|  |
| --- |
| **Operator ASP Consent Agreement for TMA and/or RIM Applications** |

|  |  |
| --- | --- |
| **Date** | **Insert date:** dd month yyyy |
| **Recitals** |  |
|  | **Transport Certification Australia Ltd** ACN 113 379 936 of Level 17, 360 Elizabeth Street, Melbourne, Victoria (“TCA”) is the Australian entity responsible for providing assurance in the use of telematics and related intelligent technologies within the National Telematics Framework (“NTF”). The NTF is the use of digital technology and data coordinated by TCA between Authorities, Application Service Providers and Transport Operators to deliver public purpose outcomes. |
|  | The **Operator Application Service Provider** named in the Schedule(“Operator ASP”) has independently of this Agreement been:(i) certified by TCA to provide devices and services for the telematics monitoring of vehicles exclusively within its custody and direct control for the purposes of the **Telematics Monitoring Application** (“TMA”) and the **Road Infrastructure Management** (“RIM”) application, or (ii) registered by TCA to provide those devices and services for the purposes of the RIM application. Both TMA and RIM are applications of the NTF. The Operator ASPis also the registered operator of one or more vehicles, and is agreeable to its vehicle(s) being monitored for the purposes of participation in the Schemes of the TMA and/or RIM applications. |
|  | **Application Services** are the services which the Operator ASP is authorised by the applicable TCA–ASP Certification Agreement or TCA−ASP Registration Agreement to provide to vehicles exclusively within its custody and direct control. |
|  | A **Scheme** is an arrangement, associated with the TMA or RIM application, that reflects the conditions of access for specific vehicles and/or loads established by an Authority. Telematics Data is collected and made available to the relevant Authority under specific arrangements managed by TCA based on the Scheme parameters. Full details of each Scheme in which the Operator ASP can participate under this Agreement are available on the TCA website ([www.tca.gov.au](http://www.tca.gov.au)), and where participation in a Scheme is accessed by way of this Agreement then the business rules stated on the website of TCA and/or the relevant Authority(ies) for that Scheme are thereby adopted into this Agreement. |
|  | **Telematics Data** is the data elements and data records required to be produced by the Operator ASP to deliver Application Services, in accordance with the requirements of the TMA and/or RIM applications and the associated Scheme(s). It may be generated by a telematics device, connected device (such as a Smart On-Board Mass system) or peripheral device (such as a user interface) supported by an Operator ASP. Telematics Data may also be produced as a result of the operation of a Scheme, such as enrolment data (which includes information related to the registered Operator ASP and vehicle(s)). |
|  | **Authority** is an entity responsible for the administration of one or more NTF applications. The Authority requires the monitoring, with reporting, of the Operator ASP’s vehicle(s) as a condition of the Authority allowing the Operator ASP and its vehicle(s) to participate in a Scheme. The Authority may conduct compliance activities as necessary where vehicles are enrolled in the TMA application and associated Scheme(s).*Note: The functions associated with an Authority may involve a road authority or regulator, or both, as applicable to the Scheme.* |
|  | **Regulator** is, in the context of a Scheme, an entity that conducts legal compliance activities as applicable to the Scheme. |

**Terms and Conditions**

**TCA and the Operator ASP hereby agree** as follows:

1. The Operator ASP will provide its own Application Services for the vehicle(s) within its custody and direct control, in accordance with its TCA–Operator ASP Certification Agreement or TCA–Operator ASP Registration Agreement, for the purposes of its participation in the Schemes of the TMA and/or RIM applications. The Operator ASP will ensure that those Application Services are delivered in accordance with the terms and conditions of the separate agreement(s) between it and TCA by which the Operator ASP is certified by TCA as an Operator ASP for the purposes of the TMA application, and/or registered by TCA as an ASP for the purposes of the RIM application.
2. The Operator ASP will enrol its vehicle(s) in one or more TMA or RIM Schemes in accordance with the terms of this Agreement.
3. The Operator ASP will forward to TCA enrolment details for the vehicle(s) the Operator ASP wishes to enrol in accordance with the requirements of the TMA and/or RIM Scheme(s). The Operator ASP will ensure that a certificate of enrolment is issued and retained within each of its vehicle enrolled in a TMA or RIM Scheme.
4. The Operator ASP may add to or delete from its enrolled vehicle(s) in a Scheme at any time.
5. The Operator ASP agrees to provide to TCA the Telematics Data relating to the Operator ASP’s vehicle(s) as required by the relevant Authority for the purpose of the TMA or RIM Scheme(s) for which the Operator ASP has enrolled its vehicle(s). The Operator ASP understands and agrees that this authorisation will enable TCA to:
	1. Receive, process and analyse the Telematics Data required to be generated by the Operator ASP in respect of the Operator ASP’s vehicles for the TMA and/or RIM Scheme(s) in which the Operator ASP’s vehicle(s) are enrolled, and
	2. Provide reporting of vehicle activity using Telematics Data to the relevant Authority in accordance with the business rules of those Scheme(s).
6. The Operator ASP further understands and agrees that:
	1. From the reporting referenced in clause 5 produced for TMA Schemes, the Authority will be able to review Telematics Data collected from enrolled vehicles and to identify both aggregated and individual vehicle movements;
	2. The reporting referenced in clause 5 produced for RIM Schemes will (subject to clause 7) be de-identified and aggregated such that the Authority will not be able to identify within or from them any individual vehicle;
	3. In the case of vehicles participating in RIM Scheme(s) that do not provide road use data for a period exceeding the number of consecutive days stated in the Scheme, TCA will inform the Authority of the identity of those vehicles in the absence of satisfactory explanation from the Operator ASP;
	4. Telematics Data relating to its vehicle(s) enrolled in TMA and/or RIM Scheme(s) may also be incorporated into aggregated and de-identified analysis and reports for general purposes or road network research, evaluation and planning activities carried out by the relevant Authority (including in conjunction with other entities which have the same general ‘public purpose’ duties as the Authority, such as one or more State or Territory road authority(ies), Local Government(s) or Port Authority(ies)).
7. With respect to the TMA and RIM applications, unless otherwise required by law (for example, in compliance with a warrant or court order compelling disclosure) TCA will receive and hold the Telematics Data relating to the Operator ASP’s enrolled vehicle(s) in strict confidence and will not disclose it to any person or entity unless the Operator ASP has provided its specific consent to further disclosure or as provided for in clause 8 and/or 9.
8. The Operator ASP also agrees that the Authority may, in the course of considering the reports that it will receive from TCA, discuss and share those reports with the relevant local government road authority whose local government area includes the roads featuring in the reports.
9. The Operator ASP also agrees to TCA forwarding Telematics Data generated by the Operator ASP’s enrolled vehicles (provided that the data forwarded is not vehicle identifying) to other entities as approved by TCA as entities which, whilst not necessarily being of the exact nature of the relevant authorities administering TMA and/or RIM Schemes, are nevertheless contributing to the ongoing development of the structure and delivery of the national freight task. Such bodies might, for example but without limitation, include the Australian Road Research Board, Austroads and the National Freight Data Hub.
10. Where vehicles are enrolled in TMA Scheme(s) the relevant Authority may use Telematics Data for legal compliance management purposes.
11. Telematics Data provided to TCA by the ASP will be received and held by TCA strictly in accordance with the provisions of this Agreement, the Privacy Acts and Regulations of the Commonwealth of Australia and TCA’s Privacy Policy (the latter of which is available on TCA’s website: https://tca.gov.au/privacy-policy/).
12. With respect to vehicles enrolled in Schemes of the TMA application, unless compelled by law as referenced in clause 7, TCA will de-identify the Telematics Data received by it relating to those vehicle(s) within twelve months of its receipt of the data.
13. Where a vehicle which the Operator ASP (whether as registered owner of the vehicle or as the holder of some other relevant contractual interest in it) has enrolled in a Scheme in accordance with this Agreement is driven on its behalf , the Operator ASP hereby undertakes to inform that person that the vehicle is being electronically monitored for the TMA or RIM application and to not let that person drive the vehicle unless he/she is made aware of the monitoring and consented to it.

|  |  |  |
| --- | --- | --- |
| **Signed** for and on behalf of the **Operator ASP** by |  |  |
|  |  |   |
| Affix Name and Electronic Signature |  | Affix Date |
| **Signed** for and on behalf of **TCA** by |  |  |
| A black signature on a white background  Description automatically generated |
| **PADDY GOODALL**General Manager Service Delivery |

**Schedule**

|  |  |  |
| --- | --- | --- |
| **Operator Application Service Provider (Operator ASP):** |  |  |
|  |  |  |
| Name |  | ABN |
|  |
| Address |  |  |

By ticking one of the following boxes, the Operator ASP acknowledges the Application Services provided by the Operator ASP and the corresponding Schemes that the Operator ASP may enrol in.

[ ]  Operator ASP is certified to provide Application Services for the TMA and RIM applications, allowing participation in Schemes associated with both TMA and RIM applications.

[ ]  Operator ASP is registered to provide Application Services for the RIM application, allowing participation in Schemes associated with the RIM application only.