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General Terms and Conditions for the post-paid account on confirmation of the conditions for using toll roads and on the terms and conditions for the provision of viaBOX

The present General Terms and Conditions for the post-paid account on confirmation of the conditions for using toll roads and on the terms and conditions for the provision of viaBOX constitute an integral part of the contract concluded for the post-paid account on confirmation of the conditions for using toll roads and on the terms and conditions for the provision of viaBOX between Kapsch Telematic Services Sp. z o.o. headquartered in Poleczki Business Park, Building A1, ul.Poleczki 35, 02-822 Warsaw, entered in the register of entrepreneurs kept by the District Court m.st. Warsaw in Warsaw, XIII Commercial Division of the National Court Register KRS 0000340505, NIP 5277613469, acting on behalf of and for the State Treasury - General Director of National Roads and Motorways, under the Contract concluded with the General Director of National Roads and Motorways ("GDDKiA") concerning design, delivery and service of national electronic toll collection system and manual toll collection system, hereinafter referred to as the “Company” and the “User”, as defined below ("GTC to the Contract").

The Company and the User are hereinafter jointly referred to as "the Parties", and separately as "the Party". In connection with:

1. a statutory obligation of starting collection from 1 July 2011 of electronic toll for the use of national roads or their sections, resulting from the provisions of Article 13, passage 1, item 3, in connection with Article 13 ha, passage 1 of the Act of 21 March 1985 on Public Roads (consolidated text: Journal of Laws of 2007, No. 19, item 115 with later amendments) / ("Act on Public Roads"), which roads have been specified in the "Regulation" of the Council of Ministers of March 22nd 2011 on Determination of National Roads or Their Sections on Which Electronic Toll Shall be Collected,

2. striving for performance of obligations imposed by the above legal acts on the General Director of National Roads and Motorways as the exclusive entity collecting electronic toll and the user as the entity obliged to pay this toll, as well as

3. obligation to offer by the entity collecting electronic toll devices for the needs of collecting this toll for installation in car vehicles and apart from this taking into account the fact that rights and obligations of the parties to the present Contract have been specified in regulations of the commonly binding law, therefore the following Contract has a rank of confirmation by the User of the awareness of duties imposed thereon and rights granted thereto by the Act, as well as determination of terms and conditions of making available to the User of devices for the needs of collecting electronic toll for installation in car vehicles and making use of these devices by the User, the Parties hereby declare as follows.

§ 1 Definitions

1. Maximum Total Weight (MTW) authorized means maximum total weight authorized of the vehicle, and in the case of a Vehicle with a semi-trailer or a trailer, maximum total weight authorized of the Vehicle with a semi-trailer or a trailer.
2. **Toll Road** means national road referred to in the Act of 21 March 1985 on Public Roads (consolidated text: Journal of Laws of 2007, No. 19, item 115 with later amendments) and listed in the Regulation of the Council of Ministers of [...] on the National Road Network or Their Sections on Which Electronic Toll Shall be Collected (Journal of Laws No.[...], item [...]).

3. **Electronic Toll** means a toll specified in Article 13, passage 1, item 3) and in Article 13ha of the Act on Public Roads, paid for passage of the Vehicle on a Toll Road, in the amount depending on the covered section of the Toll Road, in accordance with the rate determined for covering of 1 kilometer of the Toll Road.

4. **Electronic Toll Collection System (ETCS)** means a system of electronic toll collection operated by the Company, whose primary task is calculation of the Electronic Toll by the viaBOX and other devices of the Electronic Toll Collection System during drive of the Vehicle.

5. **User Account** means an account opened in the Electronic Toll Collection System (ETCS) for each User.

6. **viaBOX** means electronic/on-board device, placed in the Vehicle, permitting transfer of data necessary for collection of the Electronic Toll. Detailed specification of the viaBOX is included in viaBOX user’s manual, being Appendix No. 3 to the present Contract. Property rights to the viaBOX shall be vested only to GDDKiA; The User shall not be entitled to any property title to the viaBOX.

7. **Record** means an entry containing data and information concerning the vehicle whose driver commits a breach, enabling inflicting of penalty on the vehicle's driver.

8. **Controlling Entities** mean entities, defined in Article 13l, item 1 of the Act on Public Roads, and authorized, according to Article 13l of this Act, to control the correctness of payment of the Electronic Toll, including control of the viaBOX used in the vehicle, if required, as well as to apply and collect penalty fees. These entities are as follows:

   a) officers of the Police;
   b) inspectors of the Road Transport Inspectorate;
   c) heads of customs offices and directors of customs chambers;
   d) officers of the Border Guard.

9. **The Vehicle covered by the obligation of paying the Electronic Toll or the Vehicle** means an automotive vehicle as defined in Article 2, item 33 of the Act of 20 June 1997 - Road Traffic Law (Journal of Laws of 2005, No. 108, item 908 with later amendments), which means also a set of vehicles consisting of a car and trailer or semi-trailer with maximum total weight authorized above 3.5 tons, including buses, regardless of their maximum total weight authorized, for the drive of which on the Toll Road the Electronic Toll is due.

10. **User** means the owner of the Vehicle or any other entity authorized by the owner to use the Vehicle for its intended purpose.

11. **Post-paid system** means the Toll Collection System on Toll Roads which subject to the toll within the monthly settlement period according to the General Terms of the Post-paid Account.

12. **Deposit** has the meaning given in §5 item 1.
Appendix no 2 to the Contract

13. **Regulation** of the Council of Ministers of […] on Determination of National Roads or Their Sections on Which Electronic Toll Shall be Collected.

14. **Guarantee** has the meaning given in §7 item 1.

15. **Payment date** – the date of GDDKiA account admission by the due amount.

§ 2 General Provisions

1. These GTC to the Contract define:

   a) manner and principles of collection of the Electronic Toll from the User on behalf of and for GDDKiA, as well as principles of settlements between the Parties,

   b) the principles of making viaBOX available and the method of the viaBOX use by the User.

2. The valid GTC to the Contract and the Contract template can be collected by the User directly at viaBOX Distribution Points or printed out from the Website [www.viatoll.pl](http://www.viatoll.pl)

§ 3 Electronic Toll Collection System

1. The User confirms awareness of the obligation to pay the Electronic Toll on time and in due amount, on the terms specified in respective legal regulations as well as confirmed and specified in the Contract and these GTC.

2. The User confirms that is obliged to pay the Electronic Toll for drive on Toll Road of the Vehicle/Vehicles specified in Appendix No. 1 to the Contract. Any change in data contained in Registry card of the Vehicle/Vehicles, being a subject to the Contract, requires changes in the Contract by an appendix the Parties undertake to conclude within 5 working days after occurrence of the above changes.

§ 4 Making viaBOX available

1. Pursuant to the Contract, the Company is obliged to:

   a) make available to the User a complete and technically efficient viaBOX for each registered Vehicle of the User;

   b) deliver on the terms specified in § 5 below, of viaBOX replacement with the same or similar technical parameters, in the event when the User has damaged or lost the viaBOX or when it has been damaged due to a disclosure of a factory defect.

2. The User:

   a) undertakes not to change data introduced to viaBOX by the Company, as well as not to introduce any other or additional data. In the event of the transfer of ownership of the Vehicle to a third party the User may – on the terms specified by the Company and after concluding of a respective appendix to the Contract – retain viaBOX in order to install it in other Vehicle of the User; provisions in §11 item 3 below are applicable,
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b) undertakes to use viaBOX only in accordance with due purpose, provisions of the Contract, GTC, technical specification and the manufacturer's recommendations contained in the attached user's manual of viaBOX, being Appendix No. 3 to the Contract which is provided together with the viaBOX to the User,

c) undertakes to due protection of viaBOX against its loss or damage,

d) undertakes to use a switched on viaBOX when driving on the Toll Road,

e) places viaBOX only in the Vehicle assigned to the User by the Company,

f) should check within 7 days of receiving the parcel by courier mail, the correctness of the identification numbers of provided viaBOX for List of Registered Vehicles, which includes all viaBOXes, which should be delivered to the User. In the event of any inconsistency User contacts Call Centre (details available on www.viatoll.pl) for further instructions.

3. The viaBOX shall be provided to the User by the Company at the contact points (called "viaBOX Distribution Points") which are listed on the Website www.viatoll.pl or accordingly via the direct shipment to the User's address in case of the cooperation through the fleet card issuers. The User shall install the viaBOX prior to using the Toll Roads. Should the User need any assistance, respective installation instructions shall be available in the viaBOX Distribution Points and on the Website mentioned above. Additional information and assistance may also be provided by the trained personnel of the viaBOX Distribution Points.

§ 5 Replacement/ repair/ disassembly of viaBOX and refund of the Deposit

1. In order to indemnify any possible claims of the Company towards the User, which can arise under default or improper performance of the obligation specified in §4, item 2, letter c) above, the User undertakes to pay a Deposit for every single viaBOX in the amount of 120 PLN within the first clearing period. The charge can be paid in any Distribution Point or via the bank transfer on the account number indicated by the Company.

2. The User pays respective Deposit for the effective term of the Contract. In case of use of the Deposit by the Company for the purpose of satisfying claims referred to in item 1 above before the end of the effective term of the Contract, the Deposit is not returned to the User.

3. The User is obliged to report the fact of viaBOX damage or loss immediately to the Company on a form attached as Appendix No. 4 to the Contract, available on www.viatoll.pl, regardless of causes of loss or damage, as well as to deliver damaged viaBOX to the Company. The damaged or lost viaBOX shall be disconnected by the Company from the System upon the receipt of the above mentioned form.

4. If viaBOX is damaged due to a factory defect, the Company shall be obliged to replace it with a new device within 3 working days from conclusion of an appendix to the Contract without charging the User with any costs on this account.

5. In the event of viaBOX damage resulting from other reasons than a factory viaBOX defect, the Company will use the Deposit according to item 1 above.

6. In the event of viaBOX loss or situation described in §11 item 5 below the Company shall be entitled to satisfy the claim concerning payment for viaBOX from the Deposit in the full amount,
notifying the User about this fact in writing. The User shall be obliged, before delivery of another viaBOX by the Company, to pay the Deposit for another viaBOX, to the Account referred to in item 1 above.

7. Within 5 working days from the date of delivery by the User to the Company of an efficient and intact viaBOX in connection with the lapse of the effective term of the Contract, the Company shall settle and refund the Deposit as set out in §8 item 3 below. However, in the case referred to in §11 item 3 below, the refund of the Deposit shall take place provided that a third person concludes contract described in §11 item 3 or returns an efficient viaBOX.

§ 6 Method of settlements resulting from legal regulations

1. Payment of the Electronic Toll is made in the post-paid system by using one of the following payment methods:
   a) fleet card /fuel card,
   b) bank transfer.

In the event of using bank transfer as a payment method the User cover cost of transfer. The User who had choosen bank transfer as a payment method may pay for already issued debit note also at a viaBOX Distribution Point using the method of payment accepted there (credit card, debit card or cash).

2. The Electronic Toll shall be charged per each kilometer covered by the Vehicle on the Toll Road on the basis of rates of the Electronic Toll for a particular category of the Vehicle and Toll Road type, specified in the Regulation in subject to the §7 item 4 or 5 below. Rates valid as of the day of entering into the Contract are defined in Appendix No. 5 to the Contract. Change in these rates, made by way of changes in the Regulation does not constitute Contract change and does not require any legal activity of the Parties. Then the User is obliged to pay the Electronic Toll according to the rates specified in the Regulation. In the case of amendments to the Regulation the User who is the consumer receives a notice from the Company, in the form of Schedule 5, with current Rates of the Electronic Toll.

3. In the event of a breach by the User of provisions of § 4, item 2 a) or b), i.e. in the event when the viaBOX is in a vehicle other than the Vehicle, the Electronic Toll shall be charged per each kilometer covered on the Toll Road – according to the indication of viaBOX, on the basis of rates of the Electronic Toll specified in the Regulation referred to in item 2 above, and as Appendix no. 5 regardless in which Vehicle the viaBOX is installed. The second and the third sentence of item 2 and as Appendix no. 5 shall apply accordingly. The User is obliged to pay as if the viaBOX was installed in the Vehicle. The above constitutes a violation of provisions from § 4 item 2 a) or b) and a violation of Article 13i, passage 4a of the Public Roads Act.

4. The User pays the Electronic Toll after its charging by the Company. The payment proceeds by any payment method indicated in item 1 above, within 14 days from date of issue of the document including information of the Electronic Toll’s charged amount. In the event when the Electronic Toll is not paid on time GDDKiA has the right to benefit from the provision mentioned in § 7 below. At the same time the Company may change account of the User to a prepaid without protection, with balance equal to 0 PLN. In such a case the User shall be obliged to comply with GTC for this type of the User Account, available on the Website www.viatoll.pl, without the need to change the Contract or other activities of the Parties. In case of not paying the liabilities on time the User is obliged to add statutory interest to the due amount, calculated from the due date until payment and to pay the amount owed plus the interest.
5. If in the period of change in the User Account from the post-paid account with protection into the prepaid account without protection, in accordance with item 4 above, the Company shall charge the User with the Electronic Toll which in accordance to the item 2 above means that the User shall be obliged to pay the Electronic Toll charged in the way mentioned in the item 4 above. Failure to settle the Electronic Toll is a breach of the Act on Public Roads and is liable to penalty referred to in this Act. In such case the Company informs the Controlling Entities that the User has failed to pay the Electronic Toll on time.

6. The User receives relevant documents, listed in item 4 above, presenting the due amounts’ specification in respect of any Electronic Toll for a given settlement period arises, to postal address and/or e-mail address given in the Contract.

7. GDDKiA shall claim through the court payable overdue receivables resulting from the Contract together with eventual interest at the statutory rate regardless of the administrative penalties that may be imposed in accordance with Article 13k of the Act on Public Roads by the entities mentioned in art. 13l, passage 1 of this Act.

§ 7 Guarantee

1. The User shall be obliged to present guarantee of protection of the entire expected tolls issued for the benefit of GDDKiA in monthly settlement period, for a period not shorter than 1 year, in the amount not lower than expected amount of the Electronic Toll per one financial period, in form:

   a) irrevocable, unconditional and payable upon the first request Bank Guarantee,
   b) irrevocable, unconditional and payable upon the first request Insuracne guarantee or
   c) monetary guarantee.

The User is obliged to maintain and supplement the Guarantee throughout the effective term of the Contract, subject to effects stipulated in item 5 below. In case when the User profits the guarantee appropriate for the Fleet Card Issuer this is the only kind of protection required.

2. The amount of the Guarantee shall be determined by the Company based on the number of Vehicles registered or expected to be registered against the User Account and the expected usage by the Vehicles of the Toll Road network; the guarantee amount shall in no case be less than the sum, over all categories of Vehicle, of the products of the toll due for driving 2,000 km on Toll Roads for a given category of Vehicle times the number of that category of Vehicles in the Account. The Guarantee should be concluded in accordance with the terms and conditions set out below:

\[
G = \text{(estimated number of km x max toll tariff per km x period until payment x factor)} \times NV
\]

where:

\( G \) – guarantee
\( NV \) – number of vehicles covered by the post-paid contract
\( 2000 \) – estimated number of km
\( 0.53 \) – maximum toll tariff per km in accordance with Regulation
\( 1.3 \) – factor (any interest, reserve due to inaccurate estimation of km)
\( 1.5 \) – period until payment (1,5 month)

**EXAMPLE** – calculation for 1 vehicle

\[
G = 2000 \times 0.53 \times 1.5 \times 1.3 = 2067 \text{ PLN}
\]
EXAMPLE – calculation for 10 vehicles
\[ G = (2000 \times 0.53 \times 1.5 \times 1.3) \times 10 = 20 \, 670 \, \text{PLN} \]

3. The Company shall send to the User warning messages to all viaBOXes assigned to the User Account or by means of communication channels indicated in the Contract, informing that liabilities under the Electronic Tolls during a given moment reached 85% of the value specified in the Guarantee.

4. The Company shall send to the User warning messages, referred to in item 3 above, at least once a day until the date when receivables under the Electronic Toll reach the amount of the Guarantee. On the other hand, a warning message sent to the address for correspondence of the User shall be sent only once.

5. In the event when during a given moment the amount of liabilities under the Electronic Toll reaches the amount equal to 99% of the Guarantee, GDDKiA may exercise rights resulting from the Guarantee or change the User Account to an account of prepaid type without protection, with balance equal to 0 PLN. In such case the User shall be obliged to comply with GTC for this type of the User Account, available on the Website www.viatoll.pl, without the need to change the Contract or other activities. At the same time the Company shall send to the User a message about change in the type of the User Account to all viaBOXes assigned to the User Account and by means of communication channels indicated in §12 item 5 below.

6. If the User assigns an additional Vehicles to the User Account, the Company has the right to request increase in the Guarantee amount according to the model defined in item 2 above and the User is obliged to satisfy this request within up to 5 working days.

7. The Company informs the User on the approaching time limit for expiry of the Guarantee, by sending appropriate information to all viaBOXes assigned to the User Account and by means of communication channels indicated in the §12 item 5 below, 60 days in advance, to give the User a possibility to present the Guarantee no later than 30 days prior to its expiry date.

8. If the User fails to renew the Guarantee 30 days before its expiry date the Company will change the User Account to the prepaid mode without protection with balance equal to 0 PLN. In such case the User shall be obliged to comply with GTC for this type of the User Account, available on the Website www.viatoll.pl, without the need to change the Contract or other activities of the Parties.

9. In the event of Bank Guarantee Annex 7 to the Contract is applicable- relevant provisions of the Bank Guarantee. Exemplary template of Bank Guarantee should be a general guideline as to the content of the Guarantee and the specific content will depend on the templates used in this field by individual banks.

§ 8 Refund of liabilities resulting from the Contract

1. Refund of all liabilities shall proceed by the same payment method by which the payment was originally executed by the User. If it is not possible, the payment shall proceed by way of transfer to the bank account of the User with number given by the User.

2. Instead of refund of overpayment or incorrectly calculated Electronic Toll or the part of it, the amount of duties indicated in the document including information about the charged Electronic Toll of the User for the next clearing period should be settled accordingly, unless the User asked for a reimbursement of above mentioned funds in writing.
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3. Refund of the Deposit is only possible after a return of a technically efficient viaBOX.

4. If the refund would be made in cash User is required to submit confirmation of payment of the Deposit or Registry card of the Vehicle which has been assigned to the viaBOX. User agrees to refund deposit for viaBOX based on these documents. User will not claim to the Company or to GDDKiA for refund of the Deposit proceed by this method of payment.

5. The maximum amount that can be refunded in cash is 1000 PLN. In the case of refund of a higher amount originally paid in cash, the refund will be paid to the bank account with the number given by the User.

§ 9 Effective term of the contract

The Contract shall be concluded for an indefinite period.

§ 10 Renunciation of the Contract

1. The right to terminate the post-paid Contract without notice shall be vested in the Company if the User defaults or improperly performs the Contract, and especially if:

   a) changes without Company’s permission place of permanent installation of viaBOX, in particular it rearranges it to a vehicle other than the Vehicle, introduces to the viaBOX new data or changes the existing data, introduced by the Company, subject to § 4, item 2, letter b) above,

   b) gives, transfers, releases the viaBOX without making the Vehicle available to a third party, subject to § 11 item 3 below,

   c) defaults on obligations referred to §7 item 6.

In such case the Company has the right to immediately settle the liabilities arising from the Contract.

2. If the Company terminates the pre paid Contract with the User without notice, on the basis of item 1 above, then in the case of concluding of a new contract the User shall be obliged to contribute the Electronic Fee prior to the beginning of use of the Toll Roads, in the amount making it possible to cover the whole planned drive (prepaid account without protection).

3. The Contract may be terminated by either Party in writing with two-month notice period with the effect at the end of the calendar month.

§ 11 Return of the viaBOX

1. The viaBOX shall be the exclusive property of GDDKiA, the User may use the viaBOX only to the extent envisaged by the Contract.

2. After the lapse of the effective term of the Contract, the User, within 30 days, shall be obliged to return to the Company viaBOX in a condition that is not worse, however, they shall not be liable for its wear resulting from a proper operation subject to item 3 below.

3. The Parties establish that the User shall have the possibility to leave viaBOX in the Vehicle assigned to this Vehicle, in case of the transfer event of the rights to this Vehicle to any third party provided:
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a) concludes with the Company, within 5 days after obtaining rights to the Vehicle, a contract concerning confirmation of the terms of use of toll roads and the terms and principles of making available viaBOX - if such a party has not concluded such a contract with the Company before or

b) concludes an appendix to the previous Contract concerning confirmation of the terms of use of Toll Roads and the terms and principles of making available viaBOX, changing Appendix 1 to the Contract, in the way that description of the viaBOX, referred to in this item, is added thereto.

4. If a party referred to in item 3 above concludes with the Company the Contract referred thereto, and the Vehicle along with viaBOX is released by the User, then the User shall be obliged to immediately, but no later than on the next business day after transferring rights to the Vehicle to any third party, inform the Company thereof, indicating a person to which these rights have been transferred together with their contact details.

5. Non used viaBOX shall be returned to the Company within 1 year and 3 months since the last usage (Toll Road usage). In case when viaBOX is not being used during one year period, since the last registered usage, such information is being processed by the Company's system and the automatic registration to the Company's observation DB of the viaBOX is being done on what the User will be informed. Not returning the viaBOX within 1 year and 3 months period since the last registered drive with the viaBOX usage effects with its automatic deregistration from the Company's system and the Deposit in such case is not refundable.

§ 12 Final provisions

1. In cases not governed in the Contract and GTC the Polish legal regulations, including the Civil Code and of the Act on Public Roads, shall be applied accordingly. Any disputes arising due to default or improper performance of the Contract shall be settled before the common court competent for registered office of GDDKiA. For Users who are consumers the court's jurisdiction is determined by the Polish law.

2. Any changes to the Contract shall be deemed invalid unless made in writing.

3. The Contract is drawn up in two identical copies, one for each Party. In case of any inconsistency the Polish version of the Contract and all appendixes listed in item 9 below is the decisive one.

4. By the execution of the Contract the User hereby declares that it has become familiar with the content of legal acts concerning the obligation to pay the Electronic Fee, their rights and of obligations in this respect. In addition, they declare that the content of these acts is comprehensible. Legal acts are available at www.viatoll.pl.

5. The User indicates in the Contract the communication channels with the Company. By the execution of the Contract the User:
   a) hereby declares that all information provided in the Contract and/ or appendices thereto is true and not misleading;
   b) shall also consent that the Entities involved in the functioning of the Electronic Toll Collection System, in particular the Toll Collection Authority, the Company and entities authorized by them are allowed to electronically store and process information for the
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purpose of handling, usage and dealing with the possible claim and statistical purposes according to the statutory laws.

6. The Administration of your personal data is General Director of National Roads and Motorways with headquarters in Warsaw (00-848), at number 59 Żelazna street. Given data will be processed for the purpose of concluding and implementing of the Contract. In addition, your personal data may be used for marketing purposes, including the sending of commercial electronic information for example Newsletter, if you will give a separate consent to this. The data may be available only to entities authorized by law. You have the right to access your data and the right to correct them. Giving the data is optional but necessary for the implementation of the Contract.

7. The Company declares that commits to process the information given by the User in the scope defined by the item 5 letter b) above in accordance to the statutory laws.

8. Neither GDDKiA nor the Company shall be liable for damage sustained by the User due to lack of operation of viaBOX, caused by its damage, loss or disclosure of a factory defect.

9. Appendices constitutes an integral part of the Contract:

1. List of Registered Vehicles
2. General Terms and Conditions – available on [www.viatoll.pl](http://www.viatoll.pl)
3. viaBOX user's manual – delivered together with the viaBOX
4. Formular of viaBOX damage or loss reporting – available on [www.viatoll.pl](http://www.viatoll.pl)
5. Current Rates of the Electronic Toll– available on [www.viatoll.pl](http://www.viatoll.pl)
7. Relevant provisions of the bank guarantee– available on [www.viatoll.pl](http://www.viatoll.pl)
8. Claim/return formular – available on [www.viatoll.pl](http://www.viatoll.pl)
9. Copy of Extract of the Commercial Register/ copy of an excerpt from the register of entrepreneurs or relevant document for the foreign entrepreneurs (companies)
10. Copy of ID card or passport of the person signing the Contract
11. Copy of Registry card of the Vehicle
12. Copy of the document confirming EURO emission class