ANNEX 10: INTELLECTUAL PROPERTY RIGHTS

1. Intellectual property rights of Viapass and the toll chargers

The service provider acknowledges that, irrespective of the provisions of this current toll domain statement and/or other contractual agreements between Viapass and/or the toll chargers and the Walloon Region on the one hand and the service provider on the other hand, any intellectual property rights, including but not restricted to, copyright, rights to software, database rights and trade mark rights, to programs, systems, hardware and software, databases, and/or any other technology which Viapass and the toll chargers make available to the service provider within the scope of this toll domain statement and/or any other agreement between the parties or which communicate with the service provider's own programs, systems, hardware and software, or other technology, are protected by intellectual property rights, which are and shall remain the exclusive property of Viapass and the toll chargers and/or, where appropriate, of their suppliers (referred to hereafter as the "Intellectual Property Rights").

Viapass and the toll chargers do not give any guarantee whatsoever regarding the validity of the Intellectual Property Rights.

No agreement between parties whatsoever, including the toll domain statement and the bilateral agreement, grants the service provider any right to the Intellectual Property Rights, either in full ownership or under licence. Neither does the toll domain statement entail any cession or waiver of the Intellectual Property Rights to the benefit of the service provider.

The service provider undertakes to respect the Intellectual Property Rights and not to perform any action whatsoever which could cause the Intellectual Property Rights or the value of the Intellectual Property Rights to be damaged or impaired in any way whatsoever. This also means, inter alia and without any restriction hereto, that the service provider may not, either in full or in part, in original or adjusted form, reproduce, multiply, amend, publish, translate, process, rent, operate or commercialise, nor use in any other unlawful manner, for commercial or non-commercial purposes, any of the programs, systems, hardware and software, and/or technology or works which Viapass or the toll chargers made available to the service provider within the scope of this toll domain statement or which communicate with the service provider's own programs, systems, hardware and software, or technology. Neither shall the service provider decompile the hardware and/or software or provide himself, herself or itself with access thereto without permission given by Viapass, the toll chargers, or their suppliers.

Parties agree that, as from the moment the toll statement is made by the service provider as provided in Title II.3.2.2. of the toll domain statement, the toll chargers definitively, irrevocably and exclusively become owner of any database rights to the daily toll statements (*daily toll statements*) and/or any other intellectual property rights which might be vested in the daily toll statement, for the needs of the Belgian kilometre charge.

Viapass and the toll chargers do not give any guarantee whatsoever regarding the validity of the Intellectual Property Rights.

2. Communication through interfaces

The communication between the programs, systems, hardware and software or other technology of Viapass and the toll chargers, and the programs, systems, hardware and software or other technology which the service provider uses, where appropriate, and which it uses in execution of this toll domain statement and/or any other agreement with Viapass and/or the toll charges and the Walloon Region, shall only take place through interfaces (referred to hereafter as “Interfaces”) controlled and approved by Viapass.

Any intellectual property rights on the Interfaces continue to be the service provider’s exclusive property. For the duration of this toll domain statement and of any other agreements between the parties, the service provider grants Viapass and the toll chargers a personal, non-transferable and exclusive right to use the Interfaces and, where necessary, to adjust them for correct, efficient and optimum execution of this toll domain statement and/or any other agreement between the parties. Viapass and the toll chargers shall not use the Interfaces for any purposes other than for executing the toll domain statement and/or any other agreement between parties and shall refrain from decompiling or reverse engineering the Interfaces in any manner.

The parties acknowledge that the service provider’s intellectual property rights (including but not restricted to copyright, rights to software, database rights and trade mark rights) to the programs, systems, hardware and software or other technology which the service provider deploys and uses in execution of this toll domain statement and/or any other agreement between the parties, are and remain the service provider’s exclusive property.

3. Representations, warranties and indemnification by the service provider

The service provider states and guarantees that:

- the programs, systems, hardware and software or other technology which, where appropriate, the service provider deploys and uses in execution of this toll domain statement and/or any other agreement between Viapass and/or the toll chargers and the Walloon Region on the one hand and the service provider on the other hand do not infringe upon the intellectual property rights of third parties;
- the service provider has obtained any necessary permission from holders of intellectual property rights to the programs, systems, hardware and software or other technology which, where appropriate, the service provider deploys and uses in execution of this toll domain statement and/or any other agreement between Viapass and/or the toll chargers and the Walloon Region on the one hand and the service provider on the other hand, to be used within the scope of the Belgian toll charge.

The service provider shall fully indemnify Viapass and the toll chargers if they were to be addressed on the grounds of an allegation that the programs, systems, hardware and software or

other technology, which, where appropriate, the service provider deploys and uses in execution of this toll domain statement and/or any other agreement between Viapass and/or the toll chargers and the Walloon Region on the one hand and the service provider on the other hand, infringe upon the intellectual property rights of third parties. In such a case the service provider shall, at its own expense, assume responsibility for any claim or proceedings whatsoever filed against Viapass and/or the toll chargers and the Walloon Region.

If, as a result of an infringement claim, a court or an arbitral tribunal were to judge that the programs, systems, hardware and software or other technology which, where appropriate, the service provider deploys and uses in execution of this toll domain statement and/or any other agreement between Viapass and/or the toll chargers and the Walloon region on the one hand and the service provider on the other hand, or any part thereof, infringe or infringes upon the intellectual property rights of third parties, the service provider shall, without any expense for the aforementioned contracting parties and at its own discretion, (a) obtain a licence from the respective third party (parties), or (b) replace or adjust own programs, systems, hardware and software or other technology which, where appropriate, the service provider deploys and uses in executing this toll domain statement and/or any other agreement between Viapass and/or the toll chargers and the Walloon Region on the one hand and the service provider on the other hand, so that these or this no longer cause or causes any infringements.

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