



**TERMS AND CONDITIONS**  
Crossyn Automotive B.V.

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Dear Commercial Client,

Crossyn Automotive B.V. (hereafter: 'Crossyn', 'we', 'us', 'ours') offers you its CrossServices, with due observance of the provisions of these Terms and Conditions.

## ARTICLE 1 DEFINITIONS

<b>Agreement</b>	Agreement and/or obligation between you and Crossyn for the provision of CrossServices.
<b>CrossServices</b>	Services offered by Crossyn to Commercial Clients via the Portals. CrossServices are based on vehicle data sent to the Platform via a secured connection.
<b>Device</b>	A device capable of enabling data transfer from a vehicle.
<b>Driver</b>	The natural person who's driving a connected vehicle and has entered into an Agreement with Crossyn.
<b>Installer</b>	The company that (un)installs the Devices and establishes or terminates data transfer. In most cases, the Installer will be a Workshop.
<b>Platform</b>	Crossyn's Analytics of Things platform where data streams are combined, analysed and/or enriched for the benefit of providing CrossServices to Drivers and Commercial Clients.
<b>Portal</b>	Portal in which (among others) CrossServices and Services can be demonstrated to Drivers and Commercial Clients.
<b>Terms and Conditions</b>	Terms and Conditions Crossyn Automotive B.V. (version 2019-1).
<b>Workshop</b>	The company that carries out repair and maintenance work on vehicles.

## ARTICLE 2 APPLICABILITY

1. These Terms and Conditions shall be applicable to any offers from Crossyn and any Agreements that Crossyn enters or has entered into, as well as all obligations arising from the concluded and to be concluded Agreements or pre-contractual legal relationships, with effect from January 1, 2019. Crossyn can delegate its rights and obligations to a subsidiary or any other third party it engages (such as Crosscience). In case of transfer or delegation of rights and obligations to a third party by Crossyn, these Terms and Conditions shall also be applicable.
2. Crossyn therefore doesn't accept, and explicitly rejects your terms and conditions under any descriptions whatsoever.
3. Specific arrangements can be included in the offer or the Agreement itself. Please, note that these arrangements apply to the relevant offer and Agreement. In the event of conflict, the arrangements of the relevant offer and Agreement shall prevail over the Terms and Conditions applicable to that offer and Agreement.
4. **Crossyn may amend these Terms and Conditions from time to time**, for example to keep them up to date or to comply with legal requirements. Crossyn shall inform you about the proposed changes one month prior to the date of entry into force of the amended Terms and Conditions. In such a case, the amended Terms and Conditions will be made available via the website, an e-mail or in another appropriate manner. Your continued use of the CrossServices, the Portal and/or any other services or goods delivered by Crossyn after the changes have been made, will constitute your acceptance of the amended Terms and Conditions, which shall then be applicable to the Agreement from the date of entry into force. **Changes to the Terms and Conditions**
5. If provisions or parts of the Agreements are or become invalid or unenforceable in any way, the other provisions or the valid part(s) in the invalid provision(s) shall remain in full force and effect and enforceable, without any consequences for other obligations of you and Crossyn. Furthermore, the unlawful, invalid or unenforceable provisions will be replaced by a provision that has as far as possible the same legal and commercial intent.

## ARTICLE 3 OFFERS

1. Documents concerning offers from Crossyn, such as for example price lists and brochures, are formulated with due care. In spite of that, we regrettably cannot guarantee that the content of these documents is correct at all times. Therefore, no rights may be derived from the contents of these documents.

## ARTICLE 4 CROSSSERVICES, DEVICE AND PORTAL

1. A (delivery) term stated by Crossyn shall be determined to the best of its knowledge and shall be based on the circumstances applicable at the time the Agreement was concluded. The (delivery) term will be observed by Crossyn as much as possible, but, unless expressly agreed otherwise, can never be regarded as a fatal term. If a term is not adhered to, you must, therefore, notify Crossyn in writing of the default. Crossyn must be given a reasonable period in order to execute the Agreement. **Delivery CrossServices**
2. Crossyn can provide access codes. Only you are responsible for the confidentiality and security of your access code, username and the confidential information of your account. You shall immediately notify Crossyn in case of unauthorised use. Crossyn is entitled to suppress access codes in case of suspected unauthorised use.
3. It's not allowed to share your account details with another (legal) person. Every request Crossyn receives through the Portal is deemed to be filed by you.
4. The Devices and accessories shall at all times remain the property of Crossyn. Crossyn is entitled to replace the Devices. Crossyn may charge any costs and fees to replace a lost or stolen Device.
5. CrossServices and the Portal may solely be used in accordance with the agreed purposes. It is not allowed to use CrossServices and the Portal in contravention of legal provisions and/or (the nature of) the Agreement with Crossyn.
6. You guarantee that the Portal and the provided CrossServices shall be used in a professional and responsible manner by all users on your behalf.
7. Crossyn reserves the right to **temporarily or permanently modify** CrossServices and/or the Portal at any time, with or without prior notification. The foregoing does not entitle you to any damages. **Modifications, updates and upgrades**
8. During the development, Crossyn will subject all modifications to different tests. Part of these tests is also to check whether the existing functionalities still function in the same way after the addition of the new development.

Crossyn will examine the most common scenarios to see if there are any problems when putting the changes online.

9. After Crossyn has placed the changes in the production environment, the previous version of CrossServices and the associated software will be supported for up to six months.
10. Crossyn reserves the right to **temporarily discontinue** CrossServices and/or the Portal **or limit the use thereof** at any time, with or without prior notification, if it deems this necessary for maintenance, adjustments or improvements of one or more CrossServices and/or the Portal. The foregoing does not entitle you to any damages. Crossyn will use its best endeavours to keep this to a minimum. **Limited use during maintenance**
11. Crossyn reserves the right to temporarily limit your access to the Portal and CrossServices, wholly or in part, without the requirement of a notice of default, if: a) Crossyn is obliged to do so in terms of statutory provisions, b) Crossyn suspects that you unlawfully use or misuse CrossServices, the Devices, the Portal or the Platform, c) you can not, not in time, or not correctly comply with any obligation arising from an Agreement, d) or you provided Crossyn with wrong or incomplete information during or after contract closure. The existing payment obligation will continue to exist at all times. In none of these events shall Crossyn be liable for damages or refund as a result of limiting your access to the Portal and CrossServices.
12. In the event that the Agreement has ended, Crossyn shall instantly deny access to the Portal and CrossServices. In no event shall Crossyn be liable for any damages or refund.

## ARTICLE 5 DELIVERY OF DEVICES

1. Delivery will be effected to the delivery address that has been agreed upon between Crossyn and yourself, the Installer or the Driver. Crossyn is only responsible for preparing the Devices for shipment. You are responsible for the shipment from the warehouse to the place of destination. If for any reason whatsoever nobody is present at the time of delivery, Crossyn's courier shall be deemed to have delivered the Devices as stated on the shipment label. From the moment of delivery, the party who has received the Devices will be responsible for sound management and storage of the Devices.
2. The delivery terms as indicated by Crossyn will be adhered to as much as possible. If Crossyn is aware of circumstances that might negatively affect a timely delivery, Crossyn shall notify you without undue delay. If possible, Crossyn shall provide you with a realistic estimation of when the relevant

delivery will take place. In no event, a right to compensation can be claimed for a delayed delivery.

3. Return shipments are only allowed if and insofar as Crossyn has explicitly approved in advance and in writing.

## ARTICLE 6 (UN)INSTALLATION AND USE OF DEVICES

1. At the request of the Driver, the Installer shall install or uninstall the Devices and shall establish or terminate the data transfer by connecting or disconnecting the Devices, the vehicle and the Driver, via the Workshop Portal or the Service Desk. The Installer is responsible for the correct identification of the Driver and the right application and (un)installation of the Devices.
2. The Installer shall follow the instructions, guidelines and directions provided by Crossyn with regard to the installation, uninstallation, connection, disconnection and application of the Devices.
3. The Installer ensures that all users on its behalf handle the Devices in a responsible manner.
4. It is prohibited to perform, or cause to be performed, repairs or other work on the Devices, unless expressly permitted by Crossyn in writing.

## ARTICLE 7 PRICES AND PAYMENT CONDITIONS

1. Unless stated otherwise, all prices and other tariffs are exclusive of value added tax (or any similar taxes), any dispatch, transportation and postage costs, and exclusive of possible levies imposed by the authorities to your account. Crossyn shall inform you about relevant changes via the Portal or in another appropriate manner, as soon as possible.
2. **Crossyn is entitled to change the prices and tariffs from time to time.** We **Price changes** will communicate any price changes timely via the Portal or in another appropriate manner.
3. Invoices must be paid no later than **14 days** after the invoice date. The **Payment term** payment must take place by deposit or remittance on a bank or giro account appointed by Crossyn. The date of the bank statement of Crossyn, on which the payment is indicated, is decisive to determine the date of payment.
4. The monthly costs for CrossServices are charged by Crossyn from the moment the Devices are activated. You acknowledge and accept that you are held to pay the stipulated prices during the contract period, whether CrossServices and/or the Portal are used or not.

5. In case you dispute payments made by means of direct debit, you need to inform Crosssyn within **14 days** about this dispute.
6. In case and from the moment you fail to (timely) fulfil your payment obligations, Crosssyn is entitled to charge the statutory commercial interest based on the outstanding amount, increased with reminder and collection costs.
7. With regard to all your payment obligations towards Crosssyn on any grounds whatsoever, all claims for suspension, price reduction and/or settlement against amounts owed by Crosssyn, are expressly excluded.

## ARTICLE 8 COMPLAINTS

1. Complaints about **CrossServices, Devices, and/or the Portal** shall have no effect if Crosssyn is not informed within a reasonable time after discovering the defect. Any complaints shall be accompanied by an accurate specification of the nature and the extent of the complaints. **General complaints**
2. Complaints about an invoice shall have no effect if they are not reported in well-founded writing within **14 days** after the invoice date. After the said period has elapsed, you shall be deemed to have approved and accepted the invoice. **Complaints about an invoice**
3. With reference to the provisions of Article 7.7 of these Terms and Conditions, Crosssyn notes, for the sake of completeness, that all claims for suspension, price reduction and/or settlement against amounts owed by Crosssyn are expressly excluded, even when a complaint is timely submitted.
4. If Crosssyn determines that the complaint is founded, Crosssyn shall only be required to make a new delivery as soon as possible or to adjust the invoice. The foregoing does not entitle you to any damages.

## ARTICLE 9 INTELLECTUAL PROPERTY

1. All current and future copyrights, patent rights, and other intellectual and industrial property rights on, as well as similar rights for the protection of information in relation to CrossServices, the Portal, the Platform, products, services and any other documentation, are the exclusive property of Crosssyn.
2. Only after full payment of whatever you owe Crosssyn as a result of the Agreement, we grant you a **limited, non-exclusive, non-transferable and revocable right** to make use of CrossServices and the Portal, in accordance with their intended use. This right of use shall remain in effect until and unless the Agreement has ended in any manner and for any reason whatsoever. **Right of use**

CrossServices, the Portal and all accompanying software objects will remain the property of Crosssyn at all times.

3. Crosssyn's software applications and the content are licensed to you, not sold. Crosssyn retains ownership of all copies of Crosssyn's software applications and content even after installation on your personal computers, mobile handsets, tablets, and/or other relevant devices.
4. All Crosssyn trademarks, service marks, trade names, logos, domain names, and any other features of the Crosssyn brand (hereafter: 'Crosssyn Brand Features') are the sole property of Crosssyn. The Agreement does not grant you any rights to use any Crosssyn Brand Features whether for commercial or non-commercial use.
5. It is not allowed to remove, cover or modify the trade marks, trade names or any other indications as affixed to the Portals, products, packages and/or documents.
6. In case the contract for CrossServices will not be awarded to Crosssyn, you are obliged to return the complete documentation with (amongst others) opinions, sketches and designs, within three days from the date of adoption of the decision. Furthermore, you shall delete any (digital) copies and declare to Crosssyn you did so.
7. You will neither attempt to unravel the source code of the Portal, the Platform and/or the CrossServices, nor to copy, redistribute or change them. Furthermore, you will not: a) reproduce, (sub)license, sell, rent, lease, or make available to the public CrossServices, the Platform and/or the Portal to a third party, b) disrupt the operation of CrossServices, the Devices, the Portal and/or the Platform, c) use CrossServices, the Devices, the Portal and/or the Platform in any (other) unlawful manner.
8. In case Crosssyn concludes that unauthorised use has been made of its intellectual property rights by you (or a third party), Crosssyn reserves the right to **claim full compensation for damages** or to exercise any other rights.

**Prohibited acts**

**Infringement of intellectual property rights**

## ARTICLE 10 WARRANTY AND DISCLAIMER

1. Crosssyn shall provide a warranty on supplied Devices, which, in terms of form, extent and duration, is equal to the warranty actually provided to Crosssyn by the manufacturer of the Devices in a particular case. Any form of warranty shall lapse if a defect has arisen as a result of injudicious or improper use, incorrect storage or the making of changes or the performance of maintenance without Crosssyn's written consent.

2. CrossServices and the Devices are only compatible with vehicles suitable for installing a Device. The availability and quality of the data depends on the vehicle and may vary by make, model, type and year of manufacture. Some vehicles only provide support for polling certain data points when the vehicle is stationary.
3. You are responsible for establishing a successful data transmission through correct installation and connection of the Devices by yourself, by the Driver or by any third party (Installer) engaged by you, and make every effort to maintain data transmission.
4. The quality and functioning of CrossServices is partly determined by the access to and the quality of the data and the connection for data transmission. Since the connection can be disrupted by an external source and or atmospheric conditions and depends on radio coverage and data capacity of the network, the quality, availability and/or throughput speed of CrossServices cannot always and everywhere be guaranteed. Crosssyn will not be held liable for any consequential damage.
5. Furthermore, Crosssyn does not give any guarantees, nor does it endorse or accept responsibility for datasets and software of third parties with whom Crosssyn cooperates. Crosssyn makes every effort to ensure that it has the most recent version in good time.
6. Crosssyn will make every effort to keep well-functioning CrossServices and a well-functioning Platform and Portal operational. However, taking into account the provisions of the preceding clauses of this section, Crosssyn **disclaims any express or implied warranty or condition, included but not limited to** the satisfactory quality, accuracy, timeliness, completeness, correctness, reliability, merchantability, suitability for a specific purpose or non-infringement of CrossServices, the Platform and the Portal. **No warranties**
7. Crosssyn does not guarantee that CrossServices and the Portal are free of malware or other harmful components.

## ARTICLE 11 LIABILITY AND FORCE MAJEURE

1. Crosssyn is **only liable** for damage in accordance with the following provisions of this section, unless the damage is the result of an intentional act or gross negligence on the part of Crosssyn. **Limited liability**
2. Bearing in mind the nature of the technical and electronic services and the associated uncertainties and possible discrepancies, Crosssyn is **never liable for:**

- a. indirect damage, lost profit, lost savings, consequential damage, reduced goodwill, damage due to business interruption, (software) damage to vehicles (that were) equipped with a Device, personal injury, damage as a result of a fine imposed by a third party, mutilation or loss of data, damage relating to the use of objects prescribed to Crosssyn by you, and materials or software of third parties, even if Crosssyn is informed about the possibility that these damages can occur;
  - b. any damage of whatever nature, relating to either the non-availability, the not correct or not full availability of CrossServices and/or the Portal;
  - c. any damage of whatever nature, relating to the (dis)functioning of the equipment and/or internet connections of you, Crosssyn or third parties;
  - d. any damage of whatever nature, relating to actions that Crosssyn must take because of a court ruling or an enforcement order;
  - e. any damage of whatever nature, relating to events in which you have committed a culpable act yourself;
  - f. any damage of whatever nature, relating to incorrect administrations that are rejected or for any reason not accepted by any institution (including the tax authority). At all times, you are responsible for approval (in advance and afterwards) by such institutions;
  - g. any damage of whatever nature, relating to the not correct, not complete or not timely transmission of information that is communicated (among others) via the Portal.
3. As far as Crosssyn, in a particular case, cannot invoke the exclusions or limitations of liability as described in this section, Crosssyn's liability on a case-by-case basis is at all times limited to an amount equal to 50% of the sum of the invoiced amounts over the preceding six months, reduced by credits authorised by Crosssyn during that period. As far as Crosssyn cannot invoke the limitation as described in the first sentence of this section as well, Crosssyn's liability will in no event be higher than the benefit that the insurance company may pay to Crosssyn in the case in question, or the amount that Crosssyn in a particular case might get compensated from a third party by exercising its right of recourse.
  4. Crosssyn is not responsible for environments managed by other parties, possibly linked to via the Portal and/or website of Crosssyn.
  5. **After the moment CrossServices have been delivered, Crosssyn can never be held liable as a result of your own inappropriate and unlawful use of**

**data.** After the time of delivery, Crosssyn cannot supervise the use of the data. For that reason, you are responsible for the proper management of all (personal) data, information, feedback, suggestions, text, content and other materials that are provided as part of CrossServices.

6. Crosssyn shall not be liable for any damage caused by a shortcoming which is the consequence of **force majeure**. If Crosssyn is not able to perform its obligations of whatever nature due to an event of force majeure, Crosssyn is entitled to postpone the performance until the event of force majeure has ended. **Force majeure**
7. Apart from everything covered in the law and jurisprudence, force majeure shall in any case include: war, revolutions, terrorist acts, natural disasters, transport restrictions and delays, extreme weather conditions, flooding, partial or total strikes, staff shortage, fire, explosion, excessive increase of demand, government interventions including import and/or export measures, shortage of materials, malfunctions due to defects in or damage to machines or computers, non-compliance with obligations by suppliers of Crosssyn, or any other circumstances that fall outside the sphere of influence of Crosssyn.
8. You acknowledge and accept that the remuneration for the provided CrossServices, Devices, Portal, products and/or services is established taking into account the limited liability as referred to in this section.
9. Liability of Crosssyn because of an **attributable failure** in the fulfilment of an Agreement shall only arise if you immediately and properly put Crosssyn into default in writing, stating a reasonable period to correct the failure and if Crosssyn continues to fail attributably in the fulfilment of its obligations after such period has lapsed. The notice of default must contain a description of the breach which is as complete and specific as possible, so that Crosssyn can respond adequately. **Attributable shortcoming**
10. Any right to compensation **shall be extinguished** in any case if: a) you have failed to take **measures** to limit or prevent (further or additional) damage after the damage occurred, or b) you have failed to **inform** Crosssyn with all relevant information **within a reasonable time** after discovering the damage. **Limit and prevent (new) damage**  
**Report damage**
11. Every claim for damages towards Crosssyn **shall be extinguished** by the mere lapse of **24 months** after the claim arises.
12. Companies associated to Crosssyn cannot be held liable for any damage and/or costs whatsoever, regardless of any board position these companies might fulfil.

## ARTICLE 12 INDEMNIFICATIONS

1. You shall **indemnify and hold Crossyn harmless** from and against all damages, losses, and expenses of any kind (including reasonable attorney fees and costs) arising out of: 1) your breach of the Agreement and this Terms and Conditions, and 2) your violation of any law or the rights of a third party.

## ARTICLE 13 CONFIDENTIALITY

1. All **confidential information** exchanged between you and Crossyn during the term of an Agreement must be treated with the necessary care and diligence and shall not be made public or shall not be used for any purpose other than that for which it was obtained. **Confidential information exceptions**
2. The obligations of confidentiality **do not apply as far as** confidential information of the other party must be made public by virtue of the law, a regulation or directive, or a court order or decision of a competent public authority, provided that the receiving party applies all its efforts in order to minimise the disclosure and inform the relevant party of such proposed disclosure in advance.
3. Crossyn and you are not obliged to maintain secrecy of a) data that was given general publicity, b) data the receiving party had already at its disposal, c) data that has demonstrable independently been developed by the receiving party outside the scope of this Agreement, or d) data that has legitimately been obtained from a third party.
4. Crossyn and you guarantee that employees and any third parties deployed shall comply with the confidentiality obligations as described in this section.

## ARTICLE 14 PRIVACY AND SECURITY

1. Crossyn provides the agreed CrossServices on the basis of data and **personal data** that it processes on its Platform. Personal data shall only be processed in accordance with the applicable Dutch and European legislation and regulations, and more specifically in accordance with the General Data Protection Regulation (GDPR). To this end, Crossyn and you will enter into a written data processing agreement, which will in any event include an overview of the personal data to be processed by Crossyn and the processing purposes. **Processing personal data**
2. You and Crossyn agree to render each other all assistance, in order to allow the other party to fulfil its obligations under the General Data Protection

Regulation. The party responsible for a particular processing will ensure the lawful, proper and transparent processing of the personal data, which means, among others, that it will adequately inform the data subject about the personal data being processed and the purposes of the processing.

3. Crossyn will not share any personal data with third parties, nor with you, unless the Driver has given his explicit permission to do so. Without the Driver's consent for the processing of personal data, only non-identifiable data will be used.
4. Crossyn shall adopt all appropriate technical and organisational measures to protect personal data against loss or any form of unlawful processing. These measures shall ensure a level of security appropriate to the risk, taking into account the state of the art, the cost of implementation, as well as the nature, scale, context and purposes of the processing and the different risks to the rights and freedoms of the data subject in terms of likelihood and seriousness, and shall include, where appropriate, the measures described in Article 32(1)(a) to (d) GDPR.

## ARTICLE 15 TERMINATION

1. *Only if:*
  - a. your bankruptcy has been requested or pronounced;
  - b. you requested suspension of payment or debt restructuring or this request is granted;
  - c. you are placed under guardianship or you lose the free control over your assets or a part thereof in any other way;
  - d. your company as a legal entity is terminated or liquidated, or in the event of your death;
  - e. you can not, not in time, or not correctly comply with any (payment) obligation to Crossyn amounting of at least EUR 5.000,00 on any grounds whatsoever; or
  - f. properties of Crossyn that you keep for Crossyn are seized;Crossyn is, without the requirement of any warning, notice of default or intervention of a judge, entitled to:
  - i.* wholly or partially terminate the Agreement;
  - ii.* suspend its obligations under the Agreement, wholly or partially;
  - iii.* claim the Device, provided on loan, back as a property of Crossyn; and/or
  - iv.* immediately claim any amount you owe Crossyn on any grounds whatsoever in one sum.

The above will not affect Crossyn's authority to claim that you will be condemned to comply with the Agreements and applies notwithstanding Crossyn's entitlement to damages.

## ARTICLE 16 FINAL PROVISIONS

1. These Terms and Conditions and any other Agreements between you and Crossyn are exclusively subject to Dutch law. The applicability of the 1980 Vienna Sales Convention is excluded.
2. Any disputes between the parties that result from or are otherwise connected with these Terms and Conditions and/or any other Agreements/obligations between you and Crossyn, will be subject to the exclusive jurisdiction of the competent court in Breda, the Netherlands.
3. Any failure by Crossyn to enforce an Agreement or any provision thereof, or to exercise any right or apply any legal remedy, shall not waive Crossyn's right to do so.
4. Crossyn's administration will be deemed to be full proof of any sum due to Crossyn on any grounds whatsoever as part of an Agreement.
5. You are not entitled to transfer your rights and obligations arising from an Agreement with Crossyn to a third party.

## CONTACT DETAILS CROSSYN

### **Crossyn Automotive B.V.**

Burgemeester Brokxlaan 12

5041 SB Tilburg

The Netherlands

**E:** [info@crossyn.com](mailto:info@crossyn.com)

**T:** (+31) (0)85 015 0041