

GENERAL TERMS AND CONDITIONS OF A PRE-PAY ACCOUNT USE FOR ANONYMOUS viaAUTO USERS

§ 1 General provisions

1. The general terms and conditions herein concerning the use of a pre-pay account for viaAUTO Users (“GTC”) define the principles and the manner of toll collection for a journey under the electronic toll collection system with the use of a viaAUTO unit and settlement performed by Kapsch Telematic Services sp. z o.o., Poleczki Business Park, Budynek A1, ul. Poleczki 35, 02-822 Warsaw, Poland, registered with the register of entrepreneurs of the National Court Register at District Court for the capital city of Warsaw in Warsaw, 13th Commercial Department, under a number KRS 0000340505, NIP 527-261-34-69, the amount of share capital paid up in full 500,000,- PLN, (here-in-after: “**Company**”) acting on behalf and for Skarb Państwa (the Treasury) – Generalny Dyrektor Dróg Krajowych i Autostrad (General Directorate for National Roads and Motorways), ul. Żelazna 59, 00-848 Warsaw, Poland (here-in-after: “GDDKiA”).
2. Provisions hereof apply to a pre-pay Account for “Anonymous Users”.
3. Beginning a journey on a Toll Motorway, defined in § 2 section 1 hereunder, by an Anonymous User with the use of viaAUTO means User’s consent to the provisions hereof.

§ 2 Definitions

1. **Toll Motorway** means a motorway of its section, said in Art. 1, section 2 of an Act of 27 October 1994 on toll motorways and on National Road Fund (*i.e.* Journal of Laws¹ of 2004, No. 256, item 2571, as amended) and in the Regulation of the Council of Ministers of 16 July 2003 on toll motorways (Journal of Laws of 2002, No. 121, item 1034), which are managed by GDDKiA.
2. **Toll for a journey** means a fee stipulated in Art. 37a of the Act of 27 October 1994 on toll motorways and on National Road Fund (*i.e.* Journal of Laws of 2004, No. 256, item 2571, as amended) charged by the Generalny Dyrektor Dróg Krajowych i Autostrad (General Director of National Roads and Motorways) for a journey of a Vehicle on a Toll Motorway in the amount due in accordance with an established rate for a 1 kilometre journey on a Toll Motorway for an individual Vehicle category and conditional upon the length of a journey on a section of a Toll Motorway. Toll for a journey may be collected with the use of MTC or ETC – on the bases set out in the Public Roads Act of 21 March 1985 (Journal of Laws of 2007, No. 19, item 115, as amended.)
3. **ETC** means electronic toll collection system supported by the Company, including the task of making electronic toll charges with viaAUTO and other ETC equipment.

¹ “Dziennik Ustaw”

4. **User Account** means a pre-pay account established for a User in ETC or made available to an Anonymous User.
5. **MTC** means manual toll collection system supported by the Company, where the Toll is settled with the use of any or all of the following methods:
 - a) Toll Collection by cashiers at toll collection booths at Toll Lanes in Toll Plazas, *i.e.* “manual” toll collection; or
 - b) payments settled by the Users using other methods on Toll Lanes at Toll Plazas, (such as cash accepting machines),
 - c) payments settled upon and within a period of time indicated in a call for payment issued to the Users who do not have ready funds when exiting a Toll Motorway.
6. **Black list** means a list of viaAUTO units, which have been reported by the Users as stolen or lost or the Users of which have defaulted on payment or have insufficient funds in the account to settle the Toll.
7. **viaAUTO** means an electronic on-board unit, fitted in a Vehicle, enabling the transfer of data essential for road use Toll collection with the application of ETC.
8. **Vehicle** means a motor vehicle with a total maximum permissible weight equal or under 3.5 tonnes, which is subject to Toll settlement for the use of a Toll Motorway under the Act of 27 October 1994 on toll motorways and on National Road Fund (*i.e.* Journal of Laws of 2004, No. 256, item 2571, as amended).
9. **User** means a Vehicle owner or other body authorised by the owner to use the Vehicle in accordance with its intended use.
10. **Anonymous user** means a User who purchases a viaAUTO unit without a standard process of registration with the system.
11. **Pre-pay mode** means a payment system, where the Toll for the use of a road is settled by the User with the application of ETC in advance before the use of a Toll Motorway.

§ 3 The principles of Toll collection for a journey with the application of ETC

The principles of Toll collection for a journey on a Toll Motorway by a Vehicle/Vehicles are defined in the Act of 27 October 1994 on toll motorways and on National Road Fund (*i.e.* Journal of Laws of 2004, No. 256, item 2571, as amended), which provides for an option of Toll collection for a journey with the application of ETC, with the terms regulated by the provisions of the Act of 21 March 1985 on public roads (*i.e.* Journal of Laws of 2007, No. 19, item 115, as amended) as well as herein. The Toll for a journey on Toll Motorways with the application of ETC is collected by GDDKiA, with the Company acting for and on their behalf.

In the instance of ETC joining the system of Toll for a journey collected by companies set out in Art. 37a, section 1a, clauses 2) and 3) of the Act of October 1994 on toll motorways and on National Road Fund (*i.e.* Journal of Laws of 2004, No. 256, item 2571, as amended), the principles of Toll collection for a journey with the application of ETC included in the aforementioned regulations and herein may be applied to

motorways and their sections listed in the Regulation of the Council of Ministers of 16 July 2002 on toll motorways (Journal of Laws of 2002, No. 121, item 1034), (**“Regulation 1”**), which are under the management of the aforementioned companies.

§ 4 viaAUTO provision

1. In order to settle the Toll for a journey with the application of ETC the User is obliged to acquire a viaAUTO unit. The User may purchase a viaAUTO unit at contact points called **"viaAUTO Customer Service Facilities"** as well as via other distribution channels listed on the website www.viatoll.pl. The current price of a viaAUTO unit and the payment method are published on the website www.viatoll.pl.
2. In order to settle the Toll for a journey with the application of ETC the User is obliged to install a viaAUTO unit in the Vehicle before entering a Toll Motorway; not to change and enter into a viaAUTO unit any data other than transmitted by the Company at viaAUTO Distribution Points and use viaAUTO in accordance with its intended use, provisions of the GTC, technical specification and the manufacturer's instructions provided for in the attached viaAUTO user's manual, constituting Schedule no. 10 to the GTC. Should the User require any assistance related to the use of viaAUTO, appropriate instruction on viaAUTO installation is available at viaAUTO Customer Service Facilities and on the website www.viatoll.pl. Additional information and help is also available with trained personnel of viaAUTO Distribution Points.
3. The User may use a viaAUTO unit in more than one Vehicle.

§ 5 Settlement methods

1. Toll for a journey with the application of ETC under a pre-pay account is settled through one of the following payment methods:
 - a) credit card (including pre-pay cards),
 - b) debit card,
 - c) fleet card,
 - d) cash,
 - e) bank transfer (further top-ups)
 - f) and other payment methods, which are or will be indicated on the website www.viatoll.pl.

The introduction of yet another settlement method of the Toll for a journey with the application of ETC by GDDKiA, about which the Users will be informed via the website www.viatoll.pl, does not constitute changes to the GTC and does not require any legal action on behalf of the Parties. The User will be entitled to settle the Toll for a journey with the application of ETC with yet another method of payment.

Effectuating a pre-payment via a bank transfer is only possible upon a request to use that payment method. In this instance, in contrast to other payment methods, a User Account is not credited immediately, therefore the User is obliged to verify, before using a Toll Motorway, if the User Account has been already credited with the amount of an effectuated transfer.

2. Toll for a journey is calculated for every kilometre a Vehicle travels on a Toll Motorway, in accordance with the viaAUTO reading, on the basis of the Toll rate for a journey specific to a selected Vehicle category set out in the Regulation of the Minister of Infrastructure of 14 June 2001 on the toll rates for the use of motorways (Journal of Laws of 2011, No. 124, item 706), (here-in-after: "**Regulation 2**"). The Toll for the use of a Toll Motorway is established as a product of the number of kilometres of a journey and the toll rate per kilometre for an individual Vehicle category. The Toll rate for a journey effective on the day of the conclusion of the GTC is specified in Schedule 3 to the GTC (also available at www.viatoll.pl). The change of the rate, introduced under the change of the Regulation 2, does not constitute any changes to the GTC and does not require any legal action on behalf of the Parties. The User will be obliged to settle the Toll for a journey in accordance with the changed rate. In the instance of a change to the Regulation 2, a User who is a consumer shall receive appropriate information from the Company in the form of a new Schedule 3 with the effective Toll rate for a journey.
3. The User settles the Toll for a journey with the application of ETC with a selected method of payment specified in § 5 section 1 above before the beginning of a journey on a Toll Motorway. The Toll for a journey is charged with the use of ETC from the funds in the User Account. A minimum warning threshold for one Vehicle is 20 PLN. A minimum amount of a top-up for one Vehicle is 50 PLN. Maximum balance in a User Account may not exceed 1000 PLN for one Vehicle.
4. The Company shall send to the User a warning to a viaAUTO unit assigned to a User Account informing the User that the amount in the User Account has reached a contractually established limit no lower than the minimum warning threshold said in § 5 section 3 above, in order to enable the User to top-up the User Account.
5. The Company shall send to the User a warning to a viaAUTO unit assigned to a User Account to inform the User that the User Account lacks funds enabling settlement of Toll for a journey on a Toll Motorway.
6. If, before entering a Toll Motorway, a User Account lacks funds to settle the Toll for a journey on a Toll Motorway, the User is obliged to settle the Toll for a journey via a pre-payment into the User Account before the beginning of a journey on a toll Motorway or to use the MTC system.
7. Should a User fail to collect a ticket upon entering a Toll Motorway, a Journey on the Toll Motorway without funds or with insufficient funds to settle the Toll for a journey with the use of ETC, such funds during a journey on a Toll Motorway shall not be topped up in the User Account up to the amount sufficient to settle the Toll for a journey with the use of ETC, constitutes a breach of the Act of 27 October 1994 on toll motorways and on National Road Fund (*i.e.* Journal of Laws of 2004, No. 256, item 2571, as amended). In such instance § 5 section 8 hereunder applies.
8. If, upon entering a Toll Motorway, the User Account holds no funds to settle the Toll for a journey with the use of ETC or the Vehicle lacks an installed viaAUTO unit, the barrier on the Toll Motorway lane shall not open until the User collects a ticket from a machine at MTC, which will be the basis for Toll settlement for a journey under MTC when exiting a Toll Motorway with the application of one of the methods described in § 2 section 5.

9. If, a User collects a ticket upon entering a Toll Motorway, when exiting the Toll Motorway the User is obliged to select a lane designated for the settlement of the Toll for a journey with the use of MTC and settle the Toll for a journey with the use of one of the methods described in § 2 section 5.
10. If a User collected a ticket from a machine at MTC upon entering a Toll Motorway, and when exiting the Toll Motorway selected a lane designated to those settling the Toll for a journey with the use of MTC, in such instance the barrier at a Toll Motorway lane shall not open and the User will be obliged to settle the Toll for a journey with the use of MTC.
11. If a User enters a Toll Motorway selecting a lane designated for Toll settlement with the use of ETC, and upon leaving the Toll Motorway they do not possess for any reason a viaAUTO unit, they will be charged Toll for a journey in the amount equal to the toll for a journey due for the entire section of the Toll Motorway, which the user will be obliged to settle via MTC with the application of one of the methods described in § 2 section 5.
12. If a User enters a Toll Motorway selecting a lane designated to Toll settlement with the use of ETC, and upon leaving the Toll Motorway the User has insufficient funds to settle the Toll for a journey due for the entire section of the Toll Motorway or a viaAUTO unit has been entered on the Black list, the barrier on the Toll Motorway shall not open. The User will be charged a fee for Toll for a journey in the amount equal to the toll for a journey due for the entire section of the Toll Motorway, the User will be obliged to settle the Toll via MTC with the application of one of the methods described in § 2 section 5.
13. Each and every time the User Account accumulates funds in the minimum amount of 20 PLN multiplied by the number of vehicles assigned to the Agreement ("minimum balance"). If upon entering a Toll Motorway the User Account holds funds below the minimum balance the barrier on the Toll Motorway lane will not open until the User collects a ticket from a machine at MTC, which will be the basis for settlement of Toll for a journey with the use of one of the methods described in § 2 section 5.

§ 6 Refunds

1. Any refunds of Toll for a journey with the use of ETC shall be effectuated by the same means the User made a payment. Should a refund by the same means not be possible then it shall be effectuated into a bank account number indicated by the User.
2. A refund of an incorrectly charged Toll for a journey with the application of ETC will occur after User Account balance in the system has been credited with a given amount, unless the User requests in writing a refund of the abovementioned amount.
3. Maximum amount which may be refunded in cash is 1000 PLN.
4. Refund of unused balance of an anonymous account shall be effectuated by the same means of payment, with which the User effectuated a given payment (the latest top-up). If a refund by means of the same method is not available then it shall be effectuated into a bank account number indicated by the User. Refund of a balance is

possible only at Contact Points providing services to light vehicles. The current list of appropriate CTs is available on the viaTOLL system website www.viatoll.pl

5. Refundable funds include only the funds unused by the User and which do not exceed the minimum account balance of 20 PLN.

§ 7 Final Provisions

1. To all matters not settled in the GTC, provisions of appropriate Polish laws apply, particularly of the Act of 23 April 1964, Civil Code (Journal of Laws of 1964, No. 16, item 93, as amended), of the Act of 27 October 1994 on toll motorways and on National Road Fund (*i.e.* Journal of Laws of 2004, No. 256, item 2571, as amended) and the Act of 21 March 1985 on public roads (*i.e.* Journal of Laws of 2007, No. 19, item 115, as amended).
Possible disputes pursuant to non performance of inadequate performance of the provisions hereof, shall be settled by a common court having jurisdiction over the registered office of GDDKiA. For the Users, who are consumers, the court jurisdiction is established under the provisions of Polish laws.
2. The currently effective GTC may be collected by the User directly at viaAUTO distribution points or printed from the website www.viatoll.pl. Regardless of the above, should the GTC change, new GTC shall be delivered to the User under the effective laws.