

## V. Intellectual property rights

### 1. Toll charger's intellectual property rights

- 1.1. The (E)ETS provider acknowledges that, notwithstanding the provisions of the EETS Domain Statement, the (E)ETS Agreement or any other contractual arrangements between the Toll charger, on the one hand, and the (E)ETS provider, on the other hand, all intellectual property rights, including but not limited to copyrights, rights in software, database rights, trademark rights and know-how, in programmes, systems, hardware and software, databases, or any other technology that the Toll charger makes available to the (E)ETS provider under the (E)ETS Agreement or any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand, made available to the (E)ETS provider or communicating with the (E)ETS provider's own programmes, systems, hardware and software, or other technology, are protected by intellectual property rights which are and shall remain the exclusive property of the Toll charger and, if necessary, its suppliers (hereinafter the "Toll charger Intellectual Property Rights").
- 1.2. Neither the EETS Domain Statement, the (E)ETS Agreement nor any agreement entered into between the (E)ETS provider and the Toll charger grants the (E)ETS provider any rights to the Toll charger Intellectual Property Rights other than rights of use as named herein. Nor does the EETS Domain Statement, the (E)ETS Agreement or any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand imply any assignment or waiver of the Intellectual Property Rights to the (E)ETS provider.
- 1.3. The (E)ETS provider commits himself to respect the Toll charger Intellectual Property Rights and not to perform any action that could damage or affect them in any way. This includes, but is not limited to, that the (E)ETS provider shall not use any of the programs, systems, hardware and software, or technology or works used by the Toll charger in the context of the EETS domain statement, the (E)ETS agreement or any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand are made available to the (E)ETS provider or with its own programs, systems, hardware and software, or technology of the (E)ETS provider, may reproduce, reproduce, modify, publish, translate, process, rent, exploit or commercialise it, or otherwise use it, in whole or in part, in original or adapted form, for commercial or non-commercial purposes. commercial purposes other than to the extent necessary for the implementation of the EETS domain statement and the (E)ETS agreement. The (E)ETS provider will also not decompile the hardware or software or gain access to them without the permission of the Toll charger or its suppliers.
- 1.4. From the time of transmission by the (E)ETS provider of the data of contracted holders to the Toll charger, the Toll charger is the exclusive owner of that data and any intellectual property rights that would rest on the (database of collected) data.

## **2. Data exchange**

- 2.1. The communication between the Toll charger's programmes, systems, hardware and software or other technology and the programmes, systems, hardware and software or other technology deployed and used by the (E)ETS provider in the implementation of the EETS Domain Statement Blankenburgverbinding, the (E)ETS Agreement or in the implementation of any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand, will only take place through data exchange prescribed, monitored and approved in advance by the Toll charger.
- 2.2. All intellectual property rights to the items listed in article 2.1 referred to in Article 2.1 shall remain the exclusive property of the Toll charger or its licensors. The Toll charger grants to the (E)ETS provider a personal, non-transferable right to use the data exchange for the correct, efficient and optimal execution of the EETS Domain Statement Blankenburgverbinding, the (E)ETS Agreement or in the execution of any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand. The (E)ETS provider shall not use the data exchange for any purpose other than for the implementation of the EETS Domain Statement Blankenburgverbinding, the (E)ETS agreement or in the implementation of any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand. The right for the (E)ETS provider to use the data exchange expires when the (E)ETS agreement is terminated.
- 2.3. All intellectual property rights (including but not limited to copyrights, rights to software, database rights and trademark rights) of the (E)ETS provider to the programmes, systems, hardware, software or other technology deployed and used by the (E)ETS provider in the implementation of the EETS Domain Statement Blankenburgverbinding, the (E)ETS Agreement or in the implementation of any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand, are and shall remain the property of the (E)ETS provider or its licensors.

## **3. Declarations, warranties and indemnification by the (E)ETS provider**

- 3.1. The (E)ETS provider represents and warrants that:
  - (i) the programmes, systems, hardware and software or other technology that the (E)ETS provider deploys and uses, as appropriate, in the implementation of the EETS Domain Statement Blankenburgverbinding, the (E)ETS Agreement or in the implementation of any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand do not infringe the intellectual property rights of third parties;
  - (ii) the (E)ETS provider has obtained all necessary permissions from holders of intellectual property rights to the programmes, systems, hardware, software or other technology deployed and used by the (E)ETS provider in the implementation of the EETS

Domain Statement Blankenburgverbinding, the (E)ETS Agreement or in the implementation of any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand, for use in the context of the Blankenburgverbinding Toll System.

- 3.2. The (E)ETS provider shall indemnify the Toll charger against all costs and damages incurred by the Toll charger in the event that they should be sued by third parties on the basis of the assertion that the programmes, systems, hardware and software or other technology deployed and used by the (E)ETS provider in the implementation of the EETS Domain Statement Blankenburgverbinding the (E)ETS Agreement or in the execution of any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand, would infringe the intellectual property rights of third parties. In such a case, the (E)ETS provider shall reimburse all costs incurred by the Toll charger in the context of any settlement or legal proceedings that might be conducted against the Toll charger.
  
- 3.3. If a court finds that the programmes, systems, hardware and software or other technology deployed and used by the (E)ETS provider in the implementation of the EETS Domain Statement Blankenburgverbinding, the (E)ETS Agreement or in the implementation of any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand, infringes the intellectual property rights of third parties, the (E)ETS provider shall, without cost to the mentioned co-contractors at the discretion of the (E)ETS provider, (a) obtain a licence from the third party or parties concerned or (b) replace or adapt its own programmes, systems, hardware and software or other technology deployed and used by the (E)ETS provider in the execution of the EETS Domain Statement Blankenburgverbinding, the (E)ETS Agreement or in the execution of any other agreement between the Toll charger on the one hand and the (E)ETS provider on the other hand, so that the infringement is brought to an end.