

## UTA Edenred Drive App Terms of Use

### 1. General information

1.1 These terms of use ("terms of use") apply to the use of the UTA Edenred Drive App ("UTA Edenred Drive App").

1.2 The provider of the UTA Edenred Drive App is UNION TANK Eckstein GmbH & Co. KG based in Kleinostheim, registered in the commercial register of Aschaffenburg Local Court under HRA 835 ("UTA").

1.3 UTA operates a service that allows the user ("UTA user") to obtain data, in particular fuel station data, and additional information from the UTA Cloud ("UTA services") using the UTA Edenred Drive App.

1.4 The UTA Edenred Drive App can be downloaded free of charge in the Apple App Store or in the Google Play Store. In order to have full use of the UTA Edenred Drive App, a user account needs to be set up with UTA.

1.5 In order to be able to use all of the functions of the UTA Edenred Drive App, an internet-enabled smartphone is needed. The UTA user is responsible for ensuring that their smartphone has an internet connection.

1.6 The UTA Edenred Drive App may only be used in accordance with these terms of use and subject to the rules, guidelines and conditions of the respective operator or provider of the App Store from which the UTA user downloads the UTA Edenred Drive App. The subject of these terms of use is in particular the granting of a free licence to use the UTA Edenred Drive App under the conditions of these terms of use.

1.7 As soon as the UTA user clicks on the "Accept" button, they agree that these terms of use apply. With this, the terms of use become binding for the UTA user.

**1.8 UTA expressly points out to the UTA user that the rules and regulations relating to road traffic, in particular the German Road Traffic Act (StVG) and the German Road Traffic Ordinance (StVO) are to be observed at all times and that the responsibility for their observance lies with the UTA user. UTA does not accept any liability for any damages and consequences resulting from use of the UTA Edenred Drive App that is in breach of the road traffic and any other relevant statutory provisions and regulations.**

## **2. Requirements for use and mobile charges**

2.1 The UTA user's smartphone must meet certain system requirements in order for the UTA Edenred Drive App to be used. Detailed information can be found at the Google Play Store for smartphones with Android-system and at the App Store for smartphones with iOS-system.

2.2 An internet or mobile connection needs to be established in order for the UTA Edenred Drive App to be used. Responsibility for the establishment of this connection and the costs incurred lies with the UTA user. UTA does not accept any responsibility for the availability of internet connections, mobile networks and other network connections of third-party providers. Equally, UTA does not accept any responsibility for the operation and operability of the devices, in particular smartphones and tablets, used by the UTA user to use the UTA Edenred Drive App.

## **3. Area of application**

3.1 These terms of use apply to the use of the UTA Edenred Drive App including all updates of the UTA Edenred Drive App. Depending on the nature and scope of the update, use of the UTA Edenred Drive App and availability of the UTA services may be affected.

3.2 Individual terms of use may be supplemented, modified or replaced by other terms, if UTA informs the UTA user of this and the UTA user agrees to this. Information on new terms of use can be provided by UTA when the UTA Edenred Drive App is opened. The new terms can be shown to the UTA user on the screen and continued use of the UTA Edenred Drive App may be made subject to acceptance of the new terms.

3.3 If the UTA user, when using the UTA Edenred Drive App, acts as or on behalf of an enterprise, i.e. in a commercial or self-employed professional capacity, or on behalf of a public body, the statutory consumer protection regulations do not apply.

3.4 If the UTA user uses the UTA Edenred Drive App on behalf of an enterprise or a public body, the respective enterprise or body will be represented by the UTA user and must be accountable for the actions and knowledge of the UTA user.

#### **4. Application, registration, password**

4.1. In order to have full use of the UTA Edenred Drive App, an application and registration need to be made.

4.2 The UTA user assures that all of the information provided by them in the application and registration is true and complete. If the UTA user's data has been transferred to UTA by a third party, for example by the fleet manager of their organisation, the user must check the accuracy and completeness of their data. The UTA user must also ensure that the data remains true and complete regarding the applications and services used by them in the UTA Edenred Drive App or on the basis of the UTA software. The UTA user assures that they are of full age. If the UTA user works for a legal person or a partnership that has (partial) legal personality, they assure that they have sufficient authorisation to use the UTA Edenred Drive App, the UTA software, the applications and the UTA services.

4.3 As UTA is not able technically to establish with certainty the identity of users who have registered via the UTA Edenred Drive App, UTA does not guarantee that the actual user of the UTA Edenred Drive App is identical to the registered user.

#### **5. Services and licence**

5.1 UTA makes the UTA Edenred Drive App available to the UTA user free of charge for use that is in accordance with these terms of use.

5.2 Upon acceptance of these terms of use, UTA grants the UTA user – subject to the data protection agreement – a free, non-transferable, non-exclusive licence to use the UTA Edenred Drive App.

5.3 UTA retains all of the rights to the UTA software and the UTA Edenred Drive App.

5.4 Due to the nature of the internet, mobile networks and computer systems, UTA does not guarantee uninterrupted availability of the UTA Edenred Drive App and the UTA software.

## **6. Intellectual property**

6.1 The UTA user only has the right to use the UTA Edenred Drive App and the UTA software in accordance with these terms of use.

6.2 The UTA user is not granted any rights of any kind outside of the rights of use expressly granted in these terms of use, in particular they are not granted any rights to the company name, logo, trade name, know-how and industrial property rights such as patents, marks, registered designs, copyrights (including in particular texts, graphics, software, codes, scripts, designs, sounds, music, animations, videos, applications) or the like. UTA is under no obligation to grant the UTA user such rights.

6.3 The UTA user acknowledges that all rights to the UTA Edenred Drive App and the UTA software are owned or held worldwide by UTA or licensors of UTA and the rights to the UTA Edenred Drive App and the UTA software are only assigned to the UTA user within the licence granted in these terms of use and are not sold to the UTA user.

6.4 The UTA user transfers to UTA for an unlimited time a free, transferable, non-exclusive right of use for the following purposes, in particular the right to reproduce, distribute and process all of the content and information which the UTA user makes available to UTA in the use of and in connection with the use of the services provided by UTA.

6.5 The content and information within the meaning of subparagraph 6.4 will be used in particular to improve services, for statistical purposes and for market research purposes.

6.6 UTA may also use the content and information within the meaning of subparagraph 6.4 for its own appropriate marketing of UTA, provided that and to the extent that legitimate interests of the UTA user are not unreasonably affected by this.

6.7 The right of use granted to UTA pursuant to subparagraph 6.4 will expire for the future, if the UTA user deletes their account with UTA. The use of anonymised content and information that does not contain any reference to persons remains unaffected. UTA does not accept any responsibility for the use of content and information by third parties that has taken place without UTA's consent. UTA will take reasonable technical measures protect the content and information against third parties.

## **7. Data backup and use**

7.1 The UTA user is allowed, subject to other provisions in these terms of use, to make copies of the UTA software and of content, provided that and to the extent that this is necessary and technically possible for the purpose of data backup, operational reliability or normal use of the UTA Edenred Drive App and is offered by UTA. UTA provides no guarantee or warranty that the technical capabilities to do this exist.

7.2 Subject to subparagraph 7.1, without UTA's express prior consent the UTA user is not allowed:

7.2.1 to copy the UTA software;

7.2.2 to rent out, sell, lease out or lend out the UTA software, or to hand it over to, assign it to, transfer it to or grant sublicences for it to third parties;

7.2.3 to modify or alter the UTA software, merge or combine it with or incorporate it in other software (including other software of UTA) or

7.2.4 to dismantle or reverse engineer the UTA software, to produce derivatives of the UTA software and/or to use individual parts of the UTA software in the sense of subparagraphs 7.2.1 to 7.2.3.

## 8. Obligations of the UTA user

8.1 By accepting these terms of use, the UTA user agrees, without prejudice to mandatory statutory requirements and other requirements in these terms of use, to observe all relevant technological controls, regulations and export control laws that apply to the technology in the or of the UTA Edenred Drive App and UTA software and used or supported by the UTA Edenred Drive App or UTA software.

8.2 The UTA user must not use the UTA Edenred Drive App and/or UTA software in a way that infringes the property rights of UTA, where they have not been granted on the basis of these terms of use, or the property rights of third parties.

8.3 The UTA user must not use the UTA Edenred Drive App and/or PACE software in a way that

8.3.1 might damage, deactivate or compromise the systems or security of the systems of UTA or

8.3.2 might disrupt or affect the use of other users of the UTA Edenred Drive App or other UTA services.

8.4 If the UTA user passes on the information provided by UTA, the UTA software or other software and documentation provided by UTA to third parties, they must observe, without prejudice to the provisions in subparagraph 7.1, the applicable regulations of national and international (re-)export control law. If the UTA user does pass on the aforementioned, they must in any event observe the (re-)export control regulations of the Federal Republic of Germany and the European Union.

8.5 Before they pass on the aforementioned, the UTA user will in particular check and take appropriate measures to ensure that

8.5.1 they do not, by passing on the aforementioned to a third party or by providing other economic resources in connection with information, software and documentation provided by UTA, violate an applicable embargo, in particular one imposed by the European Union and/or the United Nations or

8.5.2 the information, software and documentation provided by UTA are not intended for use in connection with armaments, nuclear technology or weapons that is banned or requiring approval.

8.6 The UTA user will indemnify UTA fully against all claims made by authorities or other third parties against UTA as a result of the UTA user's failure to observe the aforementioned export control law obligations and agrees that it will compensate for all damages and costs incurred by UTA in this connection, unless the UTA user is not responsible for the breach of the obligation. This does not involve a shift in the burden of proof.

## **9. Blocking of access**

UTA expressly reserves the right to block the UTA user's access to the UTA Edenred Drive App, if the UTA user is in breach of these terms of use.

## **10. Liability**

10.1 UTA does not provide any guarantees for the quality of the UTA Edenred Drive App or UTA software, in particular it does not provide any guarantee for the operation, operability, availability, usability or any other guarantees concerning the UTA Edenred Drive App and UTA software. UTA does not accept any liability for the accuracy and currentness of the data and information provided by the UTA Edenred Drive App or UTA software. Furthermore, UTA does not accept any liability for the consequences of disruptions, interruptions and impaired operation of the UTA Edenred Drive App or UTA software.

10.2 The UTA Edenred Drive App and UTA software have been designed and developed for commercial end users. In particular resale is not permitted. UTA therefore does not accept any liability for lost profit, lost business or business opportunities, business interruptions or the loss of business activity.

10.3 The UTA Edenred Drive App and/or UTA do not provide any guarantees for the correctness of the fuel prices and the respective fuel stations shown in the app.

10.4 UTA will be liable without limitation for damages due to injury to life, limb or health as a result of a breach of duty by UTA, a legal representative or vicarious agent of UTA and for damages caused by the absence of a quality guaranteed by UTA. In addition, UTA will be liable in cases of fraudulent behaviour, in particular in the case of a fraudulent concealment of a defect. UTA will also be liable in the case of deliberate or grossly negligent behaviour on the part of UTA or in the case of losses/damages caused by a representative or vicarious agent of UTA deliberately or through gross negligence.

10.5 In the case of a breach of material contractual obligations, UTA's liability will be limited in the case of ordinary negligence to the losses/damages typically expected (foreseeable) for this type of contract. The liability pursuant to subparagraph 10.3 will not be limited by this. Material contractual obligations are those whose fulfilment enable the contract to be performed at all and which the user may regularly trust are adhered to.

10.6 Liability under the Product Liability Act (Produkthaftungsgesetz) remains unaffected.

10.7 Otherwise UTA's liability is excluded.

## 11. Data protection

11.1 UTA will strive continually to achieve optimal security of its systems as far as technically and economically feasible. UTA points out that internet and mobile connections are never 100% secure and protected.

11.2 In order to ensure that the UTA Edenred Drive App and UTA software are being used correctly, UTA needs to collect and analyse the UTA user's data. The optimal and contractually-agreed operation of UTA Edenred Drive App and UTA software can only be achieved in particular by linking a registered user profile and the collection of this data.

**UTA therefore expressly points out that personal data of the UTA user will be collected, processed, transmitted and used (processing) by UTA in accordance with the statutory regulations when the UTA Edenred Drive App is used. How the personal data is processed and the data subject's rights in this respect are explained in the [UTA Privacy Policy](#).**



11.3 Insofar as the UTA Edenred Drive App contains links to websites of other third parties that are independent of UTA, the content of these websites of third parties is not under the control of UTA. UTA accepts no responsibility for the content of the websites of third parties and their privacy policies. UTA does not adopt this third-party content as its own. If UTA becomes aware of any such breaches of law, it will remove this content immediately (notice and take down process). The UTA user is responsible for deciding whether and to what extent they access websites and services of third parties.

## **12. Consent**

The UTA user agrees that UTA may send offers tailored to them relating to the UTA services, such as offers put together specifically for the UTA user and information relating to their vehicle, as notifications to their mobile phone or via the UTA Edenred Drive App or by e-mail, and that in the process it may use the personal data provided by the UTA user when registering for the services provided by UTA or collected and processed by UTA via the UTA Edenred Drive App.

The UTA user can withdraw this consent from UTA at any time and without stating reasons with effect for the future via the UTA Edenred Drive App. In this case the service provided by UTA will no longer be available.

## **13. Final provisions**

13.1 Side agreements need to be made in writing.

13.2 If the UTA user is an entrepreneur within the meaning of the German Commercial Code or if their domicile is outside of the Federal Republic of Germany, the exclusive, also international place of jurisdiction is, subject to the exclusive jurisdiction provisions of the EU regulation on jurisdiction, Aschaffenburg.

13.3 UTA operates and is responsible for the UTA Edenred Drive App. The UTA Edenred Drive App takes into account the requirements of the country in which UTA is based. UTA does not accept any responsibility for information, software and/or documents also being allowed to be retrieved, used or downloaded by the UTA Edenred Drive App in places outside of the country

concerned. If the UTA user accesses the UTA Edenred Drive App from places outside of the country concerned, the UTA user bears full responsibility for ensuring that the relevant regulations of the respective national law are observed. Information, software and/or documentation on the UTA Edenred Drive App are not allowed to be accessed from countries in which this access is unlawful.

13.4 The law of the Federal Republic of Germany applies exclusively to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

13.5 If any provision in these terms of use should be ineffective, this will not affect the effectiveness of the remaining provisions in these terms of use. In such a case, the parties undertake to replace the ineffective provision with an effective provision which is closest to the meaning and economic purpose of these terms of use. The same will apply in the case of any gaps in the text of these terms of use. It is the express wish of the parties that this article does not result in a shift in the burden of proof, but that section 139 of the German Civil Code (BGB) does not apply at all.