ANNEX 3: MODEL LETTER OF INTENT

1. Model letter of intent (registration and acceptance procedure)

Letter of Intent (« LOI »)

Between

The interregional entity Viapass
Represented by Mr. Vincent Peremans (chairman of the board of directors) and Mr. Johan Schoups (director general)
With registered office at
1000 Brussels
Arenbergstraat 1D

Acting in its own name and on its own behalf, and as an agent of the toll chargers of the Belgian kilometre charging system,

Hereinafter "Viapass"

And

[candidate service provider]
Represented by [name]
[Function]
With registered office at
[address]

Hereinafter **"[candidate service provider]"**

Viapass and [candidate service provider] are hereinafter separately referred to as "Party" and jointly as "Parties".

After declaring as follows:

The access to the Belgian kilometre charging system as an EETS, ETS or REETS service provider is subjected to a registration procedure (in case of the candidate service provider not being already registered as an EETS service provider in the Member State in which it is established) and in any case to an acceptance procedure, as respectively described in the toll domain statements of the various toll chargers, regarding their respective toll domain.

Registration must be requested by the candidate service provider to Viapass, entrusted by the toll chargers with the registration of candidate service providers in Belgium.

The registration is granted if the candidate service provider fulfills, amongst others, the requirements set out in decision 2009/750/EC of the European Commission, which are:

1. being in possession of an EN ISO 9001 certificate or equivalent recognition;
2. demonstrate that he disposes of the necessary technical equipment and possesses the EC declaration or certificate attesting the compliance of the interoperability constituents as laid down in Annex IV point 1 of decision 2009/750/EC of the European Commission;
3. demonstrate competence in offering electronic toll charging services or being competent with regard to the fields involved;
4. have appropriate financial standing;
5. maintain a global risk management plan which is audited at least every two years;
6. be of good repute.

Once registered (if necessary), the candidate service provider must be accepted. The acceptance procedure runs through different phases:

1. the acceptance application of the candidate service provider;
2. the start of the acceptance procedure;
3. the presentation of the technical and commercial concept
4. the test process, with (i) a verification of the conformity (tests), and (ii) suitability tests;
5. negotiations about the bilateral agreement;
6. acceptance to the toll domain of the toll chargers.

To compensate the costs of analysis and evaluation regarding the registration procedure and the costs of analysis, evaluation and testing regarding the acceptance procedure, the candidate service provider shall pay the fees as further set out below.

If, after the successful completion of the test process, Viapass and the candidate service provider reach an agreement regarding the bilateral agreement, the bilateral agreement shall be entered into between the service provider, on the one hand, and the toll chargers of the Belgian kilometre charging system, Viapass and the Walloon Region, on the other hand.

By entering into the bilateral agreement, all toll chargers of the Belgian kilometre charging system accept the service provider to their respective toll domain.

Finally, Parties shall exchange in the context of the registration and acceptance procedure confidential information with each other according the provisions and conditions set out below.

The parties agree as follows:

1. Object

Present LOI sets out on a non-limitative basis the conditions and modalities under which the Parties consider to complete the registration and acceptance procedure of [the candidate service provider] as a service provider to the Belgian territory, in accordance with the provisions of the toll domain statements. [The candidate service provider] declares having taken note of and being bound by the toll domain statements of all the toll domains of the Belgian kilometer charging system.

Present LOI contains no obligation whatsoever of Viapass or the toll chargers regarding the effective registration and/or acceptance of the [candidate service provider] as a service provider to the toll domains established on Belgian territory.

2. Confidentiality

2.1. Confidential Information

2.1.1. The concept "Confidential Information" comprises all information exchanged in the course of the registration and acceptance procedure between the Parties in any way whatsoever and which is not public at the time of its communication.

2.1.2. Parties state precisely that the content (though not the existence) of this LOI, of the negotiations with respect to the bilateral agreement and of the bilateral agreement itself is confidential as well and by consequence also falls under the scope of the present provision.

2.2. Prohibition of use or disclosure

2.2.1. Except with the prior written consent of the other Party, a Party is not permitted, either directly or indirectly, for example through an intermediary or a legal entity in which the Party is involved as shareholder, director or otherwise:

(a) To use any part of the Confidential Information otherwise than (i) to analyze and evaluate the application for registration and acceptance, respectively to apply for registration and acceptance as service provider to the Belgian territory and (ii) for another purpose than the possible negotiation of the bilateral agreement;
(b) To disclose any part of the Confidential Information to third parties, other than those (legal) persons who must reasonably have access to the Confidential Information by virtue of their position at, their professional relationship with, their direct or indirect contractual link with the Party (hereafter jointly "the

Representatives"). To the extent that, by virtue of their professional activity, these Representatives are not bound by statutory professional secrecy and therefore by a professional duty not to disclose this Confidential Information, these Representatives must declare expressly and in writing that they are bound by the terms of this provision. The Parties undertake that the Representatives they involve in the registration and acceptance procedure shall comply with the commitments set out in this provision.

2.2.2. Without prejudice to the foregoing, the Parties shall take all necessary or useful measures to prevent the disclosure of Confidential Information contrary to this provision and the Parties shall take all necessary or useful measures to guarantee compliance with the terms of this provision by each of them and their Representatives.

2.3. Exceptions

The duty of confidentiality applicable to the Confidential Information, as described under provision 2.2., shall not apply if it concerns information that:

(a) Has entered or enters the public domain without this being the result of an unauthorized disclosure of this information by one of the Parties or by a person to whom one of these has made this Confidential Information available;
(b) Was already known to one of the Parties at the time the information was disclosed to it;
(c) Was given to one of the Parties on a non-confidential basis by a third party that is lawfully in possession of this information and is entitled to disclose such information;
(d) Is subject to the obligation to be made known:
   i. Pursuant to regulations (other than under regulations relating to public access to government documents)
   ii. In the context of administrative supervision or parliamentary control
   iii. On the basis of a court decision.

2.4. Legal means of disclosing Confidential Information

2.4.1. If the Parties or one of them are required to disclose Confidential Information pursuant to regulations, in the context of administrative supervision or parliamentary control or on the basis of a court decision, the concerned Party shall as far as possible, prior to this disclosure, inform the other immediately and in writing of this obligation, as well as the requested documents that must be disclosed, and Parties shall consult in relation to the timing and content of the disclosure

2.4.2. Before disclosing Confidential Information, a Party must:

(a) Notify the other party/parties in writing and as quickly as is practically possible of the Confidential Information that is to be disclosed, before the information in question is disclosed;
(b) Only provide that part of the Confidential Information that is required by the regulations, the administrative supervision, the parliamentary control or the court decision;
(c) Endeavour to obtain reliable assurance that the Confidential Information will be treated in confidence.

3. Costs

3.1. Compensation for the registration procedure/additional information

To compensate the costs borne by Viapass for evaluating and analyzing the application file submitted by [the candidate service provider] in respect of the registration procedure, a fixed fee of EUR 20.000 shall be charged. For this purpose and after Viapass confirmed to the candidate service provider that the application file is complete, Viapass shall send an invoice to the candidate service provider inviting it to pay the fee to the account of Viapass (BELFIUS BE 28 0910 1989 3820). The fixed fee amount excludes VAT. If, based on VAT legislation, VAT is due on the fixed fee, then the VAT will be specified separately on the invoice and it must also be paid by the candidate service provider.

3.2. Compensation for the acceptance procedure

To compensate the costs for evaluation, analyzing and testing within the scope of the acceptance procedure, [the candidate service provider] must pay a fixed fee in installments as set out below:

(a) Before the start of the verification of the conformity tests procedure: EUR 20,000
(b) Before the start of the suitability tests: EUR 30,000
(c) Before the start of the end-to-end tests: EUR 30,000
(d) Before the start of the first phase of the test run: EUR 50,000
(e) Before the start of the second phase of the test run: EUR 50,000
(f) Before the start of the phase consisting of the elaboration of the declaration and the certificate of suitability for use: EUR 20,000.

For that purpose, Viapass shall send an invoice to [the candidate service provider] before the start of each phase, inviting him to pay the fee to the account of Viapass (BELFIUS BE 28 0910 1989 3820). The fixed fee amount excludes VAT. If, based on VAT legislation, VAT is due on the fixed fee, then the VAT will be specified separately on the invoice and it must also be paid by the candidate service provider.

Viapass shall not start with a new phase of the acceptance procedure for as long as no payment of the corresponding installment of the fixed fee has been received.

4. Duration of the LOI

This LOI enters into force at the date of signature of this LOI and remains, except where explicitly stipulated otherwise, into force for a period of 24 months from the date of this LOI, unless the Parties agree otherwise in the bilateral agreement to be concluded between Viapass,the toll chargers and the Walloon Region on the one hand, and [the candidate service provider] on the other hand.

5. Invalidity

In the event that one or more of the provisions in this LOI should be invalid, illegal or unopposable, this shall not affect or damage in any way the opposability of the remaining provisions in the present document.

Any invalid, illegal or unopposable provision of this LOI shall, as much as made possible by law, be regarded as being replaced by any valid, legal or opposable provision, the execution and consequences of which shall fit as much as possible the provision it replaces.

6. Applicable law

This LOI is solely governed by Belgian law and shall be interpreted accordingly, and any civil dispute arising in this respect that could not be settled amicably or by intervention of the conciliating body shall be finally settled by the tribunals of Brussels.

Signed at Brussels on [DATE] in two original counterparts, whereby each Party acknowledges having received one original counterpart

For and on behalf of Viapass	For and on behalf of [the candidate service Provider]
_____	_____
Vincent Peremans and Johan Schoups	[X]

2. Model letter of intent (acceptance procedure)

Letter of Intent (« LOI »)

Between

The interregional entity Viapass
Represented by Mr. Vincent Peremans (chairman of the board of directors) and Mr. Johan Schoups (director general)
With registered office at
1000 Brussels
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Acting in its own name and on its own behalf, and as an agent of the toll chargers of the Belgian kilometre charging system,

Hereinafter "Viapass"

And

[candidate service provider]
Represented by [name]
[Function]
With registered office at
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Hereinafter **"[candidate service provider]"**

Viapass and [candidate service provider] are hereinafter separately referred to as "Party" and jointly as "Parties".

After declaring as follows:

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[The candidate service provider] has already been registered as service provider by [authority] with effect as from [date]. Consequently, the access of [the candidate service provider] to the Belgian kilometer charging system is only subject to the acceptance procedure.

The acceptance procedure runs through different phases:

1. the acceptance application of the candidate service provider;
2. the start of the acceptance procedure;
3. the presentation of the technical and commercial concept
4. the test process, with (i) a verification of the conformity (tests), and (ii) suitability tests;
5. negotiations about the bilateral agreement;
6. acceptance to the toll domain of the toll charger.

To compensate the costs of evaluation, analyzing and testing within the scope of the acceptance procedure, the candidate service provider shall pay the fees as further set out below.

If, after the successful completion of the test process, Viapass and the candidate service provider reach an agreement regarding the bilateral agreement, the bilateral agreement shall be entered into between the service provider, on the one hand, and the toll chargers of the Belgian kilometre charging system, Viapass and the Walloon Region, on the other hand.

By entering into the bilateral agreement, all toll chargers of the Belgian kilometre charging system will accept the service provider to their respective toll domain.

Finally, Parties shall exchange in the context of the acceptance procedure confidential information with each other according the provisions and conditions set out below.

The parties agree as follows:

1. Object

Present LOI sets out on a non-limitative basis the conditions and modalities under which the Parties consider to complete the acceptance procedure of [the candidate service provider] as a service provider to the Belgian territory, in accordance with the provisions of the toll domain statements. [The candidate service provider] declares having taken note of and being bound by the toll domain statements of all the toll domains of the Belgian kilometer charging system.

Present LOI contains no obligation whatsoever of Viapass or the toll chargers regarding the effective acceptance of the [candidate service provider] as a service provider to the toll domains established on Belgian territory.

2. Confidentiality

2.1. Confidential information

2.1.1. The concept “Confidential Information” comprises all information exchanged in the course of the acceptance procedure between the Parties in any way whatsoever and that is not public at the time of its communication.

2.1.2. Parties state precisely that the content (though not the existence) of this LOI, of the negotiations with respect to the bilateral agreement and of the bilateral agreement itself is confidential as well, and by consequence also falls under the scope of the present provision.

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2.2.1. Except with the prior written consent of the other Party, a Party is not permitted, either directly or indirectly, for example through an intermediary or a legal entity in which the Party is involved as shareholder, director or otherwise:

(a) To use any part of the Confidential Information otherwise than (i) to analyze and evaluate the application for acceptance, respectively to apply for acceptance as service provider to the Belgian territory and (ii) for another purpose than the possible negotiation of the bilateral agreement;

(b) To disclose any part of the Confidential Information to third parties, other than those (legal) persons who must reasonably have access to the Confidential Information by virtue of their position at, their professional relationship with, their direct or indirect contractual link with the Party (hereafter jointly “the Representatives”). To the extent that, by virtue of their professional activity, these Representatives are not bound by statutory professional secrecy and therefore by a professional duty not to disclose this Confidential Information, these Representatives must declare expressly and in writing that they are bound by the terms of this provision. The Parties undertake that the Representatives they involve in the registration and acceptance procedure shall comply with the commitments set out in this provision.

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(c) Was given to one of the Parties on a non-confidential basis by a third party that is lawfully in possession of this information and is entitled to disclose such information;
(d) Is subject to the obligation to be made known:
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(b) Only provide that part of the Confidential Information that is required by the regulations, the administrative supervision, the parliamentary control or the court decision;
(c) Endeavour to obtain reliable assurance that the Confidential Information will be treated in confidence;

3. Costs concerning the acceptance procedure

To compensate the costs of evaluation, analyzing and testing within the scope of the acceptance procedure, [the candidate service provider] must pay a fixed fee in installments as set out below:

(a) Before the start of the verification of the conformity tests procedure: EUR 20,000;
(b) Before the start of the suitability tests: EUR 30,000;
(c) Before the start of the end-to-end tests: EUR 30,000;
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Viapass shall not start with a new phase of the acceptance procedure for as long as no payment of the corresponding installment of the fixed fee has been received.

4. Duration of the LOI

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In the event that one or more of the provisions in this LOI should be invalid, illegal or unopposable, this shall not affect or damage in any way the opposability of the remaining provisions in the present document.

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This LOI is solely governed by Belgian law and shall be interpreted accordingly, and any civil dispute arising in this respect that could not be settled amicably or by intervention of the conciliating body shall be finally settled by the tribunals of Brussels.

Signed at Brussels on [DATE] in two original counterparts, whereby each Party acknowledges having received one original counterpart

For and on behalf of Viapass	For and on behalf of [the candidate service provider]
_____	_____
Johan Schoups	[X]

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