

## **1 Scope / Subject Matter of the Agreement / Purpose of the Agreement / Interruption of Services**

### **1.1 Scope**

Verifone Payments GmbH, Karl-Hammerschmidt-Str. 1, 85609 Aschheim, Germany, (hereinafter referred to as „Verifone“) is a payment institution supervised by the German Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht – „BaFin“), Graurheindorfer Str. 108, 53117 Bonn, Germany. Verifone offers the acceptance and settlement of payment transactions from various third-party service providers who provide alternative payment services for their payment service users (hereinafter referred to as "AP Service Provider").

These General Terms and Conditions constitute a framework agreement for the acceptance and settlement of all payment transactions offered by Verifone for acceptance and settlement of AP Service Providers. In addition, the acceptance and settlement of the payment transactions of the respective AP Service Provider shall be governed by Special Terms and Conditions, which set out the special conditions pertaining to the respective alternative payment method, and which shall become part of this Agreement if Verifone offers the Contracting Party (hereinafter referred to as "CP") the acceptance and settlement of the respective alternative payment method and if the CP accepts it.

### **1.2 Subject Matter of the Agreement**

The CP commissions Verifone on the basis of a management service agreement, subject to the following terms and conditions, to accept payment transactions of the respective AP Service Provider's payment brands selected by the CP, which are either (a) initiated by the customer at a payment transaction terminal or POS system (hereinafter referred to as "POS Terminal" or "Terminal") located within the European Economic Area (EEA)<sup>1</sup> or (b) initiated remotely via the internet for electronic commerce transactions, and to settle the payment transactions underlying these payments. The CP will submit all payment transactions of the respective AP Service Provider arising in its business operations exclusively to Verifone for acceptance and settlement. The provision of corresponding Terminals and software is not part of this Agreement.

### **1.3 Purpose of the Agreement**

When using the services described in this Agreement, the CP acts exclusively in its role as commercial business, public law entity or independent professional activity within the European Economic Area (EEA)<sup>1</sup>. The use of these services for other purposes, in particular for private purposes, is not permitted.

### **1.4 Interruption of Services**

Verifone may suspend the services it is obliged to provide pursuant to these General Business Conditions, or limit their duration, if

- a) this is reasonably required in order to carry out maintenance or for the purpose of maintaining or restoring the services, or
- b) this is required by law or by administrative order, or

- c) the CP has breached important contractual obligations (including those contained in the Special Terms and Conditions), or
- d) there are reasonable grounds for suspecting money laundering or the financing of terrorism or
- e) the number of unauthorized payment transactions initiated at the CP's locations is unreasonably high or exceeds a threshold value specified in the Special Terms and Conditions and/or the CP fails to promptly implement measures proposed by Verifone to reduce the number of unauthorized payment transactions, or
- f) there are indications for an extraordinary reason for termination under this Agreement or the Conditions or the Special Terms and Conditions.

## **2 Acceptance of Payment Transaction by the CP**

### **2.1 Right of Acceptance**

The CP may accept all alternative payment methods for payment in accordance with this Agreement, for which it has accepted the respective Special Terms and Conditions and for which it has been approved by Verifone and, if applicable, the AP Service Provider. If an AP Service Provider's consent to the admission or continuation of the acceptance of the alternative payment method by the CP depends on further information, the CP must provide this information within a specified period of time, otherwise acceptance may be refused, interrupted or terminated.

### **2.2 Prohibition of Discrimination, Freedom from Charges**

The CP shall provide the goods or services to payers choosing an alternative payment method for payment purposes at prices that are not higher and under no less favorable circumstances than those for other customers. The acceptance of an alternative payment method may not be made dependent on a minimum or maximum sale amount or be restricted in any other way. The CP may not charge the fees agreed with Verifone directly or indirectly to the payer (no surcharging).

The right of the CP to offer the payer a discount for using a certain payment instrument or to give other incentives to use a payment instrument preferred by the CP remains unaffected by section 2.2

### **2.3 Inadmissible Transactions**

The CP may not submit a payment transaction made with an alternative payment method to Verifone for settlement, if

- a) the payer does not physically present the payment instrument, but has forwarded, or wants to forward, the relevant data to the CP in a written form, by phone, by e-mail, or via the internet unless acceptance via telephone or electronically is provided for in the Special Conditions or it is an electronic commerce transaction ;
- b) the claim of the CP against the payer underlying the payment transaction has not been founded in the CP's business operation, but in the business operation of third parties, or is not based on a good or service that the CP rendered in its own name and for its own account to the payer,

<sup>1</sup> Including the UK as long as treated as an EEA State or otherwise permitted under the TPR or equivalent.

- c) the claim underlying the payment transaction is based on credit grants or other cash payments, including partial payments or recurring payments,
- d) the alternative payment method is used to pay for an already existing, overdue claim, or for an uncovered cheque,
- e) the claim underlying the payment transaction is based on a transaction involving an item specified in the Special Terms and Conditions ('Prohibited Products'),
- f) the claim underlying the payment transaction is based on a legal transaction concerning matters which infringe the rights of third parties,
- g) The CP should have doubts due to the circumstances of the payment transaction with the alternative payment method whether the payer is authorized,
- h) the claim of the CP underlying the payment transaction does not arise from a contract in relation to the range of the CP's goods, product or services, which were agreed in writing between the CP and Verifone,
- i) there is an advance or down payment underlying the payment transaction, in particular the goods or services underlying the CP's service have not yet been fully rendered at the time the payment transaction was submitted,
- j) the payment transaction is to be made in a currency other than the legal tender in the country where the Terminal is located. It should be noted that only one transaction currency is possible per CP,
- k) the CP has submitted the payment transaction more than once.

### **3 Approval of Payment Transactions (authorization), Clearing**

#### **3.1 Requirement of an approval from AP Service Provider**

The CP shall request an approval from AP Service Provider or its intermediary point (herein-after "Approval Request" or "Authorization") for each payment transaction submitted to Verifone in accordance with this Agreement. The approval is requested automatically via the POS Terminal via Verifone or in case of an electronic commerce transaction via the API or Hosted Payment Page provided by Verifone or another Verifone group entity. Should the CP receive a negative response or no response, the CP may not accept the alternative payment for payment.

#### **3.2 Processing Approval Requests**

At the point of sale, the CP must forward Approval Requests to Verifone electronically and securely as prescribed by Verifone using a POS Terminal provided or approved by Verifone, to which the corresponding software for acceptance and processing of the respective alternative payment method is installed. The CP shall inform Verifone of the installation of a Terminal at a point of sale, and about the terminal ID number of the installed POS Terminal, so that the POS Terminal can be initialized by Verifone and approved for the respective alternative payment method.

In case of electronic commerce transactions, the CP must employ the API or Hosted Payment Page provided by Verifone or another Verifone group entity for the acceptance and processing of e-commerce transactions.

## **4 Other Obligations of the CP**

### **4.1 Suspicion of Abuse**

If the CP becomes aware of facts which suggest that a payer is misusing or unauthorized to use an alternative payment method, the CP may, for the purposes of money laundering prevention

- (a) refuse to accept the alternative payment method for payment; or
- b) require the payer to present an official photo ID, to record name, address, place and date of issue and type of ID must be and to store it in a way that it can be matched with the relevant payment transaction.

### **4.2 Suspicion of Data Abuse**

Should the CP become suspicious, or with certainty determine, that data in relation to alternative payment methods and respective payment instruments are abused or spied out in its business establishment, website or application, or if there is a disproportionately high rate of rejected Approval Requests, or if there is theft of Customer Receipts or other media with payment instrument data, Verifone must be informed of this immediately in writing. This also applies if the CP has reason to believe that a POS Terminal it uses has been manipulated, or stolen, destroyed, disposed of, or that it is not at the disposal of the CP for any other reasons.

### **4.3 Measures to Prevent Abuse**

The CP is obliged to take measures to prevent unauthorized or fraudulent use of alternative payment methods upon written notification from Verifone. This may, for example, consist of the CP requiring the presentation of a valid official photo identification card for payment instrument transactions above a certain amount specified by Verifone and recording the identity of the customer in accordance with 4.1 and forwarding this information to Verifone.

### **4.4 Customer Complaints**

Any complaints from customer referring to the underlying contract between the customer and the CP must be settled by the CP with the customer directly. AP Service Provider may provide dispute resolution processes to which the CP must submit.

### **4.5 Acceptance Information; Use of the logo etc.**

The CP must inform payers about the acceptance or non-acceptance of any alternative payment methods in a clear and unambiguous manner. The CP undertakes to place the acceptance logos and other marketing materials provided by the AP Service Provider in accordance with the Special Terms and Conditions. Any further use of marks belonging to AP Service Provider requires prior written approval from Verifone. In the event of an alternative payment method being no longer accepted, the CP must remove every indication of such acceptance. The CP shall train its sales staff accordingly so that they are able to present the respective alternative payment method accurately and assist payers in using the alternative payment method.

#### **4.6 Provision of the necessary information (Master Data)**

The CP shall, upon concluding the Agreement and throughout the term of the Agreement, provide all information required to perform the Agreement with Verifone in full, without undue delay and at its own expense. The CP must inform Verifone of all changes to the information provided to Verifone in writing without undue delay. In addition, the CP must, without undue delay, provide confirmation in writing, by fax, by e-mail or online if provided via an online form, stating whether the information communicated by the CP is still up to date. The aforementioned obligations apply in particular to the following information (hereinafter referred to as "Master Data"):

- a) changes in the legal form, company name, commercial register number and the VAT ID number,
- b) changes in the postal address, e-mail-address and other CP contact data, as well as bank details and the holder of the bank account specified by the CP to settle the transactions,
- c) a sale or lease of the company, or any other change of ownership in, or discontinuation of, the business,
- d) description of the CP's product range and confirmation that no transactions concerning Prohibited Products shall be concluded in accordance with the respective Special Terms and Conditions
- e) a submission of an application to open insolvency proceedings, or comparable procedures as well as attachment proceedings against the CP,
- f) a change of the legal representative or the beneficial owner as per section 3 of the German Anti-Money Laundering Act (Geldwäschegesetz - GWG),
- g) changes in the postal address(es) of the terminal location(s) and of a physical terminal location differing from this, where applicable, in particular if moved to a different sovereign country (also within the EU) or the relevant value added tax or customs area changes,
- h) a change of the authorized persons at the CP who may deal with Verifone,
- i) a brief description of the CP's business including the main goods and services offered,
- j) the CP's merchant category code (MCC) assigned by other card-based payment systems, if known and if the disclosure is allowed;
- k) address of the CP's website(s) and application (if any), and a central e-mail address (if available).

In the event of incorrect information or changes not immediately notified, Verifone is entitled to suspend or terminate the Agreement.

Upon receipt of a notice concerning a change of ownership, Verifone may pay the transactions submitted via payment cards from this point in time onwards to the CP only once the change in ownership has been fully verified. Verifone is also entitled to verify the information communicated by the CP if Verifone is legally obliged to do so, or a change in the legal representatives of the CP or the beneficial owner has taken place, or the last verification was at least five years ago. The CP must provide Verifone with all information as well as all documents required for the verification. Should the aforementioned obligations not be met or if they turn out to be false, Verifone may suspend the pay-out due to the

increased risk of money laundering until the facts have been clearly settled.

#### **4.7 Managing the POS Terminals; Software and Updates**

The CP shall, at all times, maintain a current list of the POS Terminals it uses, and shall send this list to Verifone upon request and without undue delay. The list must show the POS Terminal serial numbers and postal addresses of the installation location.

Verifone installs the respective payment application of an alternative payment method on the POS system so that the CP is able to accept it. Verifone shall regularly provide the CP with software updates (subject to a fee), which serve to correct errors, to improve or extend functionalities or to comply with and implement regulatory requirements, if and to the extent that these updates are made available by AP Service Providers to Verifone. The CP shall ensure that the software installed is up-to-date.

With regard to electronic commerce transactions, the CP must ensure to employ the current version of the API or Hosted Payment Page as provided by Verifone or another Verifone group entity.

#### **4.8 Duty to Report**

The CP must report to Verifone any disruptions, defects and damages with regard to the services to be rendered by Verifone, and the assertion of rights by third parties, without undue delay, at the latest within 24 hours of being detected.

#### **4.9 Scrutiny Obligation/Cut off Period**

The CP is obliged to scrutinize promptly the settlement reports, evaluations and transactions processed via the terminals as provided by Verifone, as well as any resulting credit transfers to the CP's accounts and to assert any objections promptly, no later than within five (5) business days of the CP receiving the respective settlement report and evaluation, or the value date of the credit transfer. The CP's claims for settlement of payments received by Verifone must be asserted in writing to Verifone within a cut off period of three (3) months after transmission of the transaction data to Verifone. Any later assertion of claims shall be excluded.

#### **4.10 Notification of Cases of Suspected Manipulation, in particular in the Event of Break-ins, and Terminal Theft, Destruction and Disposal**

If the CP has reason to believe that any manipulation has been carried out on the POS Terminals it uses, they have been stolen, destroyed, disposed of or made unavailable to the CP in any other way, it must notify Verifone of this promptly. Such indications exist in particular when there have been completed or supposedly unsuccessful break-ins into the CP's business premises, even if no externally visible interference with the POS Terminal has been carried out. Verifone has the right to demand from the CP at the latter's expense the prompt submission or handover of the terminal for inspection purposes to Verifone or a police station. Verifone shall provide a replacement terminal and may lock the terminal in question until the matter has been clarified. The CP is obliged to examine the integrity of the POS Terminals regularly, in particular the security seal, checking for traces of manipulation where necessary. If a POS Terminal is disposed of, the CP must ensure and document that it has properly deleted all data, the Verifone software on

the POS Terminal and that all outer covers have been rendered unusable. Verifone may request the documentation thereof. The CP's obligations contained in Sections 13.3 and 13.4 shall remain unaffected.

#### **4.11 Specific Obligations for Electronic Commerce Transactions**

The CP has to ensure that the customer is able to clearly distinguish between the payment process and the website or online shop of the CP as the seller of goods and services. In case a customer is routed or directed via link from the CP's website to the website of third parties, the customer needs to be made aware of leaving the CP's website.

The CP shall comply with the with the relevant provisions of consumer protection laws and regulations applicable to the business model of the CP, in particular the provisions of the EU Distance Selling Directive and the EU E-Commerce Directive and the applicable national laws (in particular on distance selling and electronic commerce) and to provide the following information in a clear, unambiguous, easily accessible and timely manner, as well as in the legally required form in the case of offers, to enable the customer of the CP to make an informed decision on the purchase of the goods or service of the CP:

- a) full name and address, registered office, e-mail address, telephone number, commercial register number, place of commercial registration and any other information that is mandatory by law in the country where the CP is established or actively selling to;
- b) complete, correct and legible description of the goods and services offered;
- c) the terms and conditions of delivery, especially regulations regarding the right of withdrawal or return, as well as the processing of refunds and - if necessary - pre-contractual information;
- d) all remuneration and costs to be paid for the goods and services of the CP, including costs for shipping and packaging as well as taxes;
- e) the currency in which the goods and services will be invoiced;
- f) a reference to the customer service, including how to contact it;
- g) the data protection principles observed by the contracting company for the use of customer data and for the transmission of payment data;
- h) time of invoicing and time of fulfilment of the sales contract.

After the CP has been informed by Verifone of the authorization and successful submission of a payment transaction, the CP must inform the customer that the order has been successful and provide the customer with all relevant information with regard to the order such as an order number.

#### **4.12 Specific Obligations for Alternative Payment Methods stored by the CP for future transactions**

The CP may agree with the customer to store a certain Alternative Payment Method as a payment method for future payments and to pre-authorize future payments, provided that the Alternative Payment Service Provider allows such options and such integration has been offered by Verifone. The CP agrees to,

- a) enter into an effective agreement to store the payment instrument data and pre-authorize future transaction, and to notify the customer of the successful completion such an agreement;
- b) establish reasonable procedures for verifying a customer's identity;
- c) offer easy options for terminating the agreement;
- d) not accept payments under the preauthorization process if the customer has given notice of termination of the agreement;
- e) provide the customer with a ranked order in which payment methods will be used for payment transactions where several payment methods may be stored with the CP;
- g) inform the customer about the CP's liability for unauthorized transactions.

### **5 Processing of Payment Transactions**

#### **5.1 Unauthorized Payment Transactions**

If a payer claims that a payment was not properly authorized by or was otherwise fraudulent, Verifone shall inform the CP accordingly. Upon request, the CP shall provide Verifone with transaction receipts for the disputed payment transaction within the period specified in the Special Terms and Conditions for forwarding to the respective AP Service Provider.

#### **5.2 Processing refunds (credit transactions)**

In the event of refunds due to cancelled transactions or refunds granted within the scope of a refund or exchange right, the CP may instruct the AP Service Provider via Verifone to refund the amount to the payer. The CP may only initiate a credit note if it has previously submitted the corresponding payment transaction to Verifone for settlement and the payment transaction is based on a service to be provided by the CP. Refunds may only be ordered in accordance with the Special Terms and Conditions.

### **6 Crediting and Pay-out of Transaction Amounts, Settlement, Consequences of Default and Offsetting**

#### **6.1 Crediting of Transaction Amounts**

Verifone shall make available to the CP all transaction amounts for all payment transactions submitted by the CP to Verifone after the corresponding transaction amounts have been received in full on Verifone's account. The pay-out date of the CP's claims pursuant to sentence 1 is determined pursuant to section 6.2. All credit notes and payments by Verifone to the CP are, in accordance with section 9, subject to the condition there are not chargebacks pursuant to section 9.

#### **6.2 Pay-out of Transaction Amounts ("Settlement"), Cut off Period**

Verifone shall transfer the transaction amounts that are to be transferred to the CP to the bank account of a CRR credit institute specified by the CP in the transaction currency of the terminal locations. The account-holding branch of the bank in which this bank account is managed must be located within the European Economic Area (EEA)<sup>1</sup>. If the CP is not the sole account holder of the bank account, the CP must demonstrate to Verifone in writing that all statutory

obligations, in particular arising from the GWG, have been complied with. Verifone shall make the pay-out in such a way that the money is received by the CP on the business day which follows the final business day of the pay-out interval. If the pay-out is not in euro, the deadline is four (4) days. Claims of the CP for pay-out of the received transaction amounts must be asserted in writing vis-à-vis Verifone within a cut-off period of three (3) months after the relevant payment transaction was submitted to Verifone. Claims asserted after the cut-off period are excluded.

### 6.3 Deduction of Fees and Expenses

Verifone may deduct the agreed fees and the expenses to be reimbursed by the CP from the transaction amounts, even before they are made available to the CP. To the extent such a deduction does not take place, the CP must pay the fees and expenses to Verifone upon request.

### 6.4 Reporting/Approval of Settlement Reports

Verifone shall provide settlement reports to CP, on paper or electronically (e.g. as a PDF or Excel file), at least monthly or as agreed otherwise, setting out the transaction amounts submitted, the fees to be paid by Verifone to the CP, and the expenses to be reimbursed by the CP to Verifone. Transaction amounts that have been charged back are shown in a separate report. The CP must examine all reports it receives within six (6) weeks and raise any objections without undue delay. To comply with the six-week period the CP must have posted the objection within the deadline. If no timely objections have been received, the settlement reports shall be deemed approved. Verifone shall make specific reference to this consequence when issuing the reports.

### 6.5 Consequences of default

For each reminder after the CP being in default, Verifone may charge a fixed cost charge of EUR 5.00 plus any external cost. The CP retains the right to provide proof that the actual costs and damage incurred by Verifone have been lower. In addition, in event of the CP's default, Verifone is entitled to suspend its services in accordance with statutory law. Verifone's right to extraordinary termination remains hereby unaffected.

### 6.6 Exclusion of Offsetting

The CP may only offset its claims with Verifone's claims if they are undisputed or have been awarded by final judgment.

## 7 Trust Agreement

Verifone will, as a trustee for the CP, deposit the transaction amounts received in an Verifone account by the AP Service Provider in one or more trust accounts or deposits at one or more CRR institutes for the CP as a Trustor. These trust accounts or deposits are managed in the name of Verifone as an open collective trust account or deposit pursuant to section 17 para 1. clause 2 No. 1 (b) German Payment Supervisory Law (Zahlungsdienstenaufsichtsgesetz – ZAG). Verifone shall ensure by due accounting, that the amounts received according to sentence 1 can be allocated at any time to the CP and are never mixed with amounts from other natural or legal persons but the payment service users for whom they are held. Verifone is permitted to withdraw amounts from the trust accounts or deposits in the amount

of the claims existing for the benefit of Verifone against the CP. Verifone must inform the CP upon request with which credit institute and in which trust account or deposit the transactions amounts received according to sentence 1 are deposited and if the credit institute in which the transactions amounts received according to sentence 1 are deposited belongs to a deposit guarantee scheme for securing the claims of depositors and investors, and to which extent these amounts are protected by this scheme.

## 8 Fees, Settlement, Expense Reimbursement

### 8.1 Fees, Settlement

Verifone shall receive, for the services it renders, the agreed fees from the CP. In deviation from section 675f para. 5 sentence 2 BGB, charging fees to fulfil additional obligations in accordance with sections 675c to 676c BGB is permitted. For services not listed in the Agreement that are carried out on behalf of, or in the presumed interest of, the CP and which can only be expected to be performed against payment, Verifone may set the amount of the applicable fee at its own reasonable discretion (section 315 BGB). Settlement by Verifone ("billing") is on a monthly basis in the agreed transaction currency of the terminal locations at the end of the settlement month.

### 8.2 Value Added Tax

Unless otherwise agreed, all fees are net prices plus the statutory value added tax. Verifone may opt for value added tax irrespective of whether the CP may be able deduct the amount of value added tax paid as input tax. If the CP operates its business in an EU member state and not in Germany, the fee to be paid by the CP shall be exclusive of VAT (reverse charge procedure) in deviation from sentences 1 and 2. The CP undertakes to treat the relevant services as subject to value added tax to the extent that this is permitted or required by law. The invoices to be issued by Verifone shall contain the information required under the applicable VAT law. The CP shall provide Verifone with the necessary information without delay.

### 8.3 Reimbursement of Expenses

The CP must reimburse Verifone all expenses that Verifone incurs in the performance of this Agreement and deems necessary under the circumstance of the individual case. Expenses in this sense are, in particular but not limited to, charge-back claims pursuant to section 9, penalties, fees or claims for damages by the respective AP Service Provider, provided they are related to the performance of the Agreement.

Verifone does not have a claim for the reimbursement of expenses if an expense can be attributed to negligence on the part of Verifone. Section 254 BGB applies in this case accordingly.

Verifone is entitled to request from the CP an advance for expenses required to perform this Agreement. Instead of such an advance, Verifone may also request that bank securities in a corresponding amount are provided (section 10.1).

## 9 Chargeback Right

### 9.1 Credit Notes and Payments Subject to Reservation

All payments by Verifone to the CP and all credit notes granted to the CP are subject to the reservation of repayment.

### 9.2 Chargeback of Transaction Amounts

Verifone shall charge back any transaction amounts made available to the CP if the conditions pursuant to Clause 6.1 have not been met or transaction amounts received on the account of Verifone and made available to the CP are charged back to Verifone. This is the case for

- a) payment transactions for which the CP has received a rejection or no response (time-out) to the authorization request but has nevertheless executed it.
- b) chargebacks, e.g. due to lack of authorization of the payment transaction, which were decided by the AP Service Provider against the CP (among other things also due to missing or not timely provided transaction receipts, cf. section 5.2),
- c) refunds according to section 5.3,
- d) due to a refund claim by the payer according to section 675x BGB,
- e) for payment transactions where it is subsequently established that the conditions set out in section 2.3 were not met.

Verifone's chargeback rights against the CP shall be limited neither by approval nor by section 675p para. 2 BGB.

## 10 Collaterals

### 10.1 Verifone's Right to Request the Provision of Collaterals

Verifone may require that standard bank collaterals are provided for all claims arising out of the Agreement, even if the claims are only conditional.

### 10.2 Changes in risk

If Verifone has, with respect to claims against the CP, refrained from requiring or reinforcing collaterals, in whole or in part, it may require such collaterals at a later date. A prerequisite for this is, however, that circumstances occur or become known that justify the assessment that the claims against the CP are at a higher risk. This may in particular be the case if

- a) the CP's economic situation has changed adversely, or is threatening to change adversely, or
- b) the existing provided collaterals have decreased in value or are threatening to decrease in value.

Verifone has no right to require the provision of a collateral if it was expressly agreed that the CP does not have to provide any collaterals, or only has to provide collaterals that have been specified individually.

### 10.3 Deadline for providing or increasing collaterals

Verifone will grant a reasonable deadline for providing or reinforcing the collaterals. In the event Verifone intends to make use of its right to terminate without notice in accordance with section 15.3 i) for reason of the CP failing

to meet its obligation to provide or reinforce collaterals within the deadline, it shall notify the CP thereof in advance.

### 10.4 Right of lien

The CP provides, in order to secure all present, future and conditional claims of Verifone against the CP from this Agreement, a lien for the benefit of Verifone on all claims of the CP against Verifone for the payment of amounts from the Agreement. In order to secure all present and future claims by Verifone from the Agreement, in particular from charged back transaction amounts, Verifone is entitled to pay the CP only after the expiry of the chargeback deadlines as prescribed by the AP Service Provider.

### 11 Granting of Licence

Verifone grants the CP a limited, non-exclusive, non-transferable and non-sublicensable sublicense to use the respective alternative payment method in accordance with the respective Special Terms and Conditions for the CP's own business operations solely for the purposes of this Agreement. The use of the license for private purposes or for third parties is prohibited. The CP may not modify or decompile, reverse engineer or otherwise decrypt the provided software. Apart from granting the licenses, Verifone does not transfer any IP rights to the CP.

### 12 Provisions of the AP Service Provider

The CP shall observe and implement any changes to the provisions of the respective AP Service Provider regarding the acceptance and submission of payment transactions upon notification by Verifone within the specified periods. Verifone shall advise the CP in this regard. If the CP considers new requirements to be economically unreasonable, the contracting parties shall clarify the necessity of implementation within four (4) weeks after the CP having notified Verifone of such unreasonableness. If the parties are unable to reach an agreement on the implementation of the requirements within four (4) weeks, Verifone shall be entitled to suspend or terminate for good cause acceptance of the respective alternative payment method.

## 13 Confidentiality, Data Protection and Data Security

### 13.1 Confidentiality

The contractual parties shall keep all confidential information and data which they became aware of during their contractual relationships confidential and shall not make them accessible to third parties outside of the respective company group (affiliated companies according to sections 15 ff German Stock Corporation Act) unless it is required to perform the Agreement or to comply with legal obligations or contractual obligations towards the respective AP Service Provider. Confidential data also includes data relating to the AP Service Provider. Verifone warrants that both the access to the data it stores temporarily, and its data processing facility, are secured in multiple ways.

Verifone may transmit the CP's master data for the purpose identification pursuant to sections 4 and 7 GwG and for a aml purposes and for a credit rating to credit agencies (e.g. Schufa, Creditreform) and to the payment systems and their processors within the scope of the legitimate interest. The respective credit agency stores and transmits data to

Verifone in order to provide it with information for assessing the creditworthiness of natural persons. When providing the credit information, the respective credit agency can additionally provide Verifone with a probability score calculated from its database to assess the credit risk (score procedure). Upon request, Verifone shall inform the CP of the credit agency and payment systems to which the CP's data were transmitted with respective postal addresses.

### 13.2 Data Protection

If personal data of the CP is transferred to Verifone, Verifone shall process, collect and use it in accordance with the statutory provisions and in accordance with the AP Service Provider's regulations. Verifone shall strictly comply with statutory data protection laws. Verifone shall transfer the data underlying the payment transactions submitted to it for authorization and processing to the relevant payment transaction to the AP Service Providers or the third parties they commission. The CP may at any time contact the addresses specified online at [www.verifone.com/de/de/service](http://www.verifone.com/de/de/service) with respect to any questions regarding compliance with data protection.

Verifone shall be the data controller for the personal data transmitted by the CP to Verifone within the meaning of Regulation (EU) 2016/679 (General Data Protection Regulation) and in order to fulfill its contractual obligations shall transmit this data to any intermediaries of the payment system approved for this purpose, each of which is a data controller. Verifone may use subcontractors as data processors, but this does not affect Verifone's responsibility. If necessary, the CP shall take appropriate measures to inform the payment instrument holder thereof at the POS. The CP's own data protection responsibility for the personal data processed by the CP shall remain unaffected.

### 13.3 Data security

The CP shall secure the stored and collected data on the payer against access from unauthorized third parties, including access through terminal manipulations, and shall only use it for the performance of this Agreement. The CP shall regularly test its relevant IT systems and Terminals for integrity and possible manipulations, it shall inform Verifone without undue delay about any unauthorized attempt to access its relevant IT systems, or if there is reason to believe that a Terminal was manipulated or that payment data is being compromised, and, in consultation with Verifone, shall take the required measures. In the event a payment system reports that there is reason to believe that payment data was compromised, the CP must inform Verifone about this without undue delay and shall commission a testing company approved by the payment system with the preparation an investigation report. In the investigation it shall be examined whether CP has complied with the provisions of the AP Provider and if payment data in the CP's IT systems or in the IT systems of its subcontractors have been intercepted by third parties. After the investigation report has been prepared, the CP must remedy any possible security defects established thereby. The costs of the inspection must be borne by the CP. If Verifone does not deem the measures to be sufficient, Verifone is entitled to terminate the Agreement for good cause with a period of four weeks to the end of the month.

### 13.4 Consent pursuant to Section 59 ZAG

The CP expressly agrees that Verifone, other payment service providers involved in payment processing, and any intermediaries may retrieve, process and store any personal data required to provide the payment services which require an authorization pursuant to the ZAG.

## 14 Liability

### 14.1 Limitation of Verifone's Liability

Verifone shall be fully liable towards the CP in cases of intent and gross negligence. In cases of other negligent behavior, Verifone shall exclusively be liable for

- a) personal injury,
- b) damages, for which Verifone is liable due to mandatory legal regulations and
- c) damages that result from the violation of important obligations that endanger the achievement of the objective of the Agreement, the fulfilment of which is material to the proper performance of the Agreement, and on which the CP may regularly rely (cardinal obligations).

If the cardinal obligations were breached with slight negligence, Verifone shall be liable up to a maximum amount of EUR 5.000,00 per damage event. This limitation also applies in the event of an intentional or grossly negligent breach of obligations by vicarious agents, which are not legal representatives or executive staff of Verifone. In any case, liability is limited to direct damages that are foreseeable and typical in these cases and cannot be controlled by the other party. Liability for lost profits is excluded.

### 14.2 Accidental Events and Force Majeure

Verifone is not liable for damages resulting from interruptions or restrictions that occur due to necessary maintenance, due to force majeure, riots, events of war or natural events, direct terrorist actions or due to other events for which it is not responsible (e.g. strikes, lockouts, traffic disruptions, orders from higher authorities, either domestic or foreign, break-down and the disruption of electricity or telecommunication networks).

### 14.3 Liability in the Event of an Incomplete, Incorrect or Delayed Processing of a Payment Transaction

In the event of an incomplete or incorrect processing of a payment transaction, the liability shall be determined in accordance with section 14.1. Section 675y BGB is waived in this respect. There shall be no liability without fault. In deviation from sentence 1, Verifone's liability towards the CP for damage occurred due to the incomplete, incorrect or delayed processing of a payment transaction which is not covered by section 675y BGB, shall be limited to EUR 12.500,00. This does not apply to cases of intent or gross negligence or for risks that were especially assumed by Verifone.

### 14.4 The CP's Liability

The CP is liable towards Verifone for damages that arise due to the culpable compromising of payment data or due to culpable breaches of the Agreement by the CP; in this context, damage shall also be deemed to include any claim for damages or indemnification asserted by the respective

AP Service Provider in connection with a breach of contract (e.g. due to the sale of prohibited products by the CP in accordance with the respective Special Terms and Conditions). Otherwise, the CP is liable in accordance with the statutory laws.

#### **14.5 Lawful conduct**

The CP is obliged to observe any applicable laws when carrying out its business. This also applies in particular to any provisions regarding export control and the fight against corruption.

In all cases, this obligation comprises the prohibition of unlawful payments and granting other unlawful benefits to officials, business partners, their employees, family members or other partners, and the prohibition of facilitation payments to officials or other persons.

The contractual parties support one another with measures to prevent corruption and export control violations and, in particular, inform one another promptly if they have knowledge or a specific suspicion in specific connection with this Agreement or its fulfilment.

Should Verifone ascertain that the CP is violating export control or anti-corruption provisions, Verifone is entitled to terminate the Agreement for good cause. The CP is obliged to indemnify Verifone from all damages which may arise for Verifone as a result of such provisions being violated by the CP.

### **15 Term, Termination and Suspension**

#### **15.1 Term**

The Agreement has an indefinite term and may be terminated by either party at the end of any month with three (3) months' notice. The termination notice must be in writing. The CP's right to terminate the Agreement at any time pursuant to section 675h para. 1 BGB is excluded. The termination may also be limited to individual alternative payment methods (partial termination). Upon termination of the Terminal contract, this Agreement shall also end automatically without the need for a notice of termination.

#### **15.2 Termination for lack of submitted transactions**

Notwithstanding the provision in Clause 15.1, the Agreement may be terminated by Verifone prematurely by giving one month's notice if the CP's transaction volume is less than EUR 5,000 (or the respective equivalent in local currency) for any continuous period of six months. This shall also apply to individual points of sale, for which partial termination by Verifone is possible in this case.

#### **15.3 Termination for good cause**

The right to terminate the Agreement for good cause and without notice period remains unaffected. A good cause for termination without observing a notice period is given in particular but not limited to if

- a) a significant deterioration of the CP's assets occurs or is imminent,
- b) the CP is in default of payment due owed to Verifone, despite the setting of a final payment date and warning to terminate the Agreement,
- c) the CP repeatedly submits payment transactions via this Agreement even though it was not entitled to do so in accordance with section 2.3,

- d) the CP gave false information upon concluding the Agreement, in particular with regard to its business operation or the offered goods and service segment, or culpably does not meet its information obligations in accordance with section 4.6 at a later date
- e) a person or company that did not exercise any controlling influence on the CP upon conclusion of the Agreement obtains such controlling influence during the term of the Agreement and, as a result, it becomes an unreasonable burden for Verifone to continue with the Agreement,
- f) the CP does not meet its obligation to provide or reinforce collaterals in accordance with section 10 within the reasonable period set by Verifone,
- g) the CP submits payment transactions to Verifone via POS Terminals that are not approved by Verifone for this purpose,
- h) the CP repeatedly breaches the provisions of the Agreement in any way,
- i) the CP relocates its business headquarters to a country outside of the European Economic Area,
- j) the CP violates statutory provisions on the prevention of money laundering and terrorism financing.

#### **15.4 Termination of Special Terms and Conditions**

Special Terms and Conditions may contain further grounds for termination, which may lead to a termination of the respective Special Terms and Conditions and thus to a termination of acceptance of the respective alternative payment method. However, the termination of Special Terms and Conditions shall not affect the validity of this Agreement in principle.

#### **15.5 Formal requirements on termination notices**

Each termination of the Agreement requires written form, sent in the original by post or fax. Other types of transfer via telecommunication are not permitted.

#### **16 Waiving Legal Information Obligations**

The rights resulting from sections 675d para. 1 sentence 1 BGB in conjunction with Art. 248 §§ 1-12, 13 para. 1, 3-5 and §§ 14-16 Introductory law to the German Civil Code (Einführungsgesetz zum BGB) are waived.

### **17 Final Provisions**

#### **17.1 Applicability of German law**

The business relationship between the CP and Verifone shall be exclusively subject to German Law.

#### **17.2 Place of Jurisdiction**

The courts of Munich shall have jurisdiction for all disputes in relation to the conclusion, performance or termination of the Agreement, provided the CP is a merchant.

#### **17.3 Changes to the Agreement**

Amendments to the Agreement shall be provided to the CP in text form no later than two months before their proposed effective date. The CP may either agree to or reject the amendments before the proposed effective date. The CP shall be deemed – subject to a termination by the CP in accordance with section 17.3 para. 2 – having approved of the change if it did not object to the change prior to the proposed effective date. The period for rejection is deemed



to be met if the CP sends its rejection notice before the proposed effective date to Verifone. Verifone shall specifically draw the CP's attention to this approval effect when making the proposal.

In addition, the CP may also terminate the payment service prior to the proposed effective date free of charge and without notice. In its proposal, Verifone shall specifically inform the CP of this termination right. Any other contractual relationships which may exist beyond this Agreement shall remain unaffected by such a termination.

#### **17.4 Significant Changes to the Contractual Basis**

Insofar as the circumstances on which the Agreement is based undergo a significant change that has not been taken into account in the provisions of the Agreement, the contracting parties undertake to adapt the Agreement to the changed circumstances accordingly.

#### **17.5 Severability clause**

If any of the provisions are or become invalid or inoperative in full or part or become ineffective at a later date, this shall not affect the validity or effectiveness of the other provisions. The same applies in the event it turns out that this Agreement contains a loophole. In place of the ineffective or unenforceable provision or to close the loophole, an appropriate regulation shall apply, which, if legally possible, best meets what that parties would have agreed if the inefficacy, unenforceability or incompleteness of the provision had been known. If the inefficacy of a provision is based on the extent of the service established in this Agreement or the time (deadline or end date), the extent of the service or time (deadline or end date) should then apply that is legally permissible and which comes closest to the will of the parties.

#### **17.6 Complaints and Alternative Dispute Resolution**

CP's complaints to Verifone regarding rights and obligations arising from sections 675c to 676c BGB may be sent to Verifone by mail or e-mail. Complaints submitted in this way shall be answered by Verifone in text form within fifteen (15) working days of receipt. If it is not possible to reply within the deadline for reasons, for which Verifone is not responsible, Verifone shall send a provisional reply letter clearly stating the reasons for the delay as a reply to the complaint and the time by which CP will receive the final reply at the latest. The final reply shall be sent no later than thirty-five (35) working days after receipt of the complaint.

Verifone participates in the dispute resolution procedure of the arbitration board of the Deutsche Bundesbank. An application for arbitration may be submitted by e-mail to [schlichtung@bundesbank.de](mailto:schlichtung@bundesbank.de), by fax to +49 69 709090-9901 or by mail to Deutsche Bundesbank, - Conciliation Office -, Postfach 11 12 32, 60047 Frankfurt am Main. A form for this and further information on the procedure can be downloaded from <https://www.bundesbank.de/Navigation/DE/Service/Schlichtungsstelle/schlichtungsstelle.html>

*divergence between the English and the German texts, constructions, meanings, or interpretations, the German text, construction, meaning or interpretation shall govern exclusively.*