-six) months from installation.
- 1.18. "The Territory" – the Republic of South Africa.
- 1.19. "Unit" – the electronic device together with the camera system and ancillary equipment to be installed in a vehicle by an Installation Centre in order to provide the Services.
- 1.20. "Vehicle" – any vehicle or asset of the Client which is the subject of this Agreement and in which a Unit is installed, the details of which appear either on the Subscriber Application Form or on any schedule attached.

2. The Service

- 2.1. A Cartrack Installation Centre will install the Unit into the Client's Vehicle and within 48 (forty-eight) hours from installation, provide the Client access to the Services via the authorised website.
- 2.2. The Client authorises Cartrack to do all such things necessary to mount and secure the Units in the Vehicle, including, but not limited to, drilling into the body of the Vehicle, and accepts all risk and liability arising out of the installation of the Unit. Cartrack will mount the Unit on the Vehicle in a position that it deems appropriate. In the event that the Client wishes to have the Unit and/or ancillary equipment repositioned, the Client will be liable for a callout fee.
- 2.3. The Unit will activate upon the ignition of the Vehicle and will register events within 60 (sixty) seconds of activation.
- 2.4. Cartrack makes no warranty that the Service will capture all events, that remote access and the GSM network will be continuous or uninterrupted, that the system or Data will be error-free, that any specific result or outcome will be achieved by utilising the Service, or that the use of the Service by the Client will comply with all applicable laws. The Client accepts responsibility for making all reasonable enquiries as to the suitability for purpose of the Unit, the main features of which are disclosed in product brochures which are available to the Client on request.
- 2.5. In respect of Live Vision products, the Unit will record up to 80 (eighty) hours of footage that will be stored on the Unit's internal hard drive. Cartrack shall not be liable for the loss of footage due to storage constrictions, damage to the Unit or failure in the GSM network.
- 2.6. It is the responsibility of the Client to contact Cartrack for a Unit test to be carried out on a regular basis. The Client must take all reasonable steps to ensure that the Unit is in proper working order and must immediately, or as soon as is practically possible, report any Unit faults and/or failures to Cartrack. Upon reporting a fault and/or failure, the Client shall make the vehicle available for repair within 3 (three) working days of establishing the fault and/or failure.

- 2.7. In the event that the Client requires Cartrack to recover and review footage from the Unit, the Client shall pay a call-out fee as set out hereunder. The review of footage shall be charged by Cartrack on an hourly basis.
- 3. Terms and Cancellation
- 3.1. The Client may cancel this Agreement on one calendar month's notice, subject to the Client remaining liable to Cartrack for any amounts owed in terms of the Agreement up to the date of cancellation. In the event that the Client cancels this Agreement before the expiry of the Term, Cartrack will impose a reasonable cancellation penalty in lieu of costs incurred with respect to the Services provided in contemplation of the Agreement enduring for its intended Term.
- 3.2. Cartrack may cancel this Agreement 20 (twenty) business days after giving written notice to the Client of a material failure by the Client to comply with the terms of this Agreement.
- 3.3. Should the Client have concluded the Agreement with Cartrack as a result of Direct Marketing, the Client has the right to enforce its Cooling-Off rights, if entitled in terms of the Consumer Protection Act 68 of 2008, to cancel the Agreement by written notice to Cartrack within 5 (five) business days after the Agreement has been concluded. If any payment has been made by the Client to Cartrack in terms of the Agreement emanating from Direct Marketing, Cartrack will return the payment to the Client within 15 (fifteen) business days if no installation has been completed, or within 15 (fifteen) business days after the return of the Unit to Cartrack if installation has already taken place.
- 3.4. On the expiry of the Term of the Agreement, it will automatically be continued on a month-to-month basis, subject to the notice periods in 3.1.
- 4. Fee
- 4.1. The Price Table, as contained in the Product brochures and updated from time to time, will be made available to the Client upon the Client's request.
- 4.2. As payment for Cartrack undertaking to provide the Service, the Client shall pay Cartrack monthly in advance, by debit order on their bank account, the Fee as set out in the Application Form. The first Fee and the Purchase price shall be paid on the installation of the unit. In the event that the Client's debit order is returned for any reason whatsoever, Cartrack reserves the right to change the date on which debit orders are processed.
- 4.3. The Client shall pay Cartrack for additional ad hoc Services within 30 (thirty) days of receipt of an invoice from Cartrack. The Client agrees that such costs reflected on an invoice received from Cartrack shall be considered a true reflection of the costs incurred by the Client and the Client shall not withhold payment for any reason whatsoever.
- 4.4. This Agreement shall continue for the Term with an annual escalation of 10% (ten percent) after the initial 12 (twelve) months and thereafter by an additional 10% (ten percent) after 24 (twenty-four) months which is clearly set out in the Price Table.
- 4.5. Cartrack will increase the Fee by 10% each year for years 2 (two) and 3 (three); thereafter, increases shall be at Cartrack's discretion and based on the prevailing Consumer Price Index.
- 4.6. The Client agrees that the portion of the Fee which relates to foreign currency input costs may be subject to change, at Cartrack's discretion, based on the foreign exchange rate at any given time and/or any price changes effected by third-party service providers. Cartrack shall provide the Client with 30 (thirty) days written notice of the changes in the Fee.
- 4.7. Where the Fee is, by direct or indirect Agreement between the Client and the Intermediary, to be paid to Cartrack by the Intermediary, and the Intermediary fails to pay any Fee, the Client will be responsible to pay such Fee, and for the remaining term of this Agreement, pay by debit order (in terms of 5.2) any outstanding and future Fee due in terms of this Agreement.
- 4.8. Fees for other services shall be charged for at prices (VAT inclusive) per the following table, subject to an escalation from time to time:

Additional Service Charges	
No-show fee on scheduled appointments	R 600.00
Lifetime Maintenance Warranty	Monthly subscription fee of R25.00 per vehicle.
Out of warranty repair cost	A call-out fee of R 600.00 will be levied plus the replacement of repair cost of the Unit is applicable.
Documentation	Emailing of documentation is free of charge. Post or fax will be charged at R20.00 per document
De-Installation/ Re-Installation	R 870.00
Change of Ownership	R 350.00

Date:

Initial:

	Cash Option	Rental Option
Upgrades/Downgrades of any standard Cartrack products	Will be invoiced for the difference in cash price of the product you are changing to, plus a R 350.00 labour fee	Will be invoiced for the difference in cash price of the product you are changing to, plus a R 350.00 labour fee
Early termination of contract	Where subscriptions have been paid in advance for more than a month, an administration fee of R 350.00 will be levied before any refund is made.	Value of the balance of the Contract

5. Hardware and Warranty

5.1. The Unit carries a 2 (two) year warranty and the installation carries a 12 (twelve) month warranty, subject to the following:

5.1.1. The Client will be responsible to use the Unit and the Service in the manner advised by Cartrack and as reflected in Cartrack's Product brochures. The Client shall not, in any way, alter or tamper with the Unit.

5.1.2. The damage to the Unit is not caused by:

5.1.2.1. damage arising out of an accident in which the vehicle is involved;

5.1.2.2. tampering with the Unit and/or any ancillary devices, or any work being carried out on the Unit by a person not authorised in writing by Cartrack to work on the Unit, or vandalism or malicious damage howsoever caused, or misuse, abuse, or negligent handling of the Units and/or the Service;

5.1.2.3. any damage caused by fire, attempted theft or flood;

5.1.2.4. any theft of a Unit from the vehicle;

5.1.2.5. any damage caused by a faulty electrical supply;

5.1.2.6. any damage caused as a result of the ingress of any fluid penetrating the Unit;

5.1.2.7. any other event out of the direct control of Cartrack.

5.2. All risk of loss and damage to the Unit shall, from the date of installation, pass to the Client, but ownership of the Unit shall remain with Cartrack until payment has been made in full and/or, if the Unit is rented, until the end of the Term. If the Unit has not been paid for in full, or the Unit is rented, and this Agreement is terminated in accordance with clause 3 or clause 10, Cartrack may at its expense remove the Unit and the Client shall, within 5 (five) days of receipt of any written or verbal request, deliver the vehicle to an Installation Centre for such removal.

6. Furnishing of Information

6.1. The Client confirms the correctness and accuracy of all the information on the Subscriber Application Form or otherwise furnished by or on behalf of the Client to Cartrack.

6.2. The Client shall immediately, or as soon as is practically possible, notify Cartrack in writing of any changes in the information on the Subscriber Application Form or furnished to Cartrack from time to time by written notice to Cartrack's chosen address which will be updated within 7 (seven) days of receipt by Cartrack.

6.3. The Client has chosen the legal service address referred to on the Subscriber Application Form as its chosen legal address where all communications from Cartrack and any legally required notices will be delivered for all purposes arising out of this Agreement, provided that the Client shall be entitled to change such legal service address, on written notice to Cartrack. Cartrack will affect the change of legal service address within 7 (seven) days of receipt by Cartrack of such notice.

7. Warranties and Representations

7.1. The Client represents and warrants that:

7.1.1. It has the necessary right and authority to allow for the recording and disclosure of all data and information provided by the Service and has complied with all applicable laws and regulations regarding such recordings and disclosures;

7.1.2. It consents to Cartrack disclosing all of its information to third-party suppliers in order to fulfil its obligations under this Agreement or to any party requesting the same by way of a subpoena;

7.1.3. Cartrack's sole liability and the Client's sole and exclusive remedy shall be the re-performance of an unsatisfactory portion of the Service.

8. Client's General Obligations

8.1. It is the Client's responsibility to ensure that the Unit is functioning to Cartrack's manufacturers specifications. If the Client becomes aware or is made aware by Cartrack that the Unit in a vehicle is not operational, the vehicle must immediately, or as soon as is practically possible, be taken to an Installation Centre, as Cartrack will be unable to provide the Service until the Unit is operational.

8.2. The Client shall not directly or indirectly modify, enhance, alter, prepare derivative works, decompile, decode, unlock, attempt to discover the source code of, or otherwise reverse engineer any Unit, or assist, enable or permit others to do the foregoing.

8.3. In the event that the Client requests Cartrack to share any information with a third party, including, but not limited to, Data, Client information or Confidential Information, the Client shall indemnify Cartrack from any responsibility for the security, care, confidentiality or any other aspect pertaining to the use of such information by such third parties.

8.4. The Client holds exclusive responsibility, and Cartrack shall have no liability, for

ensuring that the Service complies with all laws regarding the intended uses by the Client of the Service herein.

9. Default

9.1. If the Client (or the Intermediary on the Client's behalf) fails to pay any amount due in terms of this Agreement after 7 (seven) days written notice of default, or the Client abuses or misuses the Service, then, for the duration of such default, Cartrack may suspend all of its obligations. Cartrack shall be entitled to recover arrear Fees by debiting the Client's account with the outstanding amount or by any other legal action, and cancel the Agreement and charge a reasonable penalty fee for early termination.

10. Disclaimers

10.1. Cartrack makes no warranty that the Service will capture all events, that remote access will be continuous or uninterrupted, that the web portal will be error-free, that any specific result or outcome will be achieved by utilising the Service, or that the use of the Service by the Client will comply with all applicable laws.

11. Exclusion of Liability

11.1. In addition to any other indemnities contained in this Agreement, Cartrack will not be liable for any loss or damage of whatsoever nature caused to the Client in consequence of any act or omission by Cartrack, notwithstanding any negligence on the part of Cartrack, provided only that Cartrack is entitled in law to contract out of such liability. In the event that Cartrack is, despite the provisions of this clause 12, found by a court of law with competent jurisdiction to be liable for any loss or damage to the Client, Cartrack's liability will be limited to the maximum amount of R50 000 (fifty thousand rand).

12. General

12.1. Cartrack will make every reasonable effort to carry out its obligations under this Agreement, using commercially reasonable efforts conforming to generally accepted industry standards. Where Cartrack is directly or indirectly prevented or restricted from carrying out all or any of its obligations under this Agreement by a cause beyond its control, then Cartrack cannot be held responsible for delay or failure in performance in meeting its obligations, but only to the extent so prevented. In this case, Cartrack will complete the Service as soon as is reasonably possible.

12.2. During the period this Agreement is in effect and at all times after its expiration or termination, each Party and its employees and agents agree not to disclose any Confidential Information obtained from the other Party to any other person or entity.

12.3. The Client may not alter the terms of this Agreement without the written consent of Cartrack. Cartrack reserves the right to amend these Terms and Conditions from time to time. Any new version of the Terms and Conditions will be displayed on the Cartrack website (www.cartrack.co.za) together with the date on which it will become effective, which will never be less than 30 (thirty) days after the date on which it is first published. It is the Client's obligation to visit the Cartrack website on a regular basis in order to determine whether any amendments have been made and the effective date thereof.

12.4. Where any number of days or other period is given in this Agreement for the carrying out of the Services or obligations, the days will be calculated by excluding the first day and including the last day.

12.5. In the event of Cartrack taking legal action against the Client or the Intermediary for breach of payment under this Agreement and an award is made in Cartrack's favour, the Client shall be responsible for all costs on a client and own attorney scale allowable by the courts.

12.6. The nature and amount of any indebtedness of the Client to Cartrack at any time shall prima facie (based on first impression) be determined and proved by a document signed by a manager of Cartrack. It shall not be necessary to prove the capacity or authority of this manager and the mere production of this certificate shall be binding on the Client as prima facie proof of the contents of the document and of the fact that the amount stated therein is due and payable in any legal proceedings against the Client. The certificate will also prima facie be valid as a liquid document against the Client in any competent court. If the client wishes to dispute such certificate or the effects thereof as set out above, the burden of proof rests on the Client to prove otherwise.

12.7. Neither party may cede or delegate the rights or obligations in terms of this Agreement without the prior written consent of the other Party, which consent shall not unreasonably be withheld.

12.8. Cartrack will try and solve any disagreements quickly and efficiently. The Client may direct any complaint to the Consumer Commission. Should the Client not be satisfied with the complaint resolution, the Client may take proceedings to court, but only within the Territory.

12.9. The laws of the Republic of South Africa will apply to this Agreement and the relevant courts of the Republic of South Africa will have exclusive jurisdiction in relation to the Agreement.

12.10. The Client confirms that it has been given an option to receive future marketing correspondence as well as an option as to the method the correspondence is provided. The Client further confirms that they have voluntarily indicated their chosen means of correspondence on the Subscriber Application Form.

Revised date: 15 August 2019

Date:

Initial: