

The Massachusetts Department of Transportation (“MassDOT”) Electronic Toll Collection (ETC) Program and the use of ETC is limited to patrons who join the ETC Program and maintain their account in “good standing,” and to valid members of E-ZPass. An ETC member in “good standing” means a patron who: (1) submitted a completed ETC application to MassDOT’s Customer Service Center; (2) affixed the transponder(s) in accordance with the instructions provided; (3) maintains their account current, with sufficient balance at all times to pay for all ETC transactions; and (4) uses the ETC lanes in accordance with the ETC Program Agreement and MassDOT’s regulations.

The following are the terms and conditions governing the ETC Program, which supersede any terms and conditions you may have previously received. These terms and conditions, together with your application, constitute the ETC Program Agreement. Please read all of the terms and conditions and the entire application prior to using an ETC transponder. When a transponder assigned to you is used, you agree as follows:

1. TERMS

- a) MassDOT may, at any time, suspend or terminate your ETC account, and/or electronically deactivate your ETC transponder(s) for violation of applicable laws, regulations, or the terms and conditions of the ETC Program Agreement. You shall remain and be liable for payment of all fines, penalties, costs, fees, and any other monies owed pursuant to the terms of this agreement and any applicable law.
- b) MassDOT reserves the right to reject any ETC application.
- c) If any of the terms of this agreement are declared or found to be illegal, unenforceable or void, then MassDOT and the ETC patron shall be relieved of all obligations under that term. The remainder of the agreement shall be enforced to the fullest extent permitted by law.

2. TRANSPONDER USAGE

- a) You agree that the ETC transponder(s) remains the property of MassDOT. This is required for manufacturer warranty purposes, and to establish a mechanism for the proper disposal of an inoperable transponder once you return it to MassDOT.
- b) You agree to affix the ETC transponder(s) in the vehicle(s) in accordance with the instructions provided and to use the transponder(s) only in the vehicles that you have listed on your application, and updated as necessary. Failure to do so may subject you to a Violation Fine or a Video-Toll (“V-Toll”) Administrative Fee.
- c) You agree that you may not use any designated ETC lane unless the vehicle is properly equipped with an ETC transponder and that vehicle has been listed on or added to your account.
- d) You acknowledge that you are required to enter and exit all toll plazas through a designated ETC lane. Otherwise, you will be required to pay your toll in cash, except if the vehicle is a Two Axle Commercial Vehicle. Two Axle Commercial vehicles are required to use a designated ETC lane in accordance with these Terms and Conditions.
- e) When traveling on the Massachusetts Turnpike’s ticket system (interchanges west of Route 128/I-95) and a point of exit, but no point of entry, is registered for the ETC transaction, you agree that the ETC system will assume the entry point that is farthest from the point of exit when calculating the toll amount. You may only contest the toll amount in writing to the Customer Service Center in accordance with Section 6 below. If the toll is reduced, your ETC account will be credited the amount of the reduced toll.
- f) You agree that you will comply with the posted speed limit for all ETC lanes. You are advised and you agree that exceeding the posted speed limit will subject you to fines and penalties and/or termination of your ETC account.
- g) You agree to obey all applicable federal and state laws and regulations governing the use and operation of MassDOT’s facilities and the ETC Program. Failure to do so may result in fines and penalties and/or termination of your ETC account.
- h) You agree to pay all costs associated with the use of the ETC transponder(s) assigned to you.
- i) You agree to obey all signage, postings and signal messages in the ETC lanes. You agree that you will not use the ETC lane after you have received a message in the lane to “CALL ETC” (signifying that a violation has occurred) until you have contacted the Customer Service Center and verified that your ETC account is in good standing.
- j) MassDOT may enter into reciprocal agreements with other agencies. If your ETC transponder(s) is used at any toll facility, parking facility or other facility accepting ETC as a payment mechanism you agree that all costs incurred in connection with the use of your ETC transponder(s) will be charged to your account in the manner that you have authorized in your ETC application and that you are responsible for all such charges.
- k) All Two Axle Commercial Vehicles, as defined in MassDOT’s regulations, operating on a way where MassDOT assesses a toll are required to enter and exit all toll plazas through a designated ETC lane. Two Axle Commercial Vehicles are not allowed to pass through a manual lane and are not allowed to pay cash for a toll, unless there is no designated ETC lane in operation at the time the vehicle passes through the toll interchange. You acknowledge and agree that any use of the manual lane to attempt to pay cash for a toll is in violation of this provision by such Two Axle Commercial Vehicles and is prohibited, and the registered owner of any such Commercial Vehicle may be subject to fines and penalties under MassDOT’s regulations, other applicable laws, and/or for breach of these Terms & Conditions. You agree that if you are in violation of this provision, you shall pay any such assessed fines and penalties.

3. LOST/STOLEN AND DEFECTIVE TRANSPONDERS

- a) You agree that you will notify the Customer Service Center immediately if your transponder(s) is lost or stolen. You agree that you are responsible for any costs associated with any and all uses of the ETC transponder(s) assigned to your account prior to such notification. The replacement fee for lost or stolen transponder(s) is equal to the amount of the Transponder Fee and Transponder Administrative Fee applicable as of the replacement date.
- b) Defective ETC transponders must be brought or sent to a Customer Service Center for testing and evaluation. At the discretion of MassDOT, defective ETC transponders may be replaced free of charge. If the ETC transponder shows signs of misuse or abuse you will be required to pay a fee for a replacement ETC transponder.

4. YOUR ETC ACCOUNT

- a) You authorize MassDOT to access and charge all costs associated with the use of your ETC transponder(s) to the credit card listed on your application or your bank account, as applicable.
- b) You authorize MassDOT to access and charge all fees associated with your participation in the ETC Program and associated use of a transponder to your ETC account and to the credit card, bank account, or other chosen method of replenishment for your account. The Fee(s) authorized hereunder include, but are not limited to, transactional, administrative, periodic administrative (i.e. monthly, yearly, etc.), and any other type of fee(s), as may be set and assessed at MassDOT’s discretion from time to time without prior written notice. Information relating to such fees and a current Fee Schedule may be obtained by contacting the Customer Service Center. If you close your ETC account, such fees will not be refunded, except as otherwise determined by MassDOT from time to time on the Fee Schedule.
- c) You acknowledge that MassDOT may review periodically the activity in your account and adjust your replenishment amount, if applicable, to more accurately reflect the average monthly costs and fees incurred by you.
- d) You shall not assign the obligations or benefits of this agreement without the express written consent of MassDOT or the Customer Service Center.
- e) You agree that you are responsible for providing the Customer Service Center with a credit card in good standing (i.e., valid, not expired and below the maximum balance), a banking account with sufficient funds, or a positive balance in your manual replenishment account, at all times to cover the costs and fees associated with your use of the ETC transponder(s).
- f) If you have selected “Manual Account Replenishment” as the payment method for your ETC charges and your balance falls below \$0.00 you will be subject to the issuance of a Violation Fine and account termination. In lieu of account termination you may be allowed to retain your ETC account, provided any outstanding balance is paid in full and you enroll in an automatic account replenishment payment method which includes use of a valid credit card or bank account.
- g) You agree that MassDOT shall not pay any interest on any ETC account pre-paid balance or any transponder deposit.

- h) You acknowledge and accept that you will be charged a fee for each returned check for your ETC Program account.
 - i) You certify that all information contained in your ETC application is true and accurate. You agree to notify immediately the Customer Service Center if any of the information contained in your application changes, including but not limited to, changes to address, credit card, bank account information, and vehicle and license plate information. Failure to do so may subject you to a Violation Fine or a Video-Toll (“V-Toll”) Administrative Fee.
 - j) Administrative fees may be billed directly to your account. You may only contest the imposition of said administrative fees in writing to the Customer Service Center within sixty (60) days of the disputed charge. If the fee is rescinded, your ETC account will be credited the amount of the rescinded fee.
 - k) Unpaid balances due to MassDOT may be turned over to a collection agency for enforcement and collection activities along with any other legal action that MassDOT is authorized to pursue to recover such monies owed.
- ## 5. VIOLATIONS AND “VIDEO TOLL” FEES
- a) In cases where your ETC transponder is not read, but an image of the vehicle’s license plate is captured in the lane and the license plate information for the vehicle is listed in your account, the appropriate toll amount shall be deducted from your account by use of the video image, referred to herein as a “video toll” or “v-toll.” A Video Toll (“V-Toll”) Administrative Fee shall also be applied to your account.
 - b) You acknowledge and accept that you are required to maintain your ETC account in good standing at all times and that if your account balance falls below \$0.00 you will be subject to a fine and penalties for unauthorized use of the ETC lane under 700 CMR 11.00 et. seq. and 730 C.M.R. 7.04 et. seq.
 - c) You agree that in the event your account falls below \$0.00 due to an expired or rejected credit card, an insufficient bank account balance or an insufficient pre-paid balance and you proceed through an ETC lane, you are in violation of the ETC Program Agreement and MassDOT regulations, and you are subject to a violation and penalties under 11.00 et. seq. and 730 C.M.R. 7.04 et. seq.
 - d) Any use of the ETC lane by a vehicle that is not listed on an ETC application; an ETC account not in good standing; or an invalid member of E-ZPass is prohibited, and the registered owner of any such vehicle is subject to a fine and penalties under MassDOT regulations.
 - e) If you rent or lease a vehicle and receive an ETC violation you are advised that under Massachusetts Law MassDOT must issue a violation to the registered owner of the vehicle (the rental or leasing company). You agree that, upon receipt of the name and address of the renter/lessee along with sufficient proof or such rental or lease, MassDOT may issue the violation to the renter/lessee. You agree that you, as the renter/lessee will be liable for any violation issued to the license plate associated with your rented or leased vehicle during the term of your rental or lease agreement. MassDOT has no obligation or liability whatsoever in any rental or leasing agreement.
 - f) You are advised and acknowledge that violation enforcement cameras are used in the ETC lanes. You agree that if you are issued a violation for unauthorized use of the ETC System you are required to adhere to MassDOT’s regulations 700 CMR 11.00 et. seq. and 730 C.M.R. 7.00-7.12 et. seq., for the payment or appeal of any violations. Under MassDOT’s regulations you must pay or appeal in writing any violation issued to you within sixty (60) days.
 - g) Failure to pay or appeal violation fines within the time period and in the manner described on the violation notice may result in additional Violation Administrative/Late Fees, the termination of your account, the non-renewal of your driver’s license and vehicle registration by the Registry of Motor Vehicles (RMV), and an RMV Non-Renewal “Marking Fee,” along with any other legal action that MassDOT is authorized to pursue to recover such monies owed.
 - h) You agree that the information provided to, or contained in your ETC account can be used by MassDOT in any administrative or legal proceeding by MassDOT to collect any monies owed by you to MassDOT.

6. DISPUTES/REFUNDS

- a) In accordance with Section 169 of Chapter 25 of the Acts of 2009, the time permissible for an account holder to dispute an overcharge of the electronic toll system is three (3) years from the time of the overcharge. If you dispute any charge to your ETC account you agree to notify the Customer Service Center in writing at 27 Midstate Drive, Auburn, MA 01501, within such period. MassDOT will investigate the dispute and will make a good faith determination of whether an adjustment is warranted. You agree that the good faith determination of MassDOT with regard to your dispute shall be final and binding upon you.

7. DISCLAIMER

- a) MassDOT shall have no responsibility or liability to you for any loss, cost, expense or damage to you, any passengers or your vehicle, arising out of your failure to comply with any laws or regulations, or any terms and conditions of the ETC Program Agreement, or out of your misuse or abuse of an ETC transponder, or failure to follow instructions for the use and operation of ETC transponder(s).
- b) Under no circumstances shall MassDOT have any liability for any consequential, indirect, special, incidental, or punitive damages of any kind arising out of your participation in the ETC Program.
- c) Except for its obligations under paragraph 3 (b) above, MassDOT makes no representations or warranties, express or implied, with respect to the merchantability or fitness for a particular purpose or any other reason with respect to ETC transponders and/or the ETC Program.
- d) Except as otherwise specified herein, MassDOT shall have no liability or obligation of any kind whatsoever arising out of a) your use of or the performance of the ETC transponder, b) any defect or malfunction of an ETC transponder or any defect or malfunction in any ETC lane, or c) the failure of any ETC lanes to operate at any time or the unavailability of any ETC lanes at any toll plaza.
- e) MassDOT does not warrant that there will be any ETC lanes, or that any particular number of ETC lanes will be available at any toll plaza, or that ETC will be available at any other facilities.
- f) You agree to indemnify, defend, and hold harmless MassDOT from and against any and all damage, loss, cost, expense, or liability relating to, arising from, or as a result of the use or performance of the ETC transponder.

8. COLLECTION EXPENSES

- a) You agree to pay MassDOT’s costs, including attorneys’ fees, required to enforce the terms and conditions of the ETC Program and the collection of monies in connection with the use of your ETC transponder(s).

9. NON-DISCLOSURE

- a) In accordance with the provisions of G.L. c. 6C, Section 13 (a), MassDOT and the Customer Service Center shall hold all customer account information confidential, except as otherwise authorized for MassDOT administrative and legal proceedings.

10. GOVERNING LAWS

- a) The ETC Program Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any legal proceeding arising out of or under the ETC Program Agreement shall be brought in a court with competent jurisdiction within Suffolk County in Boston, Massachusetts.

11. TERMINATION

- a) You may terminate this agreement at any time by returning your transponder(s) to the Customer Service Center. Transponders should be returned in person or by first class prepaid mail. Transponders will remain the property of MassDOT under all circumstances. Upon termination and return of your transponder(s), your account balance will be refunded to you. All outstanding charges will be deducted prior to refund.

12. MODIFICATIONS

- a) MassDOT may change the “ETC Program Terms and Conditions” at any time by giving customers notice thereof. The terms and conditions shall become effective seven (7) days after such notice has been given. No written notice is required, and you hereby waive any requirement that written notice be provided. Such notice may be given through any means, including, but not limited to, advertising such notice in the media, posting such notice on message boards along MassDOT’s toll roadways, or otherwise, as determined by MassDOT. If you have provided an electronic mailing address to MassDOT with your application, you authorize that such notice may be provided by sending such notice to that electronic mail address, in MassDOT’s discretion.