

# **EETS Domain Statement of Autobahnen- und Schnellstraßen- Finanzierungs- Aktiengesellschaft (ASFINAG)**

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# 1. EETS domain and toll charger in Austria

This document contains the specifications for providers of the European Electronic Toll Service (EETS provider, "EA") within the meaning of § 7 BStMG. It is therefore addressed to EETS providers (EA) as defined in Directive EU/2019/520 on the interoperability of electronic road toll systems and the facilitation of the cross-border exchange of information on the failure to pay road fees in the Union. In accordance with Article 6(3) of the Directive, the acceptance of an EA by the toll charger is subject to the compliance by the EA with the obligations and general conditions in this specification for the EETS domain.

Fulfilment of the following requirements forms the basis for concluding a contract as an EA in the EETS domain of Autobahnen- und Schnellstraßen-Finanzierungs-Aktiengesellschaft (ASFINAG).

## 1.1. EETS domain

The EETS domain of ASFINAG comprises the federal roads (motorways and motorways) in Austria that are subject to tolls. Tolls are payable for the use of these roads by motor vehicles. For multi-track motor vehicles with a maximum permissible total weight of more than 3.5 tonnes, a distance-related toll applies. The toll is collected using a fully electronic toll system.

The entire road network subject to tolls is divided into individual toll sections with respect to payment of the distance-related toll, with the toll being collected separately for each individual toll section.

The legal obligation to pay a distance-related toll for the use of federal roads is laid down in the Federal Roads Toll Act (BStMG) (see §§ 6ff BStMG). On the basis of § 14 of the BStMG, ASFINAG must lay down more detailed provisions on the use of toll routes in the tolling regulations. The tolling regulations require the approval of the Federal Minister of Climate Action, Environment, Energy, Mobility, Innovation and Technology in agreement with the Federal Minister of Finance.

The requirements for the proper payment of the distance-related toll are contained in Part B of the tolling regulations. The tolling regulations are available on the internet at <https://www.asfinag.at/maut-vignette/mautordnung/>.

The rights and obligations that affect the customers of an EA when using the EETS domain of ASFINAG are set out in the tolling regulations. These regulations form the basis of the present EETS domain statement and must be observed by the EA and its customers (EETS users) in any case in their currently valid version.

## 1.2. Toll charger

The toll charger within the meaning of Directive EU/2019/520 for federal roads (motorways and motorways) in Austria is Autobahnen- und Schnellstraßen- Finanzierungs-Aktiengesellschaft with its registered office in Vienna. ASFINAG has concluded an operating agreement with ASFINAG Maut Service GmbH (MSG), under which MSG (as vicarious agent of ASFINAG) operates a toll system for the collection of tolls for vehicles on the road network subject to tolls.

ASFINAG, represented by MSG, is also the main service provider in ASFINAG's EETS domain. The requirements and obligations in this regard are derived from the provisions in the Federal Roads Toll Act.

The following email address is available for contacting MSG in connection with EETS: [eets@asfinag.at](mailto:eets@asfinag.at).

## **2. Basis of the contractual relationship**

### **2.1. Required registration as an EA**

The EA guarantees to the toll charger that it is duly registered as an EETS provider in its Member State of establishment, that it fulfils the requirements of Directive EU/2019/520 and the corresponding transposition acts in its Member State of establishment, and that it has all other necessary official permits and authorisations in order to be allowed to provide EETS.

The EA further guarantees to the toll charger to maintain the aforementioned characteristics throughout the term of this contract. The EA shall indemnify and hold the toll charger harmless in this respect.

### **2.2. EETS contract**

The mutual rights and obligations of the toll charger and the EA in connection with the provision of the European Electronic Toll Service ("EETS") in the EETS domain of ASFINAG shall be governed by the "EETS contract". This contract comprises the EETS domain statement (including the general terms and conditions contained in this domain statement), as well as supplementary contractual agreements between the toll charger and the EA.

The toll charger has the right to change the EETS domain statement at any time, in particular insofar as this serves to implement or adapt to changes in the legal or regulatory framework conditions for toll collection or the provision of EETS. The toll charger will notify the EA of such changes in writing and within a reasonable period of time before they come into force.

The EA is obliged to inform its customers (EETS users) of their obligations under the BStMG and the tolling regulations.

In the past REETS contracts between the toll charger and the EA respectively service provider were concluded. These contracts shall be replaced by an EETS contract from the date of entry into force of the Directive EU/2019/520 which is the 19<sup>th</sup> of October 2021 on.

### **3. Acceptance in the EETS domain of ASFINAG**

Acceptance to unrestricted operation as an EA in the EETS domain of ASFINAG is subject to the completion of the following steps in the specified order. The same acceptance procedure applies to all EA. The average duration of the acceptance procedure is usually 18 months. The duration depends in particular on the successful completion of the suitability for use tests and can therefore vary accordingly.

#### **3.1. EA registration**

The EA registers with the toll charger and declares its intention to become an EA in the toll charger's EETS domain.

The EA shall provide the toll charger with proof of its registration as an EA in its Member State of establishment.

#### **3.2. Technical and commercial concept of the EA**

The EA shall draw up a technical and commercial concept for its activities as an EA in the EETS domain of ASFINAG. This concept, based on a template provided by ASFINAG, must contain at least plausible and coherent information on the following points, whereby the toll charger must also be provided with corresponding evidence and all necessary information at its request:

- designation of the types of on-board equipment (hereinafter referred to as "on-board units"), including hardware and software versions, as well as proof of equivalence with the on-board unit type notified at the time of registration as an EA, sources of supply and the relevant approval documents;
- adequate quality assurance system;
- adequate staffing;
- appropriate customer management concept;
- sufficient financial capacity and creditworthiness of the EA, including in particular evidence that the financial means for the implementation of the concept are secured, at least for the phase until the start of operation and the first two years of operation (e.g. own funds commitments, financing commitments, etc.);
- time schedule;
- risk management plan (e.g. interruption of business operations, liquidity risk).

#### **3.3. Plausibility check by the toll charger**

The toll charger checks the plausibility of the concept submitted by the EA with regard to compliance with the requirements in accordance with the EETS domain statement and, if necessary, prepares improvement requests or catalogues of concerns. The EA must comply with these or plausibly eliminate the concerns.

The toll charger will inform the EA if the submitted concept meets the requirements. In this case, the toll charger will invite the EA to conclude the EETS contract.

### **3.4. Conclusion of an agreement**

Subsequently, the EA and the toll charger will conclude the EETS contract.

Approval for unrestricted operation can only take place if the suitability for use test has been successfully completed and the financial guarantee has been provided.

If release for unrestricted operation does not take place for reasons for which the toll charger is not responsible, the EA shall reimburse the toll charger for the proven costs incurred up to that point. In this case, the toll charger is entitled to terminate the EETS contract extraordinarily.

### **3.5. Suitability for use test**

With the support of the EA, the toll charger carries out the suitability for use test with regard to the interoperability components of the EA. The assessment of conformity with the specifications and the suitability for use of interoperability constituents is described in more detail in the annex "EETS Acceptance Procedures" [EETS\_acc]. The suitability for use test also includes a pilot operation which must be successfully completed end-to-end; i.e. sufficient transaction quality in accordance with the requirements of the annex "Qualitätsmessung für EETS-Anbieter" [EP\_QM], a functioning billing interface according to annex „EETS Back Office Interface Specification“ [EETS\_IF], a functioning blocking list data exchange, a functioning user list data exchange and a concept for a customer hotline in accordance with the provisions of these specifications for the EETS domain. The pilot operation shall successfully fulfil the requirements according to [EETS\_acc] in order to be considered positively completed.

Only on-board units that have been submitted in the technical and commercial concept will be admitted to the suitability for use test. In the event that new types of on-board unit are used by the EA or changes are made to a type of on-board unit (including software) that may affect the toll collection quality in Austria, or changes are made to the interfaces or other functionalities within the framework of the business processes relating to EETS at the instigation of the EA, parts of the suitability for test or the entire suitability for use test must be repeated, depending on the extent of the change. The costs for this are to be borne by the EA in accordance with clause 4.1.

The toll charger shall cooperate in a non-discriminatory manner with all EA respectively the manufacturers or notified bodies within the framework of the suitability for use test.

The toll charger has a test environment for carrying out the suitability for use test. Further information on this can be found in [EETS\_acc].

### **3.6. Financial guarantee**

The EA must provide the toll charger with a financial guarantee in accordance with section 4.2 of this EETS domain statement.



### **3.7. Pilot operation**

As soon as the end-to-end tests within the scope of the suitability for use test have been successfully completed, the EA will be released for pilot operation.

As long as the toll charger has not issued an approval for unrestricted operation of a specific type of on-board unit, the EA is only entitled to the pilot operation in accordance with the specific requirements and specifications of the toll charger and must terminate pilot operation immediately if requested to do so by the toll charger.

### **3.8. Release for unrestricted operation**

The toll charger will explain the final assessment of the conformity to specifications and the suitability for use of the interoperability constituents in detail and inform the EA.

In case of a successful completion of the pilot operation, the toll charger will permit the EA unrestricted operation. This will be done via written notification by the toll charger. In this notification, the toll charger will present the assessment of conformity to the EA and, in particular, send test reports confirming the successful completion of the suitability for use.

### **3.9. Start of operation**

The EA starts its unrestricted operation in the toll charger's EETS domain.

## **4. Economic conditions**

### **4.1. Costs**

#### **4.1.1. Costs for a new EA**

The toll charger will charge the EA a lump sum of EUR 70,000 (net) for the costs incurred during the approval procedure. This amount includes in particular the costs incurred by the toll charger for the plausibility check and in the course of the suitability for use test (including all interface tests).

In addition, all costs charged to the toll charger by third parties for the on-board unit tests will be passed on in full by the toll charger to the EA. In addition, the toll charger will charge 15% of these costs to the EA for internal expenses of the toll charger within the context of the on-board unit tests.

The amounts are due for payment within 28 days from the date of the toll charger's invoice.

#### **4.1.2. Costs for an already approved EA**

In the case of an already approved EA, it may be necessary in the event of the use of new types of on-board unit by the EA or changes to an already approved on-board unit type of the EA (e.g.: software update), to repeat certain on-board unit tests.

A fee of EUR 3,000 (net) will be charged for the document check of a new type of on-board unit. In the case of changes to an already approved type of on-board unit, EUR 1,000 (net) will be charged for this test.

ASFINAG will fully charge to the EA all costs of the toll charger which are charged to the toll charger by third parties for a repetition of the tests. In addition, the toll charger will charge 15% of these costs to the EA for internal expenses of the toll charger within the scope of the tests.

Within the scope of this document check, it will be determined which test scenarios are to be carried out for the respective type of on-board unit in accordance with Annex [EETS\_acc]. The EA will be invoiced EUR 500 (net) for each required test scenario carried out by the toll charger.

The amounts are due for payment within 28 days from the date of the toll charger's invoice.

### **4.2. Financial guarantee**

After conclusion of an EETS contract and for the duration of the contractual relationship, the toll charger shall take out bad debt insurance to cover the risk of non-payment for claims of the toll charger against the EA. The costs of this insurance shall be borne by the toll charger. The assessment of whether insurance coverage can be offered for the default of the toll charger's claims against the EA shall be made by the insurance company. The toll charger is free to choose the insurance company.

In the event that a bad debt insurance to cover the risk of non-payment for claims of the toll charger against the EA cannot be taken out or can no longer be taken out in full, the following regulation shall apply:

In order to secure payment claims concerning toll revenues, the EA shall provide the toll charger within 14 days after request:

- with an abstract, irrevocable, unconditional **bank guarantee** payable on first demand by the beneficiary, without any examination of the legal grounds and waiving any objection arising from the underlying legal relationship, from a credit institution established in a Member State of the EEA or the EU with at least a Single A rating (Standard & Poor's) or A2 (Moody's) (or with this equivalent rating), or

in the amount of an average monthly turnover ("**Collateral**").

The amount of the Collateral shall be determined by the toll charger on the basis of the amount of toll transactions paid by the EA in the previous year. If the EA is a company with which there has been no business relationship within the framework of EETS in the past, the amount shall be determined on the basis of the expected monthly average amount of toll transactions that the EA is expected to pay on the basis of the expected revenues estimated in its business plan. The EA is obliged to provide the toll charger with the comprehensible evidence and documents required to determine the amount of the Collateral in good time before the conclusion of the contract and must be available for queries from the toll charger. If, despite a single request, the EA does not provide or does not subsequently provide any comprehensible evidence or does not provide the required information, the amount of the Collateral shall be estimated and determined by the toll charger at its reasonable discretion on the basis of the expected average monthly turnover.

The term of the bank guarantee must be at least 12 months and must be extended for at least 12 further months at the latest 14 days before the end of the term. In the case of an extension of the Collateral, the average monthly turnover of the turnover processed by the toll charger via the EA over the last 12 months shall be taken into account. In the event of a non-timely extension, the toll charger is entitled to draw on the entire bank guarantee or to realise the equivalent financial instrument acceptable to the toll charger and to retain the amount thus obtained as collateral for toll revenues for the time being, until a new bank guarantee or an equivalent financial instrument acceptable to the toll charger is available from the EA, but is also entitled to terminate the EETS contract with the EA immediately and without notice. In the event that the toll charger draws on the original bank guarantee but does not terminate the EETS contract in the event of a failure to replace it in due time, the toll charger shall repay the drawn security amount to the EA against subsequent presentation of a bank guarantee, without interest and less any bank charges and less the toll charger's outstanding claims against the EA up to that point.

The withdrawal of the bank guarantee does not release the EA from the timely payment of the transmitted toll claims.

### 4.3. Settlement

The toll services provided to EETS users in the course of the provision of the electronic toll service are hereinafter referred to as "**SERVICES**".

The toll charger transmits to the EA and the EA pays the toll charger for the SERVICES. The EA, in turn, may charge its EETS users for the SERVICES on behalf of and for the account of the toll charger. Alternatively, the EA may also charge the EETS user for the SERVICES in its own name and for its own account.

By paying the toll to its EA, the EETS user is deemed to have fulfilled its payment obligations to the toll charger. However, if two or more on-board units are installed or carried in a vehicle, the EETS user is responsible for using or activating only one corresponding on-board unit for ASFINAG's EETS domain.

The data of all postpaid toll transactions per on-board unit are recorded electronically by the toll charger and transmitted to the EA in electronic form. The transmission of this billing data according to document [EP\_IF] shall take place daily in electronic form; however, at the latest within a period of 90 days, calculated from 00:00 hours of the day following the use of the SERVICE. The costs of the electronic transfer shall be borne by the toll charger.

The EA shall notify the toll charger of missing or incorrect transmissions of the billing data by e-mail or other suitable means within one week. After transmission of the billing data, the EA shall electronically confirm the daily rates within 48 hours (in words: forty-eight hours) or electronically reject individual transactions, stating the exact reasons. If the EA does not explicitly reject individual pieces of or all settlement data within this period, these are deemed to have been accepted by it. The rejection of a transaction by the EA does not suspend the due date of the toll charger's toll claim against the EA. The toll charger is free to take any legal action against the EA to recover payment for justified claims arising from billing data.

In cases where, in determining the toll applicable to a particular vehicle, there is a difference between the vehicle classification used by the EA and that followed by the toll charger, the toll charger's classification shall prevail unless an error can be demonstrated.

#### 4.3.1. Remuneration

The toll charger shall grant the EA a remuneration for its services for the EETS domain of ASFINAG. This remuneration includes all services provided by the EA in the course of its activities as such, in particular the EA's services in the area of billing toll services, managing customer relationships and making on-board units available to the EETS user.

The amount of the remuneration is set out in the EETS contract.

The toll charger shall pay the remuneration from the time the EA commences operations. The start of operation shall be deemed to be the release date for pilot operation in the EETS domain of ASFINAG as specified by ASFINAG and communicated to the EA in writing.

The method by which the EA's remuneration is determined is transparent, non-discriminatory and the same for all EA authorised in ASFINAG's EETS domain.

The EA's remuneration consists of a discount ("Disagio"), the amount of which is determined on the basis of the respective settled monthly net sales of the EA. The procedure for determining the amount of the Disagio takes into account the services provided by the EA and follows the same structure as the remuneration of the main service provider. However, since the main service provider also performs other tasks in ASFINAG's EETS domain, not all cost blocks that are remunerated to the main service provider are taken into account when calculating the EA's remuneration.

The following main tasks are exclusively provided by the main service provider in the EETS domain of ASFINAG: the establishment, maintenance and operation of a distribution point network in Austria as well as the acceptance of all customers regardless of their creditworthiness (contracting obligation) by the main service provider (§ 7 Abs 1 BStMG).

#### **4.3.2. Payment/interest on arrears**

The amounts resulting from the billing data are to be paid to the toll charger without deductions within 28 days of the transmission of the billing data. The transfers are free of charge for the toll charger and are to be made exclusively in Euros. Any charges of the bank holding the toll charger's account shall be borne by the toll charger.

It should be noted that the term "day" or "days" refers to calendar days.

In the event of late crediting, the toll charger shall be entitled to charge interest on arrears in accordance with Section 456 of the Austrian Commercial Code (UGB) at a rate of 9.2% above the base interest rate of the European Central Bank from the due date.

If due billing dates are not paid despite a reminder and the setting of a grace period of 8 days and the threat of temporarily suspending the authorisation of the EA, the toll charger has the right to immediately suspend the authorisation of the EA to pay tolls without notice. If payment of due billing data is still not made, the toll charger may, after setting a final grace period of 14 days and threatening to terminate the contract, immediately terminate the EETS contract without notice, indemnify itself under the performance bond in accordance with section 4.2 of these specifications for the EETS domain, if such a bond has been issued, and take all other measures to which it is legally entitled.

## **5. Additional tasks and duties of the EA**

### **5.1. Providing its EETS users with on-board units**

The EA shall provide its EETS users with an on-board unit approved in accordance with Directive EU/2019/520 and the specifications for the EETS domain.

The EA shall ensure, in accordance with the EETS domain statement that all parameters required for the use of the toll system and for the provision of the SERVICES are personalised in the approved on-board unit.

The EA shall ensure that the data personalised in the approved on-board unit (such as vehicle license plate number and, in particular, all parameters required for the calculation of the tariff: vehicle category, number of axles, EURO emission class etc) are complete and correct.

The EA shall ensure that it updates the data personalised in the approved on-board unit immediately if the EETS user makes changes to its vehicle (e.g. vehicle exchange while retaining the license plate number, ...).

At the request of the toll charger, the EA shall provide the toll charger with copies of all verification documents from which the data personalised in the approved on-board unit can be derived. All other obligations as set out in the EETS domain (and associated annexes) also apply.

The EA shall ensure that the toll charger can easily and unambiguously identify whether a vehicle circulating in its EETS domain with mandatory use of an on-board unit and which is expected to use EETS is indeed equipped with a validated and properly functioning on-board unit providing correct information.

### **5.2. Approved on-board units**

In the course of registering its EETS users and equipping them with an approved on-board unit, the EA must ensure, by imposing corresponding obligations on its EETS users, that the respective on-board unit is correctly mounted and functional in the corresponding vehicle of the EETS user, and that the toll payment obligations can thereby be fulfilled by the EETS user in accordance with the specifications in the BStMG and the tolling regulations.

All EETS users of the EA are deemed to be registered in the postpaid procedure in the toll system of the toll charger through being equipped with an approved on-board unit of the EA.

The details of the data to be stored in the on-board unit are set out in the document "EETS DSRC Tolling Data Specification" [EETS\_data].

Insofar as an approved on-board unit has been issued by the EA and has not been blocked, the EETS user is entitled to use the road network subject to tolls with the relevant on-board unit for the vehicle registered with it.

The toll charger is not obliged to carry out any further checks. The EA is not entitled to raise an objection of illegitimate use against the toll charger.

### **5.2.1. User list (White List)**

The EA shall provide the toll charger periodically, as a rule once a day, and in compliance with data protection provisions, with electronic information on the contractual data of its users via data transmission in file form in accordance with document [EP\_IF] ("User Data"), for the purpose of (i) random checks of tariff-determining vehicle characteristics (e.g. EURO emission classes, etc.), (ii) verification of whether an active contract exists within the context of subsequent payment, and (iii) enforcement (in particular to identify toll evaders and subsequently to request them to pay a substitute toll). The proper provision of the user data on a server specified by the toll charger ("EasyGo Hub") is guaranteed by the EA. The risk and costs of the provision or transmission are borne by the EA. Details are regulated in document [EP\_IF].

The EA is obliged to update the user list properly and is responsible for the correctness and completeness of the user data. The toll charger is not obliged to check the correctness and completeness of the user list.

The user list does not serve to legitimise EETS users in the toll charger's system and, in the event of contradictions between an approved on-board unit (identified by an approved EFC ContextMark) and the user list, the on-board unit identified by an approved EFC ContextMark shall take precedence.

## **5.3. Blocking of on-board units**

### **5.3.1. Blocking of on-board units; effect**

The blocking of on-board units, such as in the case of loss of vehicles and/or on-board units or in the case that an EETS user loses the status of a legitimate contract partner of the EA, is the responsibility of the EA. The EA will keep and continuously update a blocking list of the blocked on-board units.

After the toll charger has been notified by the EA of the blocking of an on-board unit and the PAN (Personal Account Number) and on-board unit number of the on-board unit to be blocked, the toll charger will exclude the blocked on-board units from further toll payment no later than 6 hours after receipt at a specified server ("EasyGo Hub").

### **5.3.2. Blocking data (Black List)**

The EA shall provide the toll charger, at its own expense and risk, periodically, usually once a day, with electronic black list data via data transmission in file form according to document [EP\_IF], by means of which the no longer authorised on-board units of the EA can be identified. The proper provision of the blocking data at a specified server ("EasyGo Hub") is ensured by the EA. The risk and costs of the provision or transmission are borne by the EA. The toll charger is obliged to accept the transmitted data or to retrieve the provided data and to confirm its receipt. Details are regulated in the document [EP\_IF].

The proper updating of the blocking data at the toll charger is the responsibility of and at the expense of the toll charger.

### **5.3.3. Transmission problems**

If, for technical or other reasons, it is not possible to properly provide or transfer the blocking data from the EA, the blocking list in operation at that time shall continue to apply. If the toll charger is unable to properly provide or transfer the blocked data for technical or other reasons, the EA shall be informed of this as soon as possible. In this case, the latter must immediately provide the toll charger with all the support that is necessary and required to ensure the proper provision or transfer of the blocking data.

If the blocking data cannot be properly transferred for reasons for which the toll charger is solely responsible, the risk of any use or misuse of unauthorised on-board units is transferred to the toll charger six hours after receipt at the EasyGo Hub.

### **5.3.4. Transfer of risk**

As soon as the blocking data is updated in the roadside equipment, but no later than six hours after receipt at the EasyGo Hub, the toll charger assumes liability for the billing of toll services for blocked on-board units of the EA. SERVICES incurred up to this point for the EA's registered EETS users shall be borne in full by the EA.

## **5.4. Cooperation with the toll charger**

The toll charger may, in accordance with Article 2 of Commission Implementing Regulation (EU) 2020/204 of 28 November 2019, request the EA to cooperate in unannounced, in-depth toll system tests involving the inspection of vehicles operating or having recently operated in the toll charger's EETS domain.

## **5.5. Obligations towards EETS users**

The EA's contractual conditions do not differentiate between the nationality of the EETS user, the Member State of residence of the EETS user or the Member State in which the vehicle is registered. When entering into a contract, the EA informs the EETS user about valid means of payment and, in accordance with Regulation (EU) 2016/679, about the processing of its personal data and the rights stemming from applicable legislation on the protection of personal data.



## 6. Technical requirements for EETS providers

### Technologies used:

The toll system is designed as a Multilane Freeflow Dedicated Short Range Communication (DSRC) system based on the European Standard EN15509. For each toll section, DSRC transceivers (so-called beacons) are usually mounted on supporting structures above the carriageways. The toll transactions are carried out with access protection according to Security Level 1 of EN15509, which also generates two authenticators.

### Requirements of the on-board unit:

The on-board unit must support CEN-DSRC transactions according to EN15509 in the 5.8 GHz range. Furthermore, a user interface shall be provided that allows the declaration of the vehicle category as well as the retrieval and playback of status information (optical and acoustic). The on-board unit shall be able to communicate in multi-lane free-flow mode with overlapping communication zones of the DSRC transceivers operating on different channels without loss of sensitivity.

For detailed definitions of the on-board unit and DSRC interface requirements, please refer to the following documents:

- "EETS-OBE Requirements Specification" [EETS-OBE req],
- "EETS-DSRC transaction for tolling and enforcement [EETS-DSRC],

For detailed specifications on the format and content of the toll transaction data, personalisation and configuration, reference is made to EN 15509 as well as EN ISO 14906 and to the following document:

- "EETS DSRC Tolling Data Specification" [EETS\_data].

### On-board unit proof of conformity:

The proof of conformity of the on-board unit according to Article 15 of Directive EU/2019/520 shall be provided by a manufacturer's declaration of conformity as defined in that Directive. Further details are presented in the EETS Acceptance Procedures [EETS\_acc].

### Proof of suitability for use of the on-board unit:

The required proof of suitability for use shall be provided by means of a suitability for use test, taking into account the type and degree of personalisation carried out by the EA in accordance with [EETS\_acc].

## 6.1. Toll transaction concept

### 6.1.1. Processes/interfaces for technical concept

#### Data interface between the EA and the toll charger:

The exchange of information between the ASFINAG central system and the systems of the EA is based on an interface that offers the following functionalities, among others:

- Exchange of safety objects
- Transmission of information on the toll area
- Transmission of information on approved on-board unit types
- Transmission of blacklist information
- Transmission of toll claims respectively usage information
- Exchange of enforcement information
- Transmission of user lists
- Exchange of quality assurance information

For detailed specifications on this interface, please refer to the following document:

- "EETS Back Office Interface Specification" [EP\_IF].

## 6.2. Quality measurement and management

### 6.2.1. Transaction quality

In addition to its other obligations, the EA shall comply, in particular, to the toll transactions triggered by its EETS users with the transaction quality described in the following in general and in more detail in [EP\_QM], measured in the manner described in general below and in more detail in [EP\_QM].

The transaction quality consists of the following quality parameters:

- DSRC Error Ratio
- Ratio of "erroneous transactions"
- Ratio of "transactions that can be recalculated"
- Ratio of "non-recoverable transactions to control entities"

#### **Determination of transaction quality:**

The detailed conditions for determining the individual parameters are explained in detail in [EP\_QM].

The transaction quality is always determined and checked for the respective past month. The relevant quotas for the individual quality parameters of the reference on-board units as well as the on-board unit types of the EA in use are communicated by the toll charger to the EA by the last day of the following month at the latest.

#### **System failure**

System failure is understood to mean a systematic, prolonged failure for which the EA is responsible and which cannot be remedied within a reasonable period of time (in the sense of the non-execution of correct toll transactions) of a part of a type of on-board unit of the EA in use, as defined in more detail in [EETS\_proc] (for details see [EETS\_proc]).

## **6.2.2. Measures in the event of failure to achieve the required transaction quality**

### **6.2.2.1. Quality measurement and management**

The EA is obliged to implement a quality measurement and management system, to monitor compliance with the transaction quality on an ongoing basis and, as far as foreseeable, to take appropriate measures to counteract any deterioration in the transaction quality (also to be expected in the future) that could potentially lead to a failure to comply with the required quality parameters. The EA shall inform the toll charger on an ongoing basis about the results of this quality measurement and the measures taken within the context of quality management.

The toll charger has also implemented a quality measurement and management system that monitors compliance with the transaction quality of its collection facilities.

### **6.2.2.2. Measures in case of system failure**

In the event of a system failure, the EA shall ensure that all affected on-board units are withdrawn from all its EETS users as soon as possible (e.g. as part of a recall campaign) and taken out of circulation and exchanged for another on-board unit authorised in the EETS domain (e.g. GO-Box).

## **6.2.3. Vehicle declaration**

The EA must issue a vehicle declaration to its respective EETS users, which must be carried along when driving on the Austrian EETS territory and must be presented at the request of the toll charger (by toll enforcement officers or in the course of a visit to a GO point of sale). This vehicle declaration shall contain at least the following information:

- Vehicle license plate number and country of registration
- PAN and OBU-ID as value (consisting of the data for EFC-ContextMark, ContractProvider, ManufacturerId and EquipmentOBUId)
- OBU-ID as barcode according to Code 128A
- Declared tariff-determining vehicle characteristics according to the Federal Roads Toll Act
- Designation of the EA
- Note for GO point of sale in Austria on how to use barcode (in DE)

The vehicle declaration enables the respective driver to check at any time the correct assignment of (i) the on-board unit to the corresponding vehicle and (ii) the tariff-determining vehicle characteristics set on the corresponding on-board unit in accordance with the Federal Roads Toll Act.

## **6.3. Change management, fault management**

### **6.3.1. Change management**

Details of change management are set out in Fault and Change Management for EETS providers [EETS\_proc].

In the event of changes to the legal framework conditions, each party bears its own costs. Furthermore, the EA is obliged to adapt its system to system changes at the toll charger at its own expense (e.g. changes in toll technology, adaptation of data exchange interfaces).

The toll charger provides the EA with the interfaces described in this document and in the annexes. The costs for separately agreed adaptations explicitly requested by the EA shall be borne by the EA.

The toll charger shall inform the EA of any specific intended system changes within a reasonable period of time.

### **6.3.2. Fault management**

Both the toll charger and the EA shall inform the other party of any malfunctions or maintenance that have occurred, insofar as they affect the other party. Decisions on measures to be taken are made jointly.

Details on incident management are set out in [EETS\_proc].

## 7. Distribution of roles in operational business

### 7.1. Customer service

The customer relationship for toll processing exists between the EA and the EETS user. The EA is therefore solely responsible for customer service with the respective EETS user. In the event that EETS users contact the toll charger directly with toll-related questions, the toll charger has the right (but not the obligation) to refer such EETS users to its EA. However, in matters of enforcement and central retroactive payment, the toll charger's customer service can be contacted directly by EETS users.

The customer relationship of the EA with its EETS users does not affect the legal relationships of the users of the federal roads subject to tolling (toll debtors within the meaning of Section 4 BStMG) with the toll charger.

At no time is the EA entitled to grant its EETS users credit in the name of the toll charger without the consent of the toll charger (e.g. in connection with complaints by the EETS user about the toll charged). The EA is obliged to transmit its EETS users' applications for credits to the toll charger in order to determine their legitimacy. The toll charger will check the transmitted applications, inform the EA of the result of the check and, if necessary, send the EA a corresponding credit.

The EA undertakes to inform its EETS users that they are not entitled as EETS users to make use of the toll charger's customer service provided by ASFINAG for local customer contracts.

#### **Support service for the EA:**

The toll charger will provide the EA with customer service support to the extent necessary to handle the contractual relationship with the EA. The toll charger will provide the EA with a hotline and its own central e-mail address, which can be used to deal with those questions in which the EA is dependent on the toll charger. The toll charger's employees can be reached by the EA on this hotline during normal office hours and communication can take place at least in German and English.

In addition, the EA must name a suitable contact person who will be available to the toll charger if necessary.

### 7.2. Enforcement

Drivers who use the road network subject to tolls without properly paying the distance-related toll are committing an administrative offence (offence of toll evasion according to § 20 BStMG).

In the case of toll evasion, the EA is subject to the following obligations to cooperate and liabilities:

Upon request by the toll charger, the EA must immediately, at the latest within the period specified below, provide the data of the holder of the registration certificate with whose vehicle

the offence of toll evasion was committed or pay the toll charger the substitute toll. In the event that the EA does not fulfil this obligation in due time, a fee in the amount of the substitute toll(s) incurred will be due to the EA after the toll charger has set a grace period.

In concrete terms, the following cases must be distinguished within this context:

**(1) The on-board unit is blocked (i.e. appears on the black list):**

The EA is obliged to provide the toll charger with the name and address of the relevant holder of the registration certificate within 5 working days via an electronic interface to be agreed upon, upon request based on the existence of an offence.

The EA shall not be liable to pay the substitute toll in this case.

**(2) The on-board unit does not trigger a transaction, such a transaction cannot be determined by gap closure and the vehicle licence plate number of the toll evader can be assigned to one (or more) specific EETS on-board unit(s) on the basis of the user list and does not appear on the black list:**

Upon notification by the toll charger of the existence of an offence, the EA is obliged either (i) to transmit the name and address of the relevant holder of the registration certificate to the toll charger within 5 working days via an electronic interface to be agreed, or (ii) to pay the toll charger the substitute toll, insofar as the toll charger can substantiate the facts of the improper payment of the toll to the EA.

If an assignment to EETS on-board units of several EA can be made in this way, all of these EA are obliged to transmit data in accordance with the above paragraph. Should none of these EA transmit the data of the EETS user in question to the toll charger, all of these EA shall be jointly and severally liable for payment of the substitute toll(s) in question.

**(3) The on-board unit does not trigger a transaction, such a transaction cannot be automatically charged subsequently and the vehicle licence plate number of the toll charger cannot be assigned to an EETS on-board unit on the basis of the user list:**

The obligations described under points 1. and 2. of this chapter Enforcement regarding data issuance or substitute liability do not apply in this case.

**(4) The on-board unit triggers a toll transaction, but a toll offence of only "partial payment of the toll" has occurred (see Part B, Item 10.3.2 of the tolling regulations):**

The regulation under point 2. above applies mutatis mutandis; the possibility of liability of several EA is excluded, as the transaction that took place can be clearly attributed to one EA.

**Participation of the EA in administrative (criminal) proceedings in Austria:**

In the event that administrative criminal proceedings are initiated due to improper payment of the toll, the EA shall be obliged in particular to take the following actions and to support ASFINAG: The EA shall either comply with any summons from the authorities (e.g. by sending a suitable and competent employee) or authorise ASFINAG to represent it in the proceedings and provide it with a meaningful statement on the respective case.

The EA shall also provide the toll charger with data on all vehicles whose owners or keepers are customers of the EA, insofar as the toll charger requires such data in order to fulfil its obligations towards tax authorities.

## **8. Data protection and secrecy**

### **8.1. Data protection**

The EA has a contractual relationship with the toll charger. In this context, the EA transmits data of natural and legal persons (hereinafter "data") to the toll charger as an independent data controller. The toll charger processes these and other pieces of data and transmits them in turn to the EA as an independent data controller (controller-controller relationship).

The purposes of the data transfers covered by this agreement are, in particular, the fulfilment of the toll obligation within the framework of the European Electronic Toll Service (EETS) and in accordance with the provisions of the Federal Roads Toll Act, as well as the enforcement of claims under toll law against toll debtors and in connection with administrative offences (offence of toll evasion pursuant to Section 20 of the Federal Roads Toll Act). The following agreement contains more detailed provisions on the mutual transmission of data between the EA and the toll charger.

The EA and the toll charger warrant that the processing of the data, including the transmission to the respective other party, has been and will continue to be carried out in accordance with the relevant provisions (in particular data protection law) until the time of transmission. In this context, the parties warrant in particular,

- a. to comply with the principles of the General Data Protection Regulation (EU) 2016/679 (hereinafter "GDPR");
- b. that they have taken appropriate technical and organisational measures to ensure an adequate level of security for the rights and freedoms of the data subjects;
- c. to use data that becomes known in the context of the contractual relationship only for the purposes of toll payment in Austria and the purposes pursued with the EETS contract and to treat all data confidentially;
- d. to disclose data to third parties only if the disclosure of the data is legally permissible;
- e. that the respective natural persons employed to process the data have committed themselves to confidentiality or are subject to an appropriate legal obligation of confidentiality;
- f. that they have no reason to believe that the law applicable to them prevents them from fulfilling their obligations under this agreement and that in the event of a change in such law that could have a material adverse effect on this agreement, they will inform each other of such a change.

Both the EA and the toll charger shall be responsible for their own compliance with the requirements of the GDPR, in particular for the storage and deletion of data in their respective areas of responsibility, with regard to the data processing activities they carry out.

The parties undertake to support each other in an appropriate manner with regard to the transmitted data if this is necessary to fulfil their obligations under data protection law, such as in cases of data breach, etc.

## **8.2. Data use**

The toll charger is entitled to use the data of individual toll transactions and the personal data of EETS users as well as other personal data of legal or natural persons which it processes within the context of toll collection or which become known to it within this context in accordance with the law, the tolling regulations and the contractual obligations between the toll charger and the EA. The toll charger will use the recorded control images, the data of any toll transaction and the user data in particular (i) for random checks of vehicle characteristics that determine the tariff (e.g. EURO emission classes) and (ii) for enforcement (in particular to identify toll evaders and subsequently to request them to pay a substitute toll).

The EA shall be obliged to release data for the aforementioned purposes upon justified request by the toll charger and shall create the necessary legal conditions vis-à-vis the EETS users in the course of concluding the contract authorising it to do so, insofar as this authorisation does not already result from the applicable law.

## **8.3. Duty of the EA to provide information**

The EA shall inform EETS users adequately and completely about the use of their personal data, in particular for the transmission of the same to the toll charger in the event of enforcement and random checks of the EURO emission classes and in case of sample check of tariff-relevant parameters according point 5.1, as well as about their rights on the basis of the applicable data protection regulations.

## **8.4. Secrecy**

Both parties undertake to treat as confidential all confidential information (in particular about technical properties, specifications and functionalities as well as the commercial terms) which they receive from the other party in connection with the performance of the contract, also beyond the termination of the contractual relationship. Disclosure of confidential information to group companies shall not be deemed a breach of this confidentiality obligation.

The confidentiality obligation does not apply to information that is generally accessible to the public or is made accessible through no fault of the respective other party. It also does not apply to information which was already in the possession of the respective other party before disclosure or which was independently developed by the respective other party. The burden of proving the existence of any of the foregoing exceptions shall be on the party relying on this exception.

The parties shall ensure that their employees are bound to data secrecy. In particular, the confidentiality obligation of the employees shall remain in force even after termination of their employment and departure from the respective party. If confidential information is passed on



to group companies or third parties working for a party, appropriate confidentiality must be ensured.

Technical information relating to on-board units which a party receives from the other party on the occasion of the performance of the EETS contract may not be made accessible to third parties.

## **9. General contractual provisions**

### **9.1. Duration and termination**

#### **9.1.1. Duration/proper termination**

The EETS contract shall commence on the date of signature by the contracting parties and shall be concluded for an indefinite period.

The EETS contract may be terminated by the EA in writing by registered letter to the address last notified by the other contracting party, giving at least three months' notice to the last day of each month.

The toll charger may terminate the EETS contract by ordinary notice of at least six months to the last day of each month.

#### **9.1.2. Termination for good cause**

The EA is entitled to terminate the EETS contract for good cause without observing a notice period if the continuation of the EETS contract is unacceptable for reasons for which the toll charger is responsible.

Similarly, the toll charger is entitled to terminate the EETS contract for good cause without observing a notice period if there are reasons for which the EA is responsible and which make further continuation of the contractual relationship unreasonable. These include in particular

- that the EA is no longer duly registered as an EETS provider in its Member State of establishment
- that the EA, in case of a change of the toll system in the EETS territory of the toll charger, does not adapt its system within a reasonable period of time and therefore the provision of the SERVICES becomes impossible
- the continued exceedance of a tolerance factor in a specified transaction quality parameter for two consecutive half-years
- or any other serious breach of contract by the EA which the EA does not remedy despite the toll charger's request or, in case of repetition, repeats despite the toll charger's request.

#### **9.1.3. Restricted new contract after extraordinary termination of the contract**

In the event of justified extraordinary termination by the toll charger, the toll charger shall be entitled to refuse to conclude a new EETS contract with the EA and with all legal entities that are predominantly identical in terms of ownership or management structure to the EA with which the contract was terminated, unless it can be demonstrated that reliable remedial measures have been taken that will prevent the recurrence of similar breaches of contract.

#### **9.1.4. Duty of the EA to provide information**

In the event of termination or cancellation of this contractual relationship, for whatever reason, the EA undertakes to inform its EETS users in good time that they are no longer authorised to receive the SERVICES with the transferred on-board unit from a certain point in time.

The toll charger shall not be liable for any damage suffered by EETS users of the EA as a result of termination or cancellation of the EETS contract or late notification on the part of the EA.

### **9.2. Industrial property rights**

The toll charger has CTM and IR trademark applications and registrations, such as for the signs "GO", "GO toll", "GO Direkt" and "GO Box". The EA shall not label its goods and services, in particular in connection with the SERVICES, with the applied for and registered trademarks of the toll charger or designations similar to one or more of the trademarks and trademark applications and shall not exploit the trademark of the toll charger in external communications.

### **9.3. Liability and limitations of liability; contractual penalties**

Both parties shall be liable in accordance with general rules on damages for conduct in breach of the law and the contract. Special strict liability or liability specified in terms of amount in accordance with these provisions for the EETS domain shall remain unaffected. However, both parties shall be entitled to claim compensation for damages in excess of the contractual penalty.

### **9.4. Place of jurisdiction, applicable law**

The EETS contract is exclusively governed by Austrian law to the exclusion of its conflict of law rules. The exclusive jurisdiction of the Commercial Court of Vienna is agreed for legal disputes arising from or in connection with the EETS contract. The contractual language is German.

Without prejudice to the jurisdiction of the ordinary courts or the authorities, the toll charger and/or the EA may submit disputes arising from a contractual or contractual negotiation relationship existing between them to Schienen-Control GmbH as a mediating body.

## 10. Annex 1: Referenced documents and glossary

### 10.1. Referenced documents

| Abbreviation, term | Explanation   |
|--------------------|---|
| [EETS_acc]         | EETS Acceptance Procedures                                    |
| [EETS_proc]        | Fault and change management for EETS providers                |
| [EP_IF]            | EETS Back Office Interface Specification                      |
| [EP_QM]            | Quality measurement and quality management for EETS providers |
| [EETS-OBE req]     | EETS OBE Requirements Specification                           |
| [EETS-DSRC]        | EETS DSRC Transaction for Tolling and Enforcement             |
| [EETS_data]        | EETS DSRC Tolling Data Specification                          |

### 10.2. Glossary

| Abbreviation, term               | Explanation   |
|----------------------------------|---|
| Authenticator                    | Authentication data   |
| Beacons                          | Roadside transmitting/receiving equipment (see also DSRC transceiver)   |
| On-board unit/on-board equipment | The complete set of hardware and software components required for the provision of EETS and installed in a vehicle for the collection, storage, processing and remote reception and transmission of data; |
| CEN-DSRC                         | DSRC system according to standard EN15509   |
| DSRC                             | Dedicated Short Range Communication<br>(Basic communication technology for toll collection in Austria)  |
| DSRC-Transceiver                 | Roadside transmitting/receiving equipment   |
| EN 15509                         | European Standard for Road Transport Telematics – Electronic Toll Collection – Application Profile for DSRC Interoperability  |
| EURO emission class              | EURO 0", "EURO I", "EURO II", "EURO III", "EURO IV", "EURO V", "EEV" and "EURO VI" vehicles complying with the respective limit values set out in Annex 0 to Directive 1999/62/EC                         |
| Suitability for use              | The ability of an interoperability constituent integrated in EETS to achieve and maintain a specified level of  |

| Abbreviation, term            | Explanation   |
|-------------------------------|---|
|                               | performance during operation in conjunction with the toll charger's system;   |
| GO-Box                        | On-board unit for the payment of tolls in Austria   |
| Interoperability constituents | Any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into the EETS system upon which the interoperability of the service depends directly or indirectly; this may be either tangible or intangible, such as software; |
| Toll section                  | Road section for which a fixed amount of money has to be paid for its use   |
| Toll system                   | The set of rules, including enforcement rules, for the collection of tolls in a toll domain;  |
| Toll transaction              | An act or series of acts whereby a toll reservation record is transmitted to the toll charger;  |
| OBE                           | On-board unit (on-board equipment)  |
| OBU ID                        | On-board unit serial number   |
| PAN                           | Personal Account Number,<br>EA-dependent unique contract number   |