

# Three Terms and Conditions for Telematics Services

## **1 Orders**

- 1.1 Three agrees, subject to acceptance by Three of an Order, to provide Customer with the Telematics Services specified in an Order pursuant to the terms and conditions of this Agreement.
- 1.2 Three undertakes to use reasonable efforts to fulfil any Order on or before the requested and agreed dates for commencement of the Telematics Services.
- 1.3 All Orders shall be subject only to the terms of this Agreement. Notwithstanding any language on an Order or any other document or communication to the contrary, the terms of this Agreement shall take precedence over any Order or other document or communication issued by Customer. Orders and other documents and communications shall be accepted by Three for administrative purposes only and shall not modify or amend the terms of this Agreement. All terms and conditions on any Order or other document or communication shall, upon receipt, be null, void and without legal effect.

## **2 Authorisation to use the SIM Cards and Telematics Services**

- 2.1 Customer is, on a strictly non-exclusive basis and subject at all times to compliance with the terms of this Agreement, authorised by Three for the duration of the term of this Agreement to incorporate the SIM Cards and Telematics Services provided hereunder in the Communications Solution and to distribute and make available the Communications Solution to End Users.
- 2.2 Customer shall not be entitled to make use of or distribute the Telematics Services or SIM Cards separately or other than as incorporated in the Communications Solution and any rights not expressly granted in this Agreement are expressly reserved by Three.
- 2.3 Nothing in this Agreement shall restrict or prohibit Three from offering to other parties the same or a similar service to the Telematics Services offered to the Customer at any time (either during the term of this Agreement or following its expiry or termination).
- 2.4 Customer undertakes not to take any action to disconnect and migrate to an alternative wireless service provider, network operator or virtual mobile network operator any SIM Card connected under this Agreement without the prior written permission of Three.
- 2.5 Three remains the owner of all SIM Cards provided hereunder which are provided solely for the purposes specified in this Agreement and all SIM Cards must be returned to Three on request. Any SIM Card found to be defective by reason of faulty workmanship or design will be replaced by Three free of charge but Three may charge for replacement SIM Cards if the SIM Cards have to be replaced for any other reason.
- 2.6 Customer acknowledges that Customer has no proprietary rights in any Numbers or other unique number allocated to Customer by Three and Three reserves the right to withdraw any Number or unique number at any time.
- 2.7 For the avoidance of doubt under no circumstances shall Customer be permitted to engage a third party subcontractor or agent for the purposes of performing the authorisations provided to Customer by Three pursuant to this Agreement without the written agreement of Three.

## **3 Telematics Services**

- 3.1 Three agrees to provide the Telematics Services during the Telematics Services Period.
- 3.2 Three reserves the right to add to, substitute, or to discontinue any Telematics Services or Ancillary Services at any time.
- 3.3 Three does not guarantee the continuing availability of the Telematics Services or any particular Ancillary Services.
- 3.4 Customer agrees that in respect of the Telematics Services, Three is acting as a wireless service provider and as such has no knowledge of, involvement with or liability for the specific content of any communications sent to/by Customer's SIM Cards or Customer's use of the Telematics Services.
- 3.5 Certain elements of the Telematics Services are dependent on Customer having suitable telecommunications infrastructure available and/or using appropriate Equipment and Telematics Devices and in the event that the Customer is unable to provide a suitable telecommunications infrastructure, or fails to use appropriate Equipment or Telematics Devices, then:
  - 3.5.1 Some or all of the Telematics Services may not function correctly ("the Affected Services");
  - 3.5.2 Three reserves the right not to provide Customer with the Affected Services; and

3.5.3 Three shall have no liability for Customer's inability to receive the Affected Services.

3.6 Customer will be liable for all Charges incurred by its use of the Telematics Services. Three may monitor the Customer's usage of the Telematics Services for the purpose of controlling Three's credit risk and the Customer's exposure to fraudulent usage.

3.7 Customer shall not be permitted to transfer a SIM Card from the Charges scheme which that SIM Card was originally connected to under this Agreement to another Threetariff without the written agreement of Three.

#### **4 Telematics Service Standards**

4.1 Three warrants that it will provide the Telematics Services with the reasonable skill and care of a competent telecommunications service provider, that it will keep complete and accurate records of Telematics Service usage and billing data so as to ensure accurate Charges are applied to Customers use of the Telematics Services and that it will operate Three Support on a 24 hour, 365 days a year basis.

4.2 Customer acknowledges that the provision of Telematics Services is not error or fault free and is subject to the geographic extent of Telematics Services coverage and local geography, topography and/or atmospheric conditions and/or other physical or electromagnetic interference and/or the number of users trying to access the Telematics Services in any particular location that may from time to time adversely affect the provision of the Telematics Services in terms of availability, functionality, operability, line clarity and usage interference.

4.3 Three may, where reasonable, from time to time and without notice suspend the Telematics Services and at its discretion disconnect a SIM Card from the Network in any of the following circumstances without prejudice to its rights hereunder, provided that it shall use reasonable endeavours to restore the Telematics Services and reconnect the disconnected SIM Card to the Network as soon as reasonably practicable:

4.3.1 During any technical failure, modification or maintenance of the Network and the telecommunications systems by which the Telematics Services are provided; and/or

4.3.2 If Customer fails to comply with the terms of this Agreement after being given written notice of its failure (including but not limited to failure to pay any Charges or other monetary amounts due hereunder) until such failure to comply is remedied; and/or

4.3.3 If Customer allows to be done anything which in Three's reasonable opinion may have the effect of jeopardising the operation of the Network or the Telematics Services are being used in a manner prejudicial to the interest of Three and/or the Customer; and/or

4.3.4 Because of an emergency or upon instruction by emergency services or any government or appropriate authority or for Customer's own security.

4.4 Three may, at its discretion, suspend any SIM Card from the Telematics Services and disconnect any SIM Card from the Telematics Services if Three has reasonable cause to suspect fraudulent use of the SIM Card or the SIM Card is notified to Three as being stolen.

4.5 During any period of suspension or disconnection (as applicable) arising from the circumstances detailed in clauses 4.3.2, 4.3.3, 4.3.4 and/or Section 4.4, Customer shall remain liable for all Charges levied in accordance with this Agreement.

4.6 Three may vary or modify the Telematics Services without notice, as required by legislation, ComReg or other relevant authority or for technical, maintenance or other valid reason(s).

#### **5 Disconnection of SIM Cards**

5.1 Customer may only disconnect a SIM Card from the Telematics Services by submitting a Disconnection Notice to Three.

5.2 Three shall disconnect a SIM Card which is the subject of a Disconnection Notice from the Telematics Services 30 days following receipt of a Disconnection Notice.

5.3 Customer shall remain liable for all Charges (including Line Rental Charges) arising in respect of any SIM Cards which are the subject of a Disconnection Notice submitted to Three hereunder for the duration of the 30 day term immediately following the date of receipt of a Disconnection Notice.

5.4 In the event that Customer submits a Disconnection Notice resulting in disconnection of a SIM Card, Customer will promptly pay Three the applicable Disconnection Fees. In the event of conflict between this Section 5.4 and any other term or condition of these Three Terms and Conditions for Telematics Services, this Section 5.4 shall control and prevail.

#### **6 Basis of Charges**

6.1 The Charges payable by Customer to Three are as set out in the Commercial Schedule.

### **Three Ireland Services (Hutchison) Limited**

- 6.2 The Charges are exclusive of Value Added Tax which will be charged at the prevailing rate.
- 6.3 The Charges detailed in the Commercial Schedule are made available by Three subject to the Customer fulfilling all applicable Minimum Holding commitments and other obligations specified in the Commercial Schedule.
- 6.4 All Charges shall be based upon usage data recorded by Three.

## **7 Billing Arrangements**

- 7.1 Three shall, on a monthly basis, submit to Customer one or more invoice(s) which shall itemise Charges for the Telematics Services which Charges shall, at all times, be based on Telematics Services usage and billing data recorded by Three.
- 7.2 Without prejudice to any other rights of Three, in the event of Customer failing to pay any Charges or other sums due to Three in accordance with this Agreement on time or at all (and notwithstanding notification by Three to Customer of the overdue debt), Three shall be entitled to:
- 7.2.1 Charge interest (both before and after any judgment) on amounts overdue from Customer under this Agreement from the due date until the payment is actually made at the rate of 2% per annum over the base rate of Allied Irish Bank plc for the time being during the relevant period; and
- 7.2.2 Suspend the provision of the Telematics Services, and/or disconnect any or all SIM Cards from the Telematics Services until such time as all payments due (including all interest accrued) have been paid and discharged in full.
- 7.3 Three may require a deposit as security for payment of Charges. Three reserves the right to set off any deposit against the Charges. Three may require the Customer to pay the Charges by means of direct debit.
- 7.4 If the parties agree that payments of the Charges to Three are to be made by credit card and if such payments are not made on the due date, Three is authorised by Customer to debit the Customer's nominated credit card company with all Charges due and payable to Three.
- 7.5 Customer hereby agrees to pay the Charges (including any Disconnection Fees and/or Termination Fees) in full without any deduction or set off to Three within 30 days following the date of Three's invoice for such Charges.

## **8 Representations and warranties of Customer**

- 8.1 Customer represents and warrants to Three that, throughout the term of this Agreement, Customer will:
- 8.1.1 Not in any way act, indicate or represent to End Users or other third parties that it is an agent of Three or authorised to act on behalf of Three in any way or perform or fail to perform any act that may give rise in any way to any actual or threatened third party claims against Three or the establishment of any contractual or other legal relationship between Three and End Users or other third parties; and
- 8.1.2 Provide Three with such information as Three reasonably request in connection with this Agreement; and
- 8.1.3 Provide Three with a certificate of compliance signed by an authorised representative of Customer in respect of Customer's compliance of the terms of this Agreement (in particular the compliance by Customer with the terms of Section 2.1 and/or Section 2.2 of the Three Terms and Conditions for Telematics Services); and
- 8.1.4 Notify Three immediately (and to confirm in writing) on becoming aware that any SIM Card has been lost or stolen or that any person is making improper or illegal use of a SIM Card or the Telematics Services. (Customer will be responsible for any Charges incurred as a result of unauthorised use of any SIM Card (or the information contained within a SIM Card) until Three has received a request from the Customer to suspend the Telematics Services in respect of that SIM Card); and
- 8.1.5 Pay the Charges invoiced by Three in accordance with this Agreement; and
- 8.1.6 Comply with all Laws and regulations in relation to the use of the Telematics Services, Telematics Devices and/or other Equipment; and
- 8.1.7 Ensure that all Telematics Devices are industry standard in terms of functionality and operability and are data compatible and enabled; and

8.1.8 Use the Telematics Devices, Equipment, Software and/or any End-User Licensed Software in accordance with any user guide or other reasonable instruction of any manufacturer or supplier of the same or reasonable instruction of Three and not to copy, reverse engineer or modify the Software or the End-User Licensed Software in any way save as permitted by Law; and

8.1.9 Not use the Telematics Services in any way to generate AIT; and

8.1.10 Not, without the prior written consent of Three (which may be withheld at Three's absolute discretion), establish, install or use a GSM Gateway so that telecommunication services are provided via the GSM Gateway to third parties; and

8.1.11 Not use the Telematics Services or the Network in a manner which is inconsistent with a reasonable customer's good faith use of the Telematics Services or the Network; and

8.1.12 Not use the Telematics Services fraudulently or in connection with a criminal offence or for the purpose of initiating unsolicited communications or storing and/or communicating any material which conflicts with any Laws, is offensive, abusive, indecent, defamatory, obscene or menacing, a nuisance or a hoax or which breaches any person's intellectual property rights or rights of privacy or is otherwise unlawful; and

8.1.13 Comply with all reasonable operational and technical requirements of Three as may be notified by Three from time to time; and

8.1.14 Not act in any way which may or which will bring Three into disrepute or place Three in breach of any Laws, licenses or authorisations applicable to Three; and

8.1.15 Ensure that the SIM Cards and the Communications Solution are properly and fully tested for compliance with the Telematics Devices and Telematics Services; and

8.1.16 To only use approved Telematics Devices in conjunction with the Telematics Services; and

8.1.17 If requested, provide Three with reasonable prior notice of any changes to a Telematics Device and additionally, if requested, provide Three with a sample Telematics Device for testing and approval prior to using that Telematics Device as part of the End User Services; and

8.1.18 Ensure that each Telematics Device has its own specific IMEI Number; and

8.1.19 Ensure that each Telematics Device shall comply in all material respects with any and all mandatory applicable Laws and regulations; and

8.1.20 Provided at all times that Three has agreed in writing (in the manner provided for in Annex 1) to grant Customer the Three trademark license permissions specified in Annex 1 to these Three Terms and Conditions for Telematics Services, comply with the Three Trademark Terms and Conditions specified in Annex 1.

8.2 Customer recognises that the Telematics Services may be dependent upon End-User Licensed Software and if Customer does not accept the licence terms relating to any End-User Licensed Software, Three shall have no liability whatsoever for any failure to provide the Telematics Services to Customer where the Telematics Services depend on the use of End-User Licensed Software.

8.3 Where Customer accepts the terms of a licence in respect of any End-User Licensed Software, then those licence terms shall take precedence over any terms within this Agreement relating to End-User Licensed Software and shall exclusively comprise Customer's sole rights and remedies in respect of such End-User Licensed Software.

8.4 The terms of this Agreement shall also apply to any Orders for Telematics Services submitted to Three by an Affiliate of Customer. Customer agrees that it will be liable to Three for all claims, losses and expenses arising out of the breach of the terms of this Agreement by any Affiliates of Customer related to an Affiliate's use of the Telematics Services (including but not limited to the non-payment by the Affiliate of Customer of Charges and Termination Fees, which the Customer agrees to pay in full within

30 days' of notice from Three of the amount outstanding). Customer shall procure that Customer Affiliates who submit Orders for Telematics Services to Three are aware of and comply with the terms of this Agreement.

## **9 Duration and Termination**

9.1 This Agreement shall commence on the Commencement Date and shall continue for the Minimum Term and thereafter until the same is brought to an end by means of a Termination Notice.

9.2 A Termination Notice may be given by either party and the Agreement terminated forthwith if:

9.2.1 The other party is in material breach and (a) the breach is capable of remedy and the party in breach shall have failed to remedy the breach within thirty (30) days of written notice specifying the breach and requiring its remedy; or (2) the breach is not capable of remedy; or

9.2.2 Bankruptcy or insolvency proceedings are brought against the other party, or if an arrangement with creditors is made, or a receiver or administrator is appointed over any of the other party's assets, or the other party goes into liquidation.

9.3 In addition to a party's right to terminate this Agreement in accordance with Section 9.2:

9.3.1 Customer may serve on Three a Termination Notice with a minimum of 90 days' notice and Customer shall be liable for the applicable Termination Fees; or

9.3.2 Three may serve on Customer a Termination Notice with a minimum of 90 days' notice and Customer shall not be liable for any applicable Termination Fees; or

9.3.3 Where Customer is the subject of a Change of Control Three may, in its discretion, serve on Customer a Termination Notice which shall take immediate effect.

9.4 Upon the expiry of any Termination Notice or otherwise upon the termination of this Agreement Three will disconnect all SIM Cards (and any other Equipment) from the Telematics Services and the Customer will pay to Three any applicable Termination Fees.

9.5 If this Agreement is terminated and Customer wishes to transfer to another service provider, Three will provide reasonable assistance to the Customer in respect of the transfer of the Customer's service in accordance with standard industry practice.

9.6 In the event that a Termination Notice is served by Three on Customer pursuant to Section 9.2 or 9.3.3 of these Three Terms and Conditions for Telematics Services, Three may (at the exclusive option of Three to be exercised by means of written notification to Customer within 10 Business Days of service by Three of a Termination Notice pursuant to Section 9.2 or 9.3.3 of these Three Terms and Conditions for Telematics Services) direct Customer to provide Three with details of its End User customers who use the Telematics Services in order that Three may approach such End User customers to determine whether they require ongoing provision of the Telematics Services either directly from Three or from a third party with whom Three has a commercial relationship.

9.7 Customer shall, at no charge to Three, provide all reasonable and necessary assistance to Three in circumstances where Three invoke the option available in Section 9.6 and engage with End User customers for the purposes of the provision of telecommunications services equivalent to the Telematics Services to End User customers (either directly by Three or by a third party with whom Three has a commercial relationship).

## **10 Intellectual Property Ownership**

10.1 Title to, and all intellectual property rights in End-User Licensed Software and Software, associated documents and all parts thereof will be and remain vested in and be the absolute property of the owner of the copyright in the End User Licensed Software and Software (as applicable) or associated documents as appropriate.

10.2 Except as expressly provided in this Agreement, nothing in this Agreement will be deemed to or require Three to transfer, assign or license any intellectual property rights to the Customer.

10.3 Customer will not be entitled to use in the course of trade or otherwise in relation to any goods or services of the Customer any registered or unregistered trademark, logotype or abbreviation of the name of Three or any part of Three so that any person might reasonably import a connection between those goods or services and Three or any part of Three.

- 10.4 All information or materials supplied to Three by Customer in connection with the Agreement, together with the copyright therein will remain the property of Customer and will, on receipt of written request from Customer, be returned to Customer on termination of this Agreement.
- 10.5 Any Software supplied is provided on the terms of a non-exclusive, non-transferable licence and such Software is to be used for the sole purpose of operating the Equipment in order to be able to obtain the Telematics Services and/or any Ancillary Services.

## **11 Confidentiality**

- 11.1 The parties will each keep confidential any proprietary information and/or any information obtained from the other in connection with this Agreement (including for the avoidance of doubt details of the Customer's employees) which is reasonably identified by either party as commercially confidential or which is obviously confidential in nature and neither will divulge the same to any third party without the consent in writing of the other except such of its employees, contractors, Affiliates and agents as may need to know the same for the purposes of the implementation of this Agreement and who agree to be bound by the provisions of this Section 11.
- 11.2 The obligations aforesaid shall not apply to any material or information which is in the public domain (other than as a result of a breach of this Agreement); or, already known to the receiving party; or, lawfully received from a third party and/or ordered to be disclosed by any court or other tribunal or regulatory authority of competent jurisdiction.

## **12 Limitation of Liability**

- 12.1 Subject to Sections 12.3 and 12.4, neither party shall be liable to the other in respect of any matter arising out of or in connection with this Agreement in contract or tort or otherwise for any loss (whether direct or indirect) of profit, business, revenue, anticipated savings, goodwill or any loss or corruption of data, or for any indirect or consequential loss or damage whatsoever.
- 12.2 Subject to Sections 12.1, 12.3 and 12.4, Three's aggregate liability of any sort resulting from Three's negligence or otherwise arising in connection with this Agreement shall be limited in respect of all claims arising in each Year to an amount the equal to the Annual Agreement Value. (The term "Annual Agreement Value" means: (i) the total Charges paid or payable by Customer in the Year prior to the Year in which any claim arises; or (ii) where a claim arises during the first Year of this Agreement, the Charges paid or payable up to the date on which the Customer's right to take action in respect of the first claim made by the Customer in the first Year arose; and "Year" means the first, and each subsequent, consecutive period of 12 months of this Agreement commencing on the Commencement Date).
- 12.3 Nothing in this Agreement shall exclude or restrict the liability of either party for:
- 12.3.1 Death or personal injury resulting from that party's negligence; or
- 12.3.2 Claims in respect of the Customer's obligations under Sections 7.5 and/or 8.4.
- 12.4 Nothing in this Agreement shall exclude or restrict the liability of either party in respect of any liability which cannot be excluded or restricted by law.
- 12.5 The express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.
- 12.6 Three does not accept liability for the acts or omissions of third parties, Telematics Device or Equipment manufacturers or for the acts or omissions of other providers of telecommunication services unless such other telecommunications service providers have been specifically engaged by Three as subcontractors or assignees in respect of performing Three's obligations under this Agreement.

## **13 Provision of End User Services by Customer to End Users/ Indemnity**

- 13.1 Customer shall be solely responsible for its obligations to End Users and Three shall not be liable in any way to either Customer or End Users in respect of any matter arising out of or related to the provision of End User Services to End Users. Customer acknowledges that any disputes, claims or proceedings arising out of or related to the provision of End User Services to End Users shall be pursued solely and exclusively between Customer and End Users. For the avoidance of doubt, under no circumstances shall Three be liable, responsible or involved in any way with/for any failure on the part of either party to an End User Agreement to perform or

- discharge obligations provided for therein or for any disputes, claims, proceedings or controversies of any nature which may arise in respect of End User Agreements.
- 13.2 Customer shall indemnify, hold harmless and defend Three and its employees, officers and directors from and against any and all damages, losses, liabilities, actions, proceedings (whether legal or administrative), demands, and expenses (including but not limited to reasonable legal fees) threatened, asserted or filed by End Users or a third party against Three arising out of or related in any way to End User Services, any End User Agreement or the making available by Customer of the Communications Solution.

#### **14 Matters beyond the Parties reasonable Control**

Neither party to this Agreement shall be deemed in default or liable to the other party for any matter whatsoever for any delays in performance or from failure to perform or comply with the terms of this Agreement due to any cause beyond that party's reasonable control including, without limitation, acts of God, acts of Government or other competent regulatory authority, telecommunications network operators, war or national emergency, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes and other industrial disputes (in each case, whether or not relating to that party's workforce).

#### **15 Assignment**

- 15.1 Customer shall not assign or transfer the benefit of this Agreement to any third party without the prior written consent of Three, such consent not to be unreasonably withheld or delayed.

- 15.2 Three may assign or transfer this Agreement to any third party and may subcontract the performance of all or part of the same.

#### **16 Entire Agreement**

- 16.1 This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, representations, proposals, understandings and agreements whether written or oral relating to the subject matter of this Agreement.

- 16.2 Each of the parties acknowledges and agrees that in entering into this Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement.

#### **17 Invalidity**

If any of the provisions of this Agreement is or becomes invalid, illegal or unenforceable, the validity or enforceability of the remaining provisions shall not in any way be affected or impaired. In any such circumstances the parties shall negotiate in good faith in order to agree the terms of a mutual satisfactory provision, achieving as nearly as possible the same commercial effect, to be substituted for the provision which is found to be invalid, illegal or unenforceable.

#### **18 Waiver**

The failure or delay by either party to this Agreement to exercise or enforce any right, power or remedy under this Agreement shall not be deemed to operate as a waiver of any such right, power or remedy; nor shall any single or partial exercise by any party operate so as to bar the exercise or enforcement thereof or of any right, power or remedy on any later occasion.

#### **19 Changes**

- 19.1 Three reserves the right to amend the terms and condition of this Agreement (including the Charges payable by Customer to Three as set out in the Commercial Schedule) by notifying Customer of the proposed amendment not less than one (1) month prior to the date of implementation of any such proposed amendment via either direct notification pursuant to Section 23 of this Agreement and/or via the Three website <http://www.three.ie> and/or via published announcements in the national press. In the event of conflict between this Section 18 and Section 23 herein, this Section 19 shall control and prevail.

#### **20 Data Protection**

- 20.1 Three may require Customer to provide it with the name of one or more individuals within Customer's organisation for contact purposes. Three agrees that such information shall only be used for contact purposes and insofar as may be necessary for the provision of services under this Agreement. To the extent that such information constitutes personal data within the meaning of the Data Protection Acts,

1988 and 2003 (as amended, extended or replaced from time to time), the individual to whom the information relates has the right to access such personal data (on payment of the appropriate fee) and to have any incorrect or misleading personal data amended or erased.

20.3 Three operates in accordance with the Data Protection Acts of 1988 and 2003 (as updated or amended from time to time). Customer agrees that its details and those of its employee/contractor users may be used and disclosed by Three for the purposes of this Agreement and for marketing purposes including informing Customer and its employee/contractor users from time to time about other wireless services or associated technologies available from Three. If Customer or an employee/contractor user does not want its details, or, in the case of the Customer those details of its employee/contractor users to be used for direct marketing purposes in this way then Customer should contact the Three Data Controller at Three Ireland Services (Hutchison) Limited, 28/29 Sir John Rogerson's Quay, Docklands, Dublin 2, Ireland.

## **21 Export Control**

Customer agrees, in respect of its use of Telematics Services and performance of the subject matter of this Agreement, to be responsible for and to comply with any applicable export or re-export laws, regulations, prohibitions or embargoes of any country, including obtaining written authority from any relevant licensing authority where necessary.

## **22 No Partnership**

Nothing in this Agreement shall create, or be deemed to create, a partnership between the parties.

## **23 Notices**

Any notice or other communication required or permitted under this Agreement to be given in writing to the address of the recipient stipulated herein or as notified from time to time and will be deemed to have been given or made: when delivered personally; or, if properly addressed and posted by registered post in the Republic of Ireland, within two business days of posting; or, if sent by facsimile upon being sent; or, if sent by e-mail or other electronic means upon such communication being acknowledged as having been received.

## **24 Dispute Resolution Scheme – Regulations**

24.1 The method for contacting Threewith regard to any dispute Customer may have is set out in the Three Code of Practice, found on <http://www.three.ie> or may be obtained by contacting Three Support. The Regulations are available on the website of the Department of Communications, Energy and Natural Resources at [www.dcmnr.gov.ie](http://www.dcmnr.gov.ie).

24.2 ComReg, (or an independent person appointed by ComReg) may resolve disputes in relation to the Regulations which remain unresolved after due completion of the procedures set out in the Code of Practice. Contact information for ComReg is provided in the Code of Practice.

## **25 Survival**

The termination of this Agreement shall not affect any of the following: (a) the rights or liabilities of either party accrued prior to and including the date of termination; or (b) the continued existence and validity of the rights and liabilities of the parties under those clauses/sections which are intended expressly or by implication to survive termination or expiry and any other provisions of this Agreement necessary for its interpretation or enforcement.

## **26 Operative Law**

This Agreement, and any issues or disputes of whatever nature arising out of or in any way relating to it or its formation (whether such disputes are contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation, or otherwise) shall be governed by and construed in accordance with the Laws of Ireland and the parties submit to the exclusive jurisdiction of the courts of Ireland.

27 Definitions

In these Three Terms and Conditions for Telematics Services the following definitions shall apply

“AIT”	Means Artificially Inflated Traffic and occurs where the flow of calls to any particular revenue share service is, as a result of any activity on or on behalf of the party operating that revenue share service, disproportionate to the flow of calls which would be expected from good faith commercial practice and usage of the Network.
“Affiliate”	Means any company which is a Holding Company or Subsidiary Company of either party.
“Agreement”	Means the Three Agreement for Telematics Services comprising the Commercial Schedule (Schedule 1) and the Three Terms and Conditions for Telematics Services (Schedule 2).
“Airtime”	Means wireless airtime and Network capacity used to provide the Telematics Services.
“Ancillary Services”	Means such services (related to the delivery and performance of Telematics Services) as may be made available from time to time by Three.
“Charges”	Means the charges and fees for Telematics Services specified in the Commercial schedule and payable to Three by Customer in accordance with Section 6 of the Three Terms and Conditions for Telematics Services.
“Change of Control”	Means the completion of any transfer, issue, conversion, re-designation or redemption of shares in Customer where the completion of such transfer, issue conversion, re-designation or redemption results in any person (or persons acting in concert) acquiring control of Customer.
“Code of Practice”	Means the Three Code of Practice, as amended from time to time, found on <a href="http://www.three.ie">http://www.three.ie</a> .
“Commencement Date”	Means the start date of this Agreement specified in the Commercial Schedule.
“Commercial Schedule”	Means Schedule 1 of this Agreement detailing commercial components of this Agreement and the Charges.
“Communications Solution”	Means the communications solution described in Section 1 of the Commercial Schedule provided to End Users by Customer which incorporates and makes use of the Telematics Services.
“ComReg”	Means the Commission for Communications Regulation.
“Customer”	Means the corporate entity whose details are specified in this Agreement.
“Disconnection Fees”	Means the fees specified in the Commercial Schedule which are due and owing upon the submission of a Disconnection Notice during the Minimum Term.
“Disconnection Notice”	Means a written notice to disconnect one or more SIM Cards from the  Telematics Services.
“End User”	Means third parties to whom Customer separately provides End User Services pursuant to an End User Agreement.
“End User Agreement”	Means the agreement between Customer and End Users which provides for the provision of End Users Services to End Users.

“End-User Licensed Software”	Means any third party software used or necessary for the performance of the Telematics Services, the licence terms for which are governed by a separate agreement with the third party licensor of such software.
“End User Services”	Means the telecommunications services, Communications Solution and associated services and support separately provided by Customer to End Users.
“Equipment”	Means any Telematics Devices and other hardware equipment items approved for use with the Network (including any associated software and documentation).
“GSM Gateway”	Means a device (not designed or adapted to be capable of being used whilst in motion) for wireless telegraphy designed or adapted to be connected by wireless telegraphy to the Three wireless telecommunications network or the wireless telecommunications system of another network operator and used solely for the purpose of sending and receiving messages conveyed by means of the Three wireless telecommunications network or the wireless telecommunications system of another network operator.
“Holding Company”	Has the meaning provided under Section 155 of the Companies Act 1963.
“Laws”	Means all applicable Acts of the Oireachtas, statutory instruments, laws, decrees and regulations as arise and which apply in the Republic of Ireland.
“Line Rental Charge”	Means the non-usage dependent part of the Charges, payable on a monthly basis per SIM Card.
“Minimum Holding”	Means the minimum number of SIM Cards as detailed in the Commercial Schedule which must remain connected to the Network in the manner specified in the Commercial Schedule.
“Minimum Holding Effective Date”	Means the date specified in the Commercial Schedule by which Customer agrees to achieve the Minimum Holding.
“Minimum Term”	Means the term of 24 months from the Commencement Date or such other period as is specified in the Commercial Schedule.
“Network”	Means the telecommunications network maintained and operated by Three to provide Airtime.
“Numbers”	Means the numbers allocated to Three by ComReg and subsequently allocated by Three to SIM Cards.
“Order”	Means a request by Customer for the provision of Telematics Services or a change in respect of the same (but not a disconnection).
“Regulations”	Means the European Communities (Electronic Communication Networks and Services) (Universal Service and User’s Rights) Regulations 2003
“SIM Card”	Means the subscriber identity module card supplied by Three (which shall at all times remain the property of Three), which is allocated to the Customer by Three, and which contains the Number.
“SMS”	Means the short message service, which enables text messages to be sent to, and received from Telematics

	Devices.
"Software"	Means any software (excluding End-User Licensed Software) supplied to Customer by Three under the terms of or in respect of this Agreement.
"Subsidiary Company"	Has the meaning provided under Section 155 of the Companies Act 1963.
"Telematics Device"	Means the hardware device connected to the Telematics Services and incorporating a SIM Card provided by Customer to End Users to enable the provision of End User Services.
"Telematics Services"	Means the telecommunications services which utilise SIM Cards and Airtime that permits measurement, reporting and exchange of information and data between communications infrastructures.
"Telematics Services Period"	Means the period commencing on the Commencement Date and ending on the date this Agreement is terminated, during which period the Telematics Services will be provided by Three to Customer pursuant to this Agreement.
"Termination Fees"	Means the fees specified in the Commercial Schedule which are due and owing upon the termination of this Agreement by Customer prior to the expiry date of the Minimum Term.
"Termination Notice"	Means a written notice to terminate this Agreement.
"Three"	Means Three Ireland Services (Hutchison) Limited of 28/29 Sir John Rogerson's Quay, Dublin 2, Ireland.
"Three Support"	Means Three Support, McLaughlin Road, National Technology Park, Co. Limerick, Ireland. Contact details available on <a href="http://www.three.ie">http://www.three.ie</a> .

## Annex 1 – Three Trade Mark License

- 1.1 **Strict Condition Precedent:** Under no circumstances shall this Three Trade Mark License be valid or operational without the additional and separate express written permission of Three which Three may provide or withhold in its absolute discretion.
- 1.2 Where Customer is entitled to use Three Marks, Customer must: strictly abide by and observe Three's instructions, requirements, directions and specifications regarding colour references and style guides for reproduction of the Three Marks, and in particular Customer must abide by and observe the guidelines laid out in Brand Central (Three's brand management extranet) as notified to Customer from time to time);
- 1.3 only apply the Three Marks to material that complies with Three's written approval;
- 1.4 ensure any trade mark/copyright notice specified by Three's (or such other notice as Three may in writing require) is affixed adjacent to the Three Marks or in any other position as Three directs on all material using or incorporating all or any part of the Three Marks;
- 1.5 not use the Three Marks in juxtaposition or in conjunction with any other symbol, logo, mark or other means of identification or merchandising, except with the prior written approval of Three;
- 1.6 not use the Three Marks in a partial or fragmentary form but always in its complete form as depicted in accordance with Three's written instructions (unless otherwise agreed in writing by Three);
- 1.7 if cropping the Three Marks, only do so in accordance with the cropping guide (as notified to Customer);

### Three Ireland Services (Hutchison) Limited

- 1.8 not use the Three Marks on any product or other material (including stationery, business cards or correspondence or any other form of written communication) unless prior written approval is obtained from Three;
- 1.9 not use the Three Marks otherwise than as permitted by the Agreement or in any manner that would be in contravention of any law, regulation or applicable standard except in accordance with Three's written instructions;
- 1.10 not cause or permit anything which may challenge, damage or endanger the Three Marks or Three's title to the Three Marks or assist or allow any other person to do so except in accordance with Three's written instructions;
- 1.11 not register or attempt to register any part of the names or words forming part of the Three Marks or any work substantially identical or deceptively similar to as or as part of a business name or corporate name;
- 1.12 not register or attempt to register any part of the Three Marks or any name, word, mark, design, emblem, visual representation or slogan substantially identical with or deceptively similar to as or as part of a trade mark or design;
- 1.13 not represent that it has any right, title or interest in the Three Marks or in any application for registration of it or in any fraudulent, obvious or colour imitation of it other than pursuant to the rights expressly granted by this Agreement; and
- 1.14 not use any name, word, mark, design, emblem, visual representation or slogan similar or capable of being confused with any part of the Three Marks.