

General Terms and Conditions (GTC) for EETS Providers

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1. PURPOSE AND GENERAL PRINCIPLES OF THE CONTRACT

1.1 Rights and obligations of the Toll Charger and the EETS Provider

The reciprocal rights and obligations of the Toll Charger on the one hand and the EETS Provider ("**EP**") on the other hand in connection with the performance of electronic toll services ("**EETS**") in the EETS domain of ASFINAG are provided in the „EETS contract“. This contract covers the present General Terms and Conditions (GTC), the EETS Domain Statement issued by Autobahnen und Schnellstraßen-Finanzierungs- Aktiengesellschaft and additional contractual agreements between the Toll Charger and the EETS Provider.

The services, which are provided in connection with EETS to EETS Users are hereinafter referred to as "**SERVICES**".

The Toll Charger shall transmit to the EP and the EP shall pay the Toll Charger for the SERVICES, which the EP may then charge to his EETS Users in the name and on behalf of the Toll Charger.

As an alternative, the EP may also invoice the SERVICES in his own name and on his own account from the EETS user.

1.2 EP's Warranties

The EP hereby warrants that it is duly registered as an EETS Provider in the Member State in which its branch is located, that it meets all requirements of Article 3 of the Decision of the European Commission 2009/750/EC and the relevant implementing legislation in the Member State in which its branch is located, and that it has all further requisite administrative authorisations and permissions to charge the EETS. The EP furthermore warrants that it will ensure that the abovementioned situation remains valid for the entire duration of this contract.

The EP shall indemnify and hold harmless the Toll Charger against any legal action brought in this regard.

1.3 Basic Principles of the Contractual Relationship

The contractual relationship between the EP and the Toll Charger is determined by the following, in decreasing order of priority:

- the Austrian Federal Roads Toll Act 2002, the Toll Tariff Ordinance and the Toll Road Stretches Exemption Ordinance, as amended;
- the Tolling Regulations for Austrian Motorways and Expressways, as amended;

- any other additional written contractual agreements ;
- the present General Terms and Conditions;
- the requirements for the EETS area of the Toll Charger, as amended; and the
- Additional appendices to the requirements for the EETS area.

The EP is under a duty to ensure that these rules are respected for the duration of its contractual relationship with the Toll Charger.

1.4 Amendments

The Toll Charger reserves the right to amend these GTC at any time, in particular if so required for the purposes of implementing or adapting to amended legal or administrative requirements for the EETS domain.

Any such amendments must be notified to the EP in writing within a reasonable period prior to coming into effect.

1.5 Test Run

Where the Toll Charger has not granted authorisation for the unlimited use of a specific type of On-Board Equipment, the EP shall be required to adhere to the concrete recommendations and specifications of the Toll Charger when performing test runs and has to immediately stop the test run if asked to do so by the Toll Charger.

2. CONNECTING TO THE TOLL SYSTEM FOR EETS USERS

2.1 Control Obligations, Data Collection, Equipping EETS Users with On-Board Equipment

The EP shall equip its EETS Users with an approved On-Board Equipment conforming to Annex IV of the Decision of the European Commission 2009/750/EC and meeting the requirements for the EETS domain of the Toll Charger.

The EP shall ensure, in accordance with the stipulations applicable to the EETS domain, that all parameters required for the operation of the toll system and the performance of the SERVICES are personalised within the authorised On-Board Equipment.

The EP shall ensure that all data personalised in the authorised On-Board Equipment (e.g. licence plate number as well as in particular all parameters required for determining the tariff to be paid: vehicle category, number of axles, EURO emission class, etc.) is complete and accurate.

The EP shall ensure that all data personalised in the authorised On-Board Equipment is updated immediately if the EETS User makes any changes to their vehicle (e.g. by exchanging the vehicle while keeping the registration plate, etc.).

The EP shall provide the Toll Charger, on the Toll Charger's request, with copies of all documentary evidence allowing the data personalised within the authorised On-

Board Equipment to be determined. All further obligations as set out by the EETS Domain Statement (and the Annexes pertaining thereto) shall also apply.

2.2 Authorised On-Board Equipment

When registering its EETS Users and equipping them with an authorised On-Board Equipment as part of imposing the relevant obligations on those EETS Users, the EP must ensure that the On-Board Equipment is correctly fitted to the EETS User's vehicle and is functional, in such a manner that the toll charging obligations according to the requirements in the Austrian tolling act and the Tolling Regulations can be met by the EETS User concerned.

All legitimate EETS Users of the EP will be deemed to be connected to the Post-Pay procedure of the Toll Charger's toll system by being equipped with an accepted On-Board Equipment of the EP.

The specific details of the data to be recorded in the On-Board Equipment are set out in the document „EETS DSRC Tolling Data Specification“ [EETS_data].

Where an authorised On-Board Equipment is issued by the EP and not locked by the EP in accordance with Section 3 of these GTC, using the toll road network with that On-Board Equipment at the expense of the EP for the vehicle registered by the latter shall be deemed to be legitimate for the Toll Charger. The Toll Charger is not under any obligation to carry out additional checks. The EP is not entitled to object to any illegitimate use by the Toll Charger. The EP shall be liable for the behaviour of the EETS Users who use an accepted On-Board Equipment of the EP as well as for its own behaviour (in particular for the payment of the toll).

2.3 User List

The EP shall supply the Toll Charger periodically, as a rule once a day, and in accordance with the relevant provisions on data protection, with electronic information on the contractual data of its users via data transfer in file format in accordance with the document [EP_IF] ("**User Data**"), for the purposes of (i) sample checks of EURO emission classes; and (ii) enforcement (particularly to identify toll dodgers and the subsequent application of substitute tolls on the latter). The EP shall ensure that user data is properly provided to server specified by the toll charger (referred to as "Easy Go Hub"). The risks and costs associated with this transfer shall be borne by the EP. The individual details of this procedure are set out in the document [EP_IF].

The EP is obliged to update the user list as scheduled and is responsible for the accuracy and completeness of the user data. The Toll Charger shall not be under any obligation to verify the accuracy or completeness of the user list.

The user list shall not count as legitimate proof that EETS Users are entered on the system, and in the event of a conflict between an accepted On-Board Equipment (as identified by an authorised EFC ContextMark) and the user list, the On-Board Equipment identified by an authorised EFC ContextMark shall prevail.

3. BLOCKING OF ON-BOARD EQUIPMENT

3.1 Blocking of On-Board Equipment; Effect

Blocking of On-Board Equipment, for example if a vehicle and/or the On-Board Equipment is lost or if the EETS User loses its status as a legitimate contractual partner of the EP, shall be the responsibility of the EP. The EP shall maintain a list of blocked On-Board Equipment and shall update this list on an ongoing basis.

Once the Toll Charger has been informed by the EP that an On-Board Equipment has been blocked, and has received details of the relevant PAN (personal account number) and On-Board Equipment number of the equipment to be blocked following a transfer of the updated black list, the Toll Charger shall exclude the blocked On-Board Equipment from all further toll charging within six hours after receipt of said data on a specified server („EasyGo Hub“).

3.2 Black List data

The EP shall provide electronic Black List data in file format in accordance with the document [EP_IF] on a periodical basis, as a rule once a day, so as to enable all On-Board Equipment no longer authorised for use to be identified by the EP. The EP shall ensure that Black List data is properly provided to a specified server („EasyGo Hub“) or properly transferred to a central server or other recipient location still to be specified by the Toll Charger. The risks and costs associated with this transfer shall be borne by the EP. The Toll Charger is obliged to accept the data transferred or to retrieve any data provided and to confirm the receipt. Details of this procedure are set out in the document [EP_IF].

Updating the blocked data in the appropriate manner from the Toll Charger's perspective shall be the responsibility of the Toll Charger, which shall bear the costs associated therewith.

3.3 Transfer Problems

If the blocked data cannot be properly transferred or provided by the EP for technical or other reasons, the Black List applicable at this point shall continue to apply. If the Black List Data cannot be updated for technical or any other reasons, this shall be communicated as soon as possible. In this case, the EP shall provided the Toll Charger with the necessary support without delay, in order to guarantee the provision or transmission of the blocked data.

If the Black List Data cannot be updated for reasons attributed to the Toll Charger, the risk of use or misuse of any no longer authorised On-Board Equipment shall be transferred to the Toll Charger six hours after receipt by the EasyGo Hub (see also Section 3.4).

3.4 Transfer of Risk

Starting with the update of the Black List Data on the Road-Side Equipment but at the latest six hours after receipt by the EasyGo Hub the Toll Charger shall become liable for charging for toll services for the blocked On-Board Equipment of the EP. All SERVICES incurred for registered EETS Users of the EP up to that point will be charged to the EP and shall be fully borne by the EP.

4. ENFORCEMENT

4.1 Identification as EETS User

The EP is bound by a duty to collaborate and by subsidiary liability in connection with penalties for the breach of the Tolling Regulations by users of the toll road network. This duty to collaborate and the liability of the EP are set out and regulated by the requirements for the EETS domain of the Toll Charger. In case the EP does not submit customer data or does not settle the substitute toll in due time upon request of the Toll Charger, a fee in the amount of the substitute toll becomes due after setting a time limit.

5. COSTS, CHARGING

5.1 Types of costs

The EP shall pay the Toll Charger

- a one-off reimbursement of costs for the implementation of system access for the EP for its EETS Users to the Toll Charger's system;
- a reimbursement of costs for Suitability for Use testing and certification of the EP's interoperability components.

The EP shall be liable to the Toll Charger for all tolls incurred by the EP's EETS Users on the system of the Toll Charger with the help of the On-Board Equipment issued by the EP and not blocked during use of the SERVICES. It shall receive a remuneration in consideration for its payment guarantee and shall be compensated for the charging and collection expenditure incurred by it.

The amount of the costs and remuneration compensation are determined in the EETS contract.

5.2 Charging

5.2.1 Charging data

The data for all post-pay toll transactions for each On-Board Equipment will be recorded by the Toll Charger electronically and transmitted in electronic form to the EP. This invoicing data shall be transferred electronically on a daily basis in accordance with the document [EP_IF], and within 90 days at the latest, calculated from 00:00 of the day following the date on which the SERVICE is used. The costs of this electronic transfer shall be borne by the Toll Charger.

The EP must inform the Toll Charger by e-mail or via other means of communication within one week if the invoicing data is not, or incorrectly, transferred. After the invoicing data has been transmitted, the EP shall have 48 hours (in words: forty-eight hours) to confirm electronically the daily totals or refuse electronically individual transactions, giving specific reasons. If the EP does not expressly refuse any or all invoicing data within this period, that data shall be deemed accepted by it. Any refusal to authorise a transaction by the EP shall not prevent the relevant toll claim of the Toll Charger from falling due to the EP. The Toll Charger may take all legal steps to collect payment from the EP for all invoicing data.

5.2.2 Payment/Default interest

The amounts resulting from the invoicing data must be paid to the Toll Charger without deduction within 7 days after transmission of the invoicing data. Bank transfers are to be carried out without bank fees for the Toll Charger and must be made exclusively in Euros. All bank fees levied by the bank with which the Toll Charger holds its account shall be borne by the Toll Charger.

By way of explanation, the terms “day“ and “days“ mean calendar day(s).

Any invoices paid late shall entitle the Toll Charger to levy late payment interest under §456 Business Enterprise Code at 9,2% above the basic interest rate of the European Central Bank beginning when payment is due.

If any invoicing data due are not paid, notwithstanding formal notice to comply and a 14 day period of 8 days has been granted for payment and under the threat to temporarily suspend the approval of the EP, the Toll Charger shall be entitled to suspend the approval of the EP to collect tolls immediately and without notice. In the event of a further non-payment of outstanding invoicing data, the Toll Charger may, under the threat of termination of the EETS contract immediately and without notice after a final grace period of 14 days, and to indemnify itself under the guarantee of performance in accordance with Section C) 1.1 of the EETS Domain Statement, where such guarantee has been given, be held harmless, and take any other measures available to it under the law.

5.2.3 Complaints

Complaints by EETS Users of the EP that are not related merely to a failure to invoice on SERVICES by the EP shall be received by the EP, examined and where appropriate, transmitted to the Toll Charger (including the determined reasons) for the provision of a credit note. The Toll Charger shall provide assistance via a support helpline with any such complaints.

Complaints must be received by the Toll Charger within 8 months after the service has been used. For justified claims, the Toll Charger shall credit the unjustly debited amount to the EP.

5.3 **Post-Pay**

Legitimate EETS Users of the EP shall count as toll payers via the Post-Pay procedure (according to the purposes of the Tolling Regulations) if they use authorised On-Board Equipment issued by the EP.

6. **FINANCIAL SECURITY**

The EP must provide a financial security in accordance with the EETS Domain Statement, point C) 1.1.

If the receivables of the Toll Charger against the EP for whatever reasons and at the discretion of the Toll Charger can no longer be fully or partly insured, the Toll Charger will inform the EP about this in written form. In this case the Toll Charger is entitled to terminate the EETS contract without further notice provided that the EP does not provide a bank guarantee, according to the conditions set out in the EETS

Domain Statement, within 14 days after being notified by the Toll Charger that full insurance coverage ceased to exist.

In addition the following rules apply in connection with the bank guarantee:

If a bank guarantee is not replaced within the period specified in Section C) 1.1 of the EETS Domain Statement, the Toll Charger shall be entitled to draw the original bank guarantee without further notice and to retain the amount obtained as a security for any further claims and to terminate the EETS contract with the EP immediately and without notice. If the Toll Charger draws the original bank guarantee because it has not been replaced in due time, but does not terminate the EETS contract, the Toll Charger must repay the sum drawn as a security, without interest and plus any bank fees incurred, less any claims of the Toll Charger against the EP if a bank guarantee meeting the requirements in the EETS Domain Statement for the EETS domain under Section C) 1.1 is subsequently submitted.

7. DATA PROTECTION, CONFIDENTIALITY, INTELLECTUAL PROPERTY RIGHTS

7.1 Use of Data

The Toll Charger shall be entitled to use the data of individual toll transactions and personal data of EETS Users, together with other personal data of real or legal persons, that it processes as part of levying tolls or that comes to its knowledge in this context, in accordance with the provisions of the laws, the Tolling Regulations and contractual obligations between the Toll Charger and the EP. The Toll Charger may use the recorded enforcement data (pictures), data from possible individual toll transactions and user data for (i) random checks of EURO emission classes; and (ii) enforcement (particularly for identifying toll dodgers and compelling them to pay substitute tolls) . The EP shall be obliged to disclose data for the above-mentioned purposes upon reasoned request from the Toll Charger against reimbursement of the costs related to such disclosure. The EP must conclude the requisite contractual stipulations when contracting with EETS Users to authorise it to disclose that data, where that authorisation is not granted automatically under the applicable legislation.

7.2 Confidentiality

Both Parties undertake to observe confidentiality with respect to all confidential information (particularly with regard to technical qualities, specifications and functionalities as well as commercial conditions) they receive from the other Party in connection with the performance of the contract, also beyond termination of the contractual relationship. Passing on confidential information to companies in the same Group shall not count as a breach of this duty of confidentiality.

This duty of confidentiality shall not apply to information that is or becomes generally known through no fault of either Party. It shall also not apply to information already available to the other Party before it was disclosed or to information developed independently by that Party. The burden of proof for the application of any of the above-mentioned exceptions shall be on the Party seeking to avail itself of that exception.

The Parties shall ensure that their employees are bound by an obligation to maintain data secrecy. In particular, the duty of employees not to disclose data shall survive

termination of their employment with the relevant Party. If confidential information is passed on to Group companies or third parties for which a Party works, a corresponding duty of confidentiality must be provided for.

Technical information pertaining to On-Board Equipment that one Party receives from the other as part of the performance of the EETS contract must not be made available to third parties.

7.3 EP's Duty to inform

The EP shall inform EETS Users appropriately and fully of the use made of their personal data, particularly if that data is transferred to the Toll Charger in cases of enforcement and for random checks of EURO emission classes, and shall inform them of their rights under applicable data protection rules.

7.4 Intellectual Property Rights

The Toll Charger holds the CTM and IR intellectual property rights and registered trademarks as e.g. for the trademarks "GO", "GO Maut", "GO Direkt" and "GO Box". The EP shall not affix the registered trademarks owned by the Toll Charger to its goods and services, particularly in connection with the performance of the SERVICES, or use marks similar to one or more of those trademarks, and shall not use the brands of the Toll Charger in its external communications.

8. DURATION, TERMINATION

8.1 Duration / Termination without Cause

The EETS contract shall come into effect on the date on which it is signed by the Parties to the contract and shall be for an unlimited time.

The EETS contract may be terminated by the EP by giving at least three-months' written notice on the last day of each month to the most recent address notified by the other contracting Party.

The Toll Charger may not terminate the EETS contract without cause.

8.2 Extraordinary Termination

The EP shall be entitled to terminate the EETS contract without notice for a compelling reason if further performance of the EETS contract would be unreasonable owing to factors attributable to the Toll Charger.

Similarly, the Toll Charger shall be entitled to terminate the EETS contract without notice for a compelling reason if further performance of the EETS contract would be unreasonable owing to factors attributable to the EP. These reasons include the continued failure to respect a tolerance factor in one of the transaction quality parameters set out in the EETS Domain Statement for two consecutive half-year periods, and the reasons for termination expressly set out in these GTC (as e.g. under point 6). These reasons shall also include any further serious breach of contract by the EP where that breach continues unremedied despite instructions from the Toll Charger to remedy it, or in the event of repeated breaches despite warnings from the Toll Charger.

8.3 Restrictions on new contracts following Extraordinary Termination

If the contract is extraordinarily terminated on justified reasons by the Toll Charger, the latter shall be entitled to refuse to conclude a new EETS contract with the EP or with any legal person substantially identical with the EP with which the contract was terminated in terms of ownership or management structure if it cannot be demonstrated that reliable remedial measures have been taken to ensure that similar breaches of contract will not arise again in the future.

8.4 Automatic Termination

If the EP fails to adjust its system within a reasonable time after the toll system in the EETS domain has been modified and the performance of the SERVICES thereby becomes impossible, the EETS contract shall end automatically on the date on which the SERVICES can no longer be performed.

For clarification purpose it is noted, that in case of an automatic termination according to paragraph 8.4 both the EP as well as the Toll Charger are entitled to an extraordinary termination of the EETS contract as stipulated in paragraph 8.2

8.5 EP's Duty to Inform

The EP undertakes to inform EETS Users in good time, in the event that this contract is terminated or ceases to apply in practice for any reason, that they are no longer authorised to use the SERVICES via their On-Board Equipment. **Fehler! Verweisquelle konnte nicht gefunden werden.** This also applies for a temporary suspension as well as a termination of the EETS contract.

The Toll Charger shall not be liable for any loss or damage caused to the EP's EETS Users resulting from a temporary suspension of the EETS contract, from a termination of the contract or failure by the EP to reach an agreement in good time.

9. LIABILITY AND LIMITATIONS OF LIABILITY; PENALTIES

Both Parties shall be liable in accordance with the general principles of liability for illegal acts and breaches of contract. Any specific liability without fault or liability the extent of which is determined by these GTC or the EETS Domain Statement shall remain unaffected.

Both Parties shall however be entitled to seek restitution for any loss or damage suffered in excess of the penalty.

10. JURISDICTION, APPLICABLE LAW

The EETS contract shall be subject to Austrian law, with regard to its conflict of law rules. Any legal disputes arising under or in connection with the EETS contract shall fall within the exclusive jurisdiction of the Vienna Commercial Court. The language of the contract shall be German.

11. REFERENCED DOCUMENTS

[EP_IF]	EETS Back Office Interface Specification
[EETS _data]	EETS DSRC Tolling Data Specification