Telematics
Terms and Conditions

1. Accessing WEX Motorpass Telematics
WEX Motorpass Telematics offers a vehicle telematics reporting service and is available to customers who have a WEX Motorpass Card Account and who agree to sign up to these terms and conditions, which are supplementary to and do not replace the WEX Card Terms and Conditions of Account.

By applying for a WEX Motorpass Telematics account or using any Device provided to you, you agree to be bound by these terms and conditions. Unless the context requires otherwise, terms in these terms and conditions have the meaning given in the WEX Card Terms and Conditions of Account.

2. What will WEX provide?
WEX will:
• set up and manage your WEX Motorpass Telematics account;
• arrange for the supply of the Devices that you order;
• arrange for you to be provided with access to the WEX Motorpass Telematics web-portal and Devices during the term of your WEX Motorpass Telematics account;
• arrange for you to have access to the WEX Motorpass Telematics Call Centre during the term of your WEX Motorpass Telematics account;
• provide you with Fleet Data; and
• invoice you for any fees, costs and charges under these terms and conditions.

WEX may:
• arrange for the installation of the Devices that you order

3. What do you need to do?
3.1 Set up
You will need to advise us of the number of Devices you would like to be supplied and provide us with the details of all vehicles and their location for the purposes of delivery or installation of the Devices.

3.2 Fees and charges
We will send you a Statement recording all of the fees and charges applicable to your WEX Motorpass Telematics account. You must pay all fees and charges on the Statement on the date specified or in accordance the installation instructions.

The fees and charges associated with the WEX Motorpass Telematics service are set out in the Fee Schedule that will be sent to you and is available at motorpass.com.au.

The fees and charges that apply to your account are determined by the number of Devices provided under your account at any time. If you return a Device or request an additional Device so that the number of Devices under your account falls within a different fee level, then WEX will adjust your fees and charges with effect from the date of return or delivery of the Device.

3.3 Web-portal
You will need provide to us with details of all persons who you authorise to be Authorised Users for the purposes of the WEX Motorpass Telematics service. We will arrange for a user name and passwords to be issued to all Authorised Users to access the WEX Motorpass Telematics web-portal. You must ensure that you and each Authorised User keeps their username and password secret and secure. You need to, and to ensure that all Authorised Users, maintain the confidentiality of all user names and passwords issued in connection with your account. You will be responsible for all usage or activity on the WEX Motorpass Telematics web-portal via those user names and passwords.

You must ensure that you and your Authorised Users immediately notify WEX of any unauthorised use of any user name or password issued in connection with your account or any other breach of security in connection with your account.

4. Devices

4.1 Provision of Devices
WEX will arrange for each Device you order to be:
- if the Device is to be installed in a vehicle in Victoria, installed into those vehicles. WEX’s service provider will contact you to arrange for installation; or
- if the Device is to be installed in a vehicle in a place outside Victoria or the service provider is unable to install the Device within 5 Business Days of it becoming available for installation, delivered to you for self-installation.

Devices delivered for self-installation must be installed strictly in accordance the installation instructions.

Each Device is provided to you for a term of 12 months from the earlier of:
- the date the Device is installed by WEX’s service provider; or
- if the Device is not installed by WEX’s service provider, the date the service provider advises it has been delivered to you (whether or not you receive the Device on that date).

At the end of the 12 month term, you may retain the Device until you are given notice to return it and the term will be extended on a month to month basis and the applicable charge under the Fee Schedule will continue.

If a Device is returned before the end of the 12 month term and is not replaced with another Device, WEX will charge an early termination fee as set out in the Fee Schedule.

Nothing in these terms and conditions gives you or any Authorised User any ownership or other interest in any Device.

You must return each Device or make the Device available for collection by WEX’s representatives:
- immediately upon termination of your WEX Motorpass Telematics account for whatever reason; or

Effective: 20 December 2017

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5. Rights

Nothing in these terms and conditions grants you or your Authorised Users any ownership of any Intellectual Property in the WEX Motorpass Telematics web-portal or in the Devices.

You must not, and must ensure your Authorised Users do not, use the WEX Motorpass Telematics service in any way that infringes a third party’s Intellectual Property or other rights or use the WEX Motorpass Telematics service in any manner which is unlawful, offensive, threatening, defamatory, fraudulent, misleading, deceptive or otherwise inappropriate.

Except as expressly authorised by (and subject to any conditions prescribed under) any applicable Law, you must not and must ensure that each Authorised User does not, in any form or by any means:

• copy, adapt, reproduce, store, distribute, print, display, perform, broadcast, publish, communicate to the public, make available to the public or create derivative works of the whole or any part of the WEX Motorpass Telematics service (including all trade marks);

5.2 Replacement Devices and upgrades

You may request a replacement Device to replace a Device that is not functioning properly and/or request additional Devices to be added to your WEX Motorpass Telematics account.

You may do either of these by contacting the WEX Motorpass Telematics Call Centre.

If you request a replacement Device or an additional Device we will endeavour to arrange for it to be supplied and/or installed as soon as possible.

5.3 Intellectual Property

Nothing in these terms and conditions grants you or your Authorised Users any ownership of any Intellectual Property in the WEX Motorpass Telematics service; or

• resell or otherwise use the WEX Motorpass Telematics service; or

You may only use the Devices and the WEX Motorpass Telematics service for lawful purposes and for the purposes of managing a vehicle fleet.

You must ensure that access to your WEX Motorpass Telematics account and the Fleet Data is:

• not used:

5.4 Accuracy of information

You must ensure that access to your WEX Motorpass Telematics account and the Fleet Data is:

• not illegal or used for the transmission of offensive material or otherwise prohibited by any applicable Law;

6. Confidentiality

Neither party will disclose any of the information specified in section 275(1) of the PPSA unless otherwise required by Law.

6.1 Confidential Information

If you do not return a Device at the time required under these terms and conditions, WEX will charge to your account the cost of the Device and the ongoing monthly cost as specified in the Fee Schedule until such time as the Device is returned.

You acknowledge and agree that WEX will have a Security Interest in each Device provided to you and that WEX may file a Financing Statement on the Personal Property Securities Register in respect of that Security Interest without any further consent being required from you. You waive any right to receive a copy of a Verification Statement upon the occurrence of a Registration Event. Security Interest, Financing Statement, Verification Statement and Registration Event are terms defined in the Personal Property Securities Act 2009 (Cth) (PPSA) and the Personal Property Securities Register is the register established under the PPSA. You agree that neither party will disclose any of the information specified in section 275(1) of the PPSA unless otherwise required by Law.

275(1) of the PPSA

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Except as expressly authorised by (and subject to any conditions prescribed under) any applicable Law, you must not and must ensure that each Authorised User does not, in any form or by any means:

• copy, adapt, reproduce, store, distribute, print, display, perform, broadcast, publish, communicate to the public, make available to the public or create derivative works of the whole or any part of the WEX Motorpass Telematics service (including all trade marks);

• merge or use any Device with any other hardware, software, products or services;

• msublicense, lease, rent, loan, disclose or otherwise transfer any Device to any third party;

• interfere with or disrupt (or attempt to interfere with or disrupt) the WEX Motorpass Telematics service, any servers or networks connected to the WEX Motorpass Telematics service or any other user of the WEX Motorpass Telematics service;

• disassemble, reverse engineer or otherwise decompile any Device or software associated with the WEX Motorpass Telematics service or otherwise attempt to derive source or object code of a SIM or any software running on the SIMs; or

• resell or otherwise use the WEX Motorpass Telematics service to provide any services to third parties or permit third parties to remotely access and use the WEX Motorpass Telematics service or allow any Device to be used to develop a product line that is similar to the WEX Motorpass Telematics service.

You may only use the Devices and the WEX Motorpass Telematics service for lawful purposes and for the purposes of managing a vehicle fleet.

You must ensure that access to your WEX Motorpass Telematics account and the Fleet Data is:

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• interferes with or disrupts (or attempt to interfere with or disrupt) the WEX Motorpass Telematics service, any servers or networks connected to the WEX Motorpass Telematics service or any other user of the WEX Motorpass Telematics service;

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You must ensure that access to your WEX Motorpass Telematics service for lawful purposes and for the purposes of managing a vehicle fleet.

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• interferes with or disrupts (or attempt to interfere with or disrupt) the WEX Motorpass Telematics service, any servers or networks connected to the WEX Motorpass Telematics service or any other user of the WEX Motorpass Telematics service;
on the WEX Motorpass Telematics service or its component parts.

6. Term and termination
Your WEX Motorpass Telematics account will commence on the date that you agree to these terms and conditions and provide WEX with the information to establish your account, and will continue until terminated in accordance with these terms and conditions.

Your WEX Motorpass Telematics account will automatically terminate on the date that your last Device is returned to WEX.

WEX may terminate your WEX Motorpass Telematics account by giving you a notice of termination:
• if your WEX Motorpass Card Account is closed;
• at any time after a Notification Event occurs in relation to you;
• if you breach these terms and conditions and either the breach cannot be remedied in WEX’s opinion or has not been remedied within 7 days of WEX giving you notice of the breach; or
• if WEX is compelled to do so by Law.

If you are given notice of the termination of your WEX Motorpass Telematics account, you will continue to accrue fees and charges in respect of all Devices until they are returned.

7. Risk and liability
7.1 Continuity of service
You acknowledge that the WEX Motorpass Telematics service can only be provided with the assistance of service providers, including Network Providers and other service providers, with whom WEX may have not direct contractual relationship.

The WEX Motorpass Telematics service may not be free from fault or interruption.

The WEX Motorpass Telematics service may be unavailable during planned or unplanned outages or scheduled or unscheduled maintenance periods. WEX will use reasonable endeavours to inform you of planned outages and to notify you as soon as practical when unplanned outages or unscheduled maintenance occurs rendering the WEX Motorpass Telematics services temporarily unavailable.

7.2 Device issues
You agree and acknowledge that, subject to the below, you bear all risk in respect of each Device issued in respect of your WEX Motorpass Telematics account from the date of delivery or installation (as applicable) to the date it is returned to WEX.

To the extent that any Device is decommissioned due to any malfunction or damage not attributable to:
• any breach of these terms and conditions by you or any Authorised User;
• any wilful misconduct by you or any Authorised User; or
• any unlawful or negligent action by you or any Authorised User, WEX will credit your account for the period in which the Device is not in use until a replacement is provided.

If a Device must be replaced as a result of any of the actions by you or an Authorised User described above, and WEX incurs a Loss as a result, WEX will charge your account with the amount of the Loss suffered by WEX.

You must indemnify WEX in respect of, and hold WEX harmless against, any Loss to WEX in connection with your use of the WEX Motorpass Telematics service and the Devices.

7.3 Fleet Data issues
You agree and acknowledge that WEX makes no representation about, and does not guarantee, the accuracy and completeness of any Fleet Data made available to you in connection with the WEX Motorpass Telematics service.

You agree to review and check all Fleet Data for completeness and accuracy before using it and you accept all risks associated with the use of the Fleet Data.

You must indemnify WEX in respect of, and hold WEX harmless against, any Loss to WEX in connection with your use of Fleet Data.

7.4 Liability limits
Subject to any non-excludable consumer guarantees under the Australian Consumer Law and except to the extent caused by the fraud, gross negligence or wilful default of WEX, WEX’s liability to you under these terms and conditions is limited to, at its option:
• in the case of provision of goods the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; and
• in the case of the supply of services, the supplying of the services again or the payment of the cost of having the services supplied again.

WEX will not be liable to you in any circumstance for any indirect or consequential loss, including loss of profit, loss of opportunity, loss of data, loss of goodwill or future reputation, failure to realise anticipated savings, downtime costs, damage to credit rating or any penalties payable under contracts other than these terms and conditions.

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

8. Force majeure
A party is not liable for a breach of these terms and conditions to the extent that the breach is caused by a Force Majeure Event and for the period that the Force Majeure Event continues, if that party:
• notifies the other party as soon as reasonably practicable of the breach and details regarding the relevant circumstances; and
• exercises its best endeavours to remedy the breach or otherwise rectify the cause of that breach as quickly as possible.

Effective: 20 December 2017

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Either party may terminate the WEX Motorpass Telematics account if a Force Majeure affecting the ability of a party to perform its obligations continues for more than 30 days.

9. Privacy

To arrange for the provision of the WEX Motorpass Telematics service and to manage your rights and our obligations arising from or in connection with the WEX Motorpass Telematics service, WEX may collect personal information from you and any Authorised User, and from its agents and service providers engaged to provide this service. We may use this personal information to provide the WEX Motorpass Telematics service to you and for product development, marketing and promotions, research, IT systems maintenance and development and for other purposes with your consent or where authorised by Law.

For more information about our handling of personal information, including further details about access, correction and complaints, please see our privacy policy available on request or via motorpass.com.au, the terms of which apply to the collection and use of any personal information collected from you or your Authorised Users.

You must comply with all privacy laws in relation to the information collected by you as a result of use of the Devices, and you indemnify us for any loss we suffer in relation to your collection and use of this information.

10. Definitions

In these terms and conditions, unless the context requires otherwise:

Authorised Users means any person who you, at any time, authorise to use the WEX Motorpass Telematics services in connection with your account.

Business Day means a day other than a Saturday, Sunday or public holiday in Melbourne.

Device means the device incorporating a SIM that is connected to the OBD-II port of a vehicle that accesses that vehicle’s central computer system to retrieve Fleet Data for the purposes of transmission over a 3G network connected to the WEX Motorpass Telematics network.

Fee Schedule means the fee schedule that will be provided to you as amended by WEX from time to time.

Fleet Data means any data or information relating to the performance of a vehicle, including but not limited to the vehicle’s real-time location, speed, fuel consumption, fuel efficiency, distance travelled, engine performance and behaviour, as collected by a Device.

Majeure Event means any:

(a) lightning strike, severe storm, earthquake, natural disaster, landslide, bushfire, mudslide or tsunami;
(b) sabotage, vandalism, malicious damage, riot or a ‘terrorist act’ as defined in the Terrorism Insurance Act 2003 (Cth);
(c) explosion, flood or fire resulting from any of the events in paragraph (a) or (b);
(d) war (declared or undeclared), civil war, insurrection, invasion, rebellion, revolution, military action or usurped power, martial law, act of public enemy, epidemic or embargo;
(e) ionising radiation, radioactive contamination, nuclear contamination or toxic, chemical or biological contamination;
(f) legislative, judicial, executive or administrative order, act or prohibition, imposed by any jurisdiction or government (whether Australian or foreign) and whether of general or particular application; or
(g) that is beyond the reasonable control of a party, was not caused by an act or omission of the party, and could not have been prevented, avoided, mitigated, remedied or overcome by the party taking steps a prudent and reasonable person would have taken in the circumstances.

Intellectual Property means any and all:

(h) current and future registered and unregistered rights in respect of copyright, designs, trade marks, trade names, business names, trade secrets, know-how, confidential information, patents, inventions and discoveries;
(i) applications for the grant of any of the above;
(j) other rights of a similar nature arising (or capable of arising) under statute or at common law under the Commonwealth of Australia or anywhere else in the world;
(k) other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation 1967

Law means any requirement of statute, rule, regulation, proclamation, order in council, ordinance or by-law whether Commonwealth, state, territorial or local.

Loss means any loss or damage of any kind (including liability to a third party).

Network Provider means the provider of any telecommunications network necessary for the WEX Motorpass Telematics services to be operable.

Notification Event has the meaning given in the WEX Card Terms and Conditions of Account.

SIM means a subscriber identity module which is an electronic memory device for storing user specific data to allow controlled and secure use of a Device using the network of a Network Provider.

Statement has the meaning given in the WEX Card Terms and Conditions of Account.

WEX means WEX Australia Pty Ltd, its related bodies corporate under the Corporations Act 2001 (Cth) and its agents and service providers.

WEX Motorpass Telematics Call Centre means the call centre provided for you for the purposes of the WEX Motorpass Telematics services which can be contacted via 1300 118 437.

You and your means the WEX Motorpass Card Account holder that has applied for a WEX Motorpass Telematics account and who has been provided with that account.

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