

## 1. Scope/contractual objective

### 1.1 Scope

Verifone Payments GmbH, Karl-Hammerschmidt-Str. 1, 85609 Aschheim, Germany, (hereinafter: „Verifone“) is a payment institution supervised by the German Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht - BaFin), Graurheindorfer Str. 108, 53117 Bonn, Germany, pursuant to sec 1 para. 1 no. 1 of the German Payment Services Supervision Act (Zahlungsdienstleistungsaufsichtsgesetz, ZAG), and renders services for the contractual party (hereinafter: “CP”) based on an independent contractual relationship (hereinafter: “POS Service Agreement”) as part of processing the relevant payment methods and other services included in the scope of the POS Service Agreement. In addition to these services, Verifone may sell or lease to the CP certain point-of-sale payment terminals or software-based cash register solutions required to use these services (hereinafter “Terminal” or “POS Terminal”). There is an Verifone software (including Verifone keys) installed on the POS terminals which enables the use of the services offered by Verifone (hereinafter the “Terminal Software”). The following “General Business Conditions” (hereinafter “GBCs”) are an integral component of the POS Service Agreement. In addition to the GBCs, for certain individual business relationships “Special Terms and Conditions” containing deviations from or additions to the GBCs may apply and shall have priority over the GBCs in the case of any contradictions (hereinafter the GBCs and Special Terms and Conditions shall jointly be referred to as the “Verifone Conditions”). Special Terms and Conditions are agreed separately when the CP enters into a contract. To the extent the POS Service Agreement contains provisions deviating from the Verifone Conditions, they shall take precedence over the Verifone Conditions.

### 1.2 Subject matter of the Agreement

When concluding the POS Service Agreement, the CP shall only act in execution of its commercial or independent professional activity (section 14 German Civil Code (hereinafter “BGB”), or as a legal entity organized under public law. The legal and actual place of business of the CP and the actual sites of all POS Terminals must be within the European Economic Area (hereinafter “EEA”), Switzerland or the United Kingdom, and the usage of the POS Terminals may not be prohibited by national law (in particular not be subject to any controls on capital movement that prevent the provision of the services described in these GBCs). If the CP moves the site of the POS Terminal to another country, the CP must promptly inform Verifone of this change. Use of these services for other purposes, is not permitted. The CP shall exclusively use the provided POS Terminals as well as all other included Verifone services throughout the term of the contract.

## 2. Conditions of the German Banking Industry Committee

In addition to the POS Service Agreement and these Verifone Conditions and, provided the girocard system of the German Banking Industry Committee (hereinafter “girocard” and “GBIC”) shall be used, the “GBIC Merchant Conditions - Conditions for Taking Part in the girocard System” (DK-

*Händlerbedingungen – Bedingungen für die Teilnahme am girocard-System*) shall apply respectively.

## 3. Verifone services

### 3.1 Technical network operation for card-based payments

Verifone, as the technical network operator, shall transfer the authorisation requests and authorisation responses between the POS Terminal of the CP and the address of the relevant recipient in accordance with the requirements for the relevant payment method or the requirements of the relevant acquirer. In addition, Verifone shall create settlement files in accordance with the CP’s instructions (hereinafter “Sales Data” or “Clearing Data”) and shall forward them to the address of the relevant recipient. The instruction to forward these settlement files to the address of the relevant recipient is issued by means of an end-of-day clearing transaction (*Kassenschnitt*), which has to be initiated by the CP on the POS Terminal. Verifone assumes no liability for the accuracy of the forwarded information.

### 3.2 Settlement of payments using girocards via an Verifone account

If it was agreed that the settlement of payments made through a payment card that can participate in the girocard system of the GBIC (hereinafter “girocard”, sometimes also referred to as “ec card” in market usage), shall be made through an account held by Verifone, the CP shall, in addition to the services specified under section 3.1 and as part of a management service agreement (Geschäftsbesorgungsvertrag) as per section 675c Para.1 BGB, commission Verifone to process the resulting Sales Data submitted by the CP from the use of an girocard, and to account for the payment processes underlying this Sales Data. For this purpose, Verifone shall submit the direct debits resulting from the Sales Data to a bank account of Verifone, by using the payment procedure agreed with the CP. Verifone shall make the incoming payment amounts resulting from the submitted direct debits available to the CP without undue delay after these amounts have been credited to Verifone’s bank account. Verifone shall forward those amounts which are to be made available to the CP in Euro by SEPA credit transfer to the bank account within the EEA, Switzerland or the United Kingdom specified by the CP. The forwarding of the amounts is subject to the reservation that the direct debits submitted on behalf of the CP are paid in full. In the event direct debits are not paid or are charged back to Verifone’s bank account (a “Returned Direct Debit”), Verifone can require the CP to provide reimbursement for any of the amounts forwarded to the CP subject to the reservation, including the resulting expenses. Verifone’s business days are Monday - Friday with the exception of national German bank holidays and bank holidays in Munich. The business day calendar is published online at [www.verifone.com/de/de/service](http://www.verifone.com/de/de/service). (“Business Day/s”).

Verifone will, as a trustee, deposit the amounts received for the CP in one or several trust accounts held at one or more German banking institutions for the CP as a trustor. These trust accounts are managed in the name of Verifone as an open trust collective account pursuant to section 17 para 1.

clause 2 lit. b ZAG. Verifone shall make the bank institute managing the open trust accounts aware of the trustee relationship. Verifone shall ensure, through accounting technology, that the amounts received on behalf of the CP 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 user for whom they are held, in particular with Verifone's own amounts. Verifone may withdraw amounts from the trust accounts up to the amount of the claims existing for the benefit of Verifone against the CP.

Verifone must inform the CP upon request with which bank institute and in which trust account the amounts received for the CP are deposited, and if the bank institute in which the amounts received for the CP are deposited belongs to a deposit guarantee scheme for securing the claims of depositors and investors, and to which extent these amounts are ensured by this scheme.

### **3.3 Fee for promise of payment for payment processes in the girocard system ("girocard")**

The CP shall commission Verifone as its authorised representative as per section 6 of the girocard Merchant Conditions to make such fee agreements with the card issuing bank institutes (hereinafter "Issuers"). The CP shall grant Inter-Card the authority to submit to the Issuers any declarations on the behalf of the CP that may be required for this purpose, and hereby releases Verifone from the provisions of section 181 BGB.

The interchange fee as per the EU Regulation 2015/751 of 29 April 2015 on interchange fees for card-based payment transactions (hereinafter "EU Regulation 2015/751") is the fee pursuant to section 6 of the girocard Merchant Conditions. Verifone may, vis-à-vis the Issuers, retain a partial amount of this fee as remuneration for the brokerage service rendered by Verifone for the Issuers, and must only pay the remaining amount agreed with the Issuers to the Issuers or their authorised representatives. In addition, Verifone may agree with the CP an "girocard service fee" in order to settle the fee as per section 6 of the girocard Merchant Conditions.

The CP may revoke the Agreement and the authorisation under this section 3.3. at any time and without any notice period being required. Once the revocation comes into effect pursuant to the preceding sentence, Verifone's obligation to process payment transactions in the girocard system on behalf of the CP shall cease. The preceding sentence does not apply if

- the CP has made its own arrangement with the issuers on the fee, upon which the Issuers will grant the CP a promise of payment (Zahlungsversprechen) for payment transactions submitted to the girocard system in accordance with section 5 of the girocard Merchant Conditions and
- the CP has informed Verifone of this at least six weeks prior to such own agreement becoming effective, by stating the basic computational values agreed upon between the CP and the Issuers, and
- the CP has arranged with the Issuers that the settlement of the underlying payment transactions shall take place using terminal prefixes established consensually between Verifone and the CP

(the facts described in the above three bullet points are hereinafter: "CP's Own Fee Arrangement") or

- Verifone has already concluded fee arrangements with the Issuers on behalf of the CP on this basis before the agreement and the authorisation were revoked.

In the event the CP made an individual fee arrangement, Verifone shall pay the fee agreed between the CP and the Issuers for the settlement of the promise of payment in accordance with section 5 of the girocard Merchant Conditions to the Issuer or its agreed-upon headends (Kopfstellen), provided the CP has previously provided the monetary amount required to do so to a payment account specified by Verifone.

Verifone is only obliged to render the services named under section 3.1 and 3.2 with regard to girocard subject to the requirements named therein, if and as long as the CP demonstrates the existence of fee arrangements pursuant to section 6 of the girocard Merchant Conditions with Issuers. In the event there are no fee arrangements between the CP and one or more Issuers, the CP must endeavour to conclude such fee arrangements with the relevant Issuers without undue delay. As long as the CP cannot, or can only partially, demonstrate that there are fee arrangements with all Issuers, Verifone may take suitable and appropriate measures, taking the CP into account, such as sending, through the CP, a notification to the card holder about the non-acceptance of girocards from certain Issuers due to a lack of a fee arrangement, or the (temporary) deactivation of the terminal until the existence of the missing fee agreements has been demonstrated.

### **3.4 Grant of licences**

Verifone shall grant the CP, for the term of the POS Service Agreement, a non-exclusive right to use the Terminal Software (including the relevant Verifone key), which may not be transferred by the CP to third parties.

### **3.5 Installation**

The POS Terminal shall be installed, following consultation with the CP, either through Verifone, through a third party authorised by Verifone or by the CP. If the CP performs the installation, it must strictly follow Verifone's installation instructions. The commissioning is successful, once one of the approved card types can be processed via the terminal. If the CP commissions third parties with the performance of installation services (e.g. connecting the POS Terminal, providing and testing the telecommunication connections), it must bear all resulting costs.

### **3.6 Interruption of services, delay in the forwarding of amounts**

Verifone is entitled to interrupt its services or limit them in duration, if

- this is reasonably required in order to carry out maintenance or for the purpose of maintaining or restore the services, or
- this is required by law or by an official order, or
- the CP has violated obligations according to section 4.1, or
- there are reasonable grounds for suspecting money laundering or the financing of terrorism.

The CP is advised that Verifone may be obliged - due to statutory requirements (in particular money laundering requirements) - to delay the forwarding of amounts to the CP, or to fully desist from forwarding them in the event there are reasonable grounds for suspecting money laundering, the financing of terrorism or other criminal offences that may result in an endangerment of Verifone's assets.

### 3.7 Depot service

Throughout the term of the POS Service Agreement, Verifone will replace a defective POS Terminal with an identical equivalent terminal (hereinafter: "Depot Service"). Verifone shall bear the costs incurred, including the costs for the replacement terminal, if the defect is not due to improper handling, external influences or force majeure. In these cases, Verifone may invoice the CP for the damages in the amount of the costs incurred for Depot Service plus a processing fee (the amount of the processing fee incurred can be found online in the merchant customer section of the Verifone website). This compensation claim shall be limited to the maximum amount of the lump-sum for damages for the loss of the POS Terminal in accordance with section 8.3.

The CP shall return the defective POS Terminal to Verifone within seven Business Days of receiving the replacement terminal, at its own expense and with adequate insurance. The risk of accidental deterioration or degradation during transport shall be borne by the CP. If the terminal is not returned within the mentioned period of time, Verifone will invoice the CP for the purchase price when new of the defective POS Terminal. The CP retains the right to provide evidence that the damage was lower, and Verifone retains the right to provide evidence that the damage was higher.

### 3.8 Settlement, Verifone's information obligations

Verifone shall issue the CP invoices on paper or in electronic form (e.g. as a PDF or Excel file) on a monthly basis, covering the transaction amounts submitted, the fees to be paid by Verifone to the CP, the expenses to be reimbursed by the CP to Verifone, and the resulting required information in accordance with Article 12 para 1. subpara. 1 of EU Regulation 2015/751. The CP must examine all received invoices within six weeks, and raise any objections without undue delay. In order to comply with this deadline, it is sufficient if the objection is sent within the six week period. If no objections are received in good time, the invoices shall be deemed approved. Verifone shall make specific reference to this consequence when issuing the invoice.

Verifone's information obligations resulting from sections 675d para. 1 clause 1 BGB in connection with Art. 248 Section 1-12, Section 13 paragraph 1, 3-5 and Sections 14 to 16 of the Introductory Law to the German Civil Code (Einführungsgesetz zum Bürgerlichen Gesetzbuch, EGBGB) are hereby waived and do not apply to the services rendered by Verifone.

## 4. Obligations of the CP

### 4.1 Provision of the necessary information (master data)

The CP shall, upon concluding the POS Service Agreement and throughout the term of the POS Service Agreement, provide all information required to perform the POS Service Agreement in full, without undue delay and at its own expense. The CP must inform Verifone of all changes to the

information specified in the POS Service Agreement in writing without undue delay. In addition, the CP must, within four weeks after Verifone making such a request, provide confirmation in writing or by fax, email or using an online form where available, stating whether the information communicated by the CP is still up to date. The aforementioned obligations apply in particular for the following information (hereinafter: "Master Data"):

- a) legal form, the company, the commercial register number or the VAT ID of the CP,
- b) 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 for transaction processing,
- c) a sale or lease of the company of the CP and any other change of holder and discontinuation of business,
- d) significant changes to the CP's product range,
- e) the submission of an application to open insolvency proceedings, or settlement proceedings,
- f) a change of the legal representative(s), beneficial owner(s) or person acting towards Verifone as defined by the German Money Laundering Act (*Geldwäschegesetz*) (GwG)
- g) an insolvency application of the CP and the opening of an insolvency procedure on the CP's assets and attachments measures against the company,
- h) changes in the postal address(es) of the POS Terminal location(s) and where applicable, of a physical POS Terminal location differing from this, in particular if the change is in another sovereign state (also within the EU) or the relevant value-added tax or customs area changes,
- i) a change of the authorised persons at the CP who may deal with Verifone.

Upon receipt of a notice concerning the change of ownership, Verifone will be entitled to pay the payment 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 required for the verification, and with all documents required for the verification.

Should the aforementioned obligations not be met or in the event of false information, Verifone may be obliged to suspend the forwarding of amounts to the CP in accordance with section 3.6.

### 4.2 Provision of connections

The connections required to operate the terminal must be provided by the CP at its own expense, in good time, and must be kept functional.

### 4.3 Use of SIM cards

If Verifone, based on the POS Service Agreement, provides the CP with SIM cards in order to use the POS Terminals through the GSM/GPRS standard, the CP must only use such SIM cards in connection with a POS Terminal provided by Verifone and for the purposes of settling payments using payment cards in a mobile phone network within the EEA, Switzerland or the United Kingdom. The CP may remove the SIM cards located in a POS Terminal from the POS Terminal only upon Verifone's request. If the POS Service Agreement

is terminated, the CP must return the SIM cards provided by Verifone without waiting for a request to do so. Section 8.3 applies accordingly.

#### **4.4 Duty of disclosure**

The CP shall report to Verifone any disruptions, defects and damage in the operation or equipment and the assertion of rights by third parties without delay, but no later than within 24 hours of them being detected.

#### **4.5 Verification obligations/cut-off period**

The CP shall verify the invoices created by Verifone, the reports and the sales processed through the terminals, and the resulting credit notes on the CP accounts, without undue delay, and shall assert any objections without undue delay but no later than within five Business Days after the CP receives the respective invoice and report or the booking of the credit note. The CP shall, within a cut-off period of three (3) months after transferring the Sales Data to Verifone and in writing, assert its claims that direct debit files are submitted and the amounts so received are forwarded to the CP. Future assertions are excluded.

#### **4.6 Communication of cases of suspected manipulation, in particular intrusions and terminal theft, destruction and disposal**

The CP must inform Verifone without undue delay in the event the CP has reason to believe that a POS Terminal it uses was manipulated, or that it was stolen, destroyed, disposed of, or it is no longer available to the CP in any other way. Such indications are present in particular if a successful or supposedly unsuccessful attempt to break-in into the CP's premises took place, even there was no apparent external change in the POS

Terminal. 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 disable the Terminal in question until the matter has been clarified.

The CP undertakes to test the POS Terminals for integrity on a regular basis, in particular the security seal and, if necessary, for traces of manipulation attempts.

If a POS Terminal is disposed of, the CP must ensure and document that it has properly and professionally deleted all of the files and the Verifone software on the POS Terminal and that all outer covers have been rendered unusable. Verifone can request the documentation.

#### **4.7 End-of-day clearing (*Kassenschnitt*)**

CP must perform the "clearing" function on each POS Terminal, generally on a daily basis, but at least after each Verifone business day on which transactions have been processed via the respective POS Terminal.

#### **4.8 Freedom from charges**

Any agreement of the CP by which a customer is obligated to pay a charge for using a SEPA Direct Debit, a SEPA Business to Business Direct Debit, a SEPA Credit Transfer or a payment card is not permitted. Where the use of payment cards is concerned, this rule only applies for payment trans-

actions with consumers as far as Chapter II of the EU Regulation 2015/751 is applicable to these.

### **5. CP obligations in the case of Verifone electronic direct debit procedure (electronic direct debit via Verifone)**

#### **5.1 Definition**

The data privacy obligations of this section 5 apply to all transactions of the CP where, in the event of a payment through the use of a girocard through the SEPA direct debit procedure with signature (electronic direct debit procedure), an authorisation request is sent to Verifone by the CP, and for all other cases where Verifone agreed with the CP the processing of Returned Direct Debits or to purchase receivables. The data privacy obligations of this section 5 do not apply, if the CP makes payments with an girocard using SEPA direct debit procedure with signature (ELV) exclusively without an authorisation request to Verifone and without the processing of Returned Direct Debits by Verifone.

#### **5.2 Information obligations of the CP concerning the notice text and text on the receipt**

The CP must give the card holder at least on demand a copy of the signed merchant receipt. This is usually done by handing over the customer receipt, on the back of which the merchant receipt text is also printed, but can also be done in another appropriate manner.

In addition, the CP must inform the card holder before the payment is made and through a clearly visible notice put in front of the checkout, on the use and storage of Sales Data by Verifone. The text of the notice and receipt to be used by the CP can be found in the Annex to these GBCs.

#### **5.3 CP information obligation upon an exchange or defect in material**

If a card holder has asserted rights from the underlying transaction (e.g. due to a defect in material) and therefore has caused a Returned Direct Debit, Verifone must be informed by the CP without undue delay so that in this case the record in Verifone's general stop file (Sperrdatei) is deleted until the case has been finally resolved.

If the CP repeatedly does not meet this obligation, Verifone may, without additional costs, verify the CP's transaction processes relevant to the compliance with this obligation using suitable measures.

#### **5.4 Storage of merchant receipts**

The CP must store the merchant receipts it receives securely and at least for a period of 15 months after they were obtained, protect them from unauthorised access by third parties and, if Verifone requests receipts, shall transfer them to Verifone in a manner secured against access by unauthorised third parties.

### **6. Provision of collaterals to cover Verifone claims against the CP**

#### **6.1 Verifone right to require the provision of collaterals**

Verifone can require that standard bank collaterals with respect to all claims from the POS Service Agreement are provided, even if the claims are only conditional (for example

the reimbursement of expenses in the case of a return debit of card transactions).

## 6.2 Changes in risk

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

- the CP's economic situation has changed adversely, or it is threatening to change adversely,
- the existing provided collaterals have decreased in value or are threatening to decrease in value or
- the total amount of the charged back card transactions has increased or is threatening to increase.

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 has only to provide specifically named collaterals.

## 6.3 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 period in accordance with section 9.2 if the CP fails to meet its obligation to provide or increase collaterals within the deadline, it shall inform the CP of this in advance.

## 6.4 Right of Lien

The CP provides in order to secure all present, future and conditional claims of Verifone against the CP from the POS Service Agreement, a lien for the benefit of Verifone on all claims of the CP against Verifone for the payment of amounts in accordance with section 3.2.

## 7. Purchase of POS Terminals

The provisions of this section 7 of these GBCs apply to the extent the CP purchases one or more POS Terminals from Verifone in accordance with the POS Service Agreement.

### 7.1 Retention of title

Title to, and property of, the POS Terminals remain with Verifone until the POS Terminals delivered to the CP by Verifone have been paid in full.

### 7.2 Due date of the purchase price

Unless otherwise agreed, the purchase price to be paid by the CP to Verifone must be paid within seven days after the POS Terminal has been shipped (event pursuant to section 286 para. 2 No. 2 BGB).

### 7.3 Claims for defects

In the case of a sale of a POS Terminal, the CP's claim for subsequent performance (Nacherfüllung) is limited to a claim for delivery of an equivalent, fault-free replacement terminal. The rights of the CP to withdraw or reduction remain re-served.

## 8. Renting of POS Terminals

The provision of this section 8 of these GBCs apply to the extent the CP rents one or more POS Terminals from Verifone in accordance with the POS Service Agreement. The agreed rent is calculated starting from the day on which the POS Terminal was dispatched to the CP.

### 8.1 Sub-letting

The CP may not sub-let the POS Terminals provided by Verifone.

### 8.2 Deterioration of the rental object

The CP is liable for any deterioration or destruction of the rental object. This does not apply if the deterioration can be attributed to normal wear and tear caused by the use of the rental property in accordance with the agreement.

### 8.3 Return of the rental object

Following the end of the rental relationship, the CP must return the rented POS Terminals to Verifone within seven days, without having been requested to do so, at its own expense and with adequate insurance. The risk of accidental deterioration or destruction during transport shall be borne by the CP. If the POS Terminal is not returned within said period of time, or if there is deterioration which is not based on normal wear and tear, Verifone can demand from the CP the payment of a lump-sum as liquidated damage from the CP, in the amount of the general amount of compensation generally established by Verifone for the model category of the POS Terminal. The category of the POS Terminal rented to the CP and the amount of the lump-sum for damages are to be found online in the merchant area of Verifone's website. The amount of the lump-sum for damages is reduced by 20% for every expired year of the rental relationship. The CP retains the right to provide evidence of a lower damage amount, and Verifone retains the right to provide evidence of higher damage amount.

## 9. Agreed Term and termination

### 9.1 Minimum term/regular termination

The POS Service Agreement commences upon Verifone's acceptance of the CP's application to conclude a POS Service Agreement. Declaration of acceptance of CP's application is either submitted in text form (*Textform*) to the provided e-mail address of the CP or is enclosed in text form (*Textform*) with the delivery of POS Terminals or by the first successful execution of an payment-notification (meaning that the POS Terminal indicates a successful transaction) after activation of the POS Terminal by Verifone. Each contractual party can first terminate it with effect to the end of the minimum term agreed in the POS service agreement by giving three months' notice. If the POS Service Agreement is not terminated by then, its term shall become indefinite, and the agreement can be terminated by either of the contractual parties to the end of a quarter, giving notice three months in advance. The CP's right to terminate at any time as per section 675h para.1 BGB is excluded. Termination can be limited to certain types of cards only (hereinafter: "Partial Termination")

## 9.2 Extraordinary right to terminate/Termination for good cause

The right of the contractual parties to extraordinarily terminate the POS Service Agreement without notice for good cause (*aus wichtigem Grund*) remains unaffected. A good cause that entitles Verifone to extraordinarily terminate the POS Service Agreement is in particular present if:

- a) there is fundamental material deterioration in the CP's financial situation or one is imminent,
- b) the CP defaults on payments of receivables owed to Verifone despite a deadline being set with the threat of termination
- c) if the CP has provided incorrect information in the POS Service Agreement, especially about its conduct of business or about its provided range of goods or services or at a later stage culpably doesn't fulfil its information obligations in accordance to section 4.1,
- d) a person or a company exercising no controlling influence over the CP at the conclusion of the contract acquires said controlling influence during the contract's term, thereby making adherence to the contract unreasonable for Verifone,
- e) penalty fines are imposed against Verifone by the GBIC or the imposition of a penalty fine is imminent and the imposition or imminent imposition of a penalty fine is the result of culpable conduct on the part of the CP,
- f) the CP does not meet, within a reasonable period set by Verifone, its obligation to provide or reinforce the provided collaterals in accordance with sections 6.1. and 6.2 or due to another arrangement,
- g) the CP submits payment transactions to Verifone via POS terminals not authorised by Verifone for this purpose,
- h) the CP has repeatedly breached the provisions of the contract in any other way,
- i) the CP moves its place of business to a country outside of the EEA, Switzerland or the United Kingdom,
- j) the country in which the CP's place of business is located leaves the EEA, or for any other reason no longer belongs to the EEA,
- k) the existing agreement between the GBIC and Verifone on the admission to the girocard system ends due to a reason that is not attributable to Verifone,
- l) the CP breaches the statutory provisions for the prevention of money laundering and the financing of terrorism.

## 9.3 Special right to CP to terminate in the event of discontinuation of its business

The CP has the special right to terminate the POS Service Agreement with a notice period of three (3) months to the end of the month against payment of all rental fees due to Verifone up until the next possible regular termination date pursuant to section 9.1, if CP's business operations are discontinued and corresponding proof is submitted.

## 9.4 Partial termination right of the CP in the event of insufficient net-work coverage if the GSM/GPRS standard is used

To the extent that Verifone, in accordance with the POS Service Agreement, provides the CP with SIM cards for using the POS Terminal with the GSM/GPRS standard, and provided the CP cannot use these SIM cards at the desired operation site of the POS Terminal due to an insufficient network coverage, the CP has the right to terminate the POS

Service Agreement in part, and solely with respect to the use of the affected SIM cards, with a notice period of fourteen days to the end of the month. All other agreed contractual components (in particular a rental relationship concerning POS Terminals) shall remain unaffected by such termination; this also applies with respect to POS Terminals in which one of the SIM cards affected by the termination in accordance with this section 9.4 was to be used.

## 9.5 Formal requirements for notices of termination

Any notice of termination of the contract must be sent in writing by post or by fax. Other transmissions by way of telecommunications are excluded.

## 9.6 Obligations of CP in case of termination

Upon termination of the contract the CP must return the terminal software in its possession to Verifone, including the uploaded terminal keys. If this is not possible for technical or factual reasons, the CP must delete or otherwise destroy all available data in good time, properly and with evidence, the latter of which can be requested by Verifone.

Upon termination of the contract, the CP will also remove all indications of acceptance of the cards if the CP is not otherwise entitled to do so. In the event of a Partial Termination, this applies to the references to the acceptance of the cancelled cards

## 10. Fees, payment conditions, default of payment, VAT

### 10.1 Amount of due fees/reimbursement of expenses

With respect to the fees to be paid to Verifone, the arrangements made in the POS Service Agreement or the price list for additional services are decisive. Unless otherwise agreed, all prices are net plus the applicable statutory Value Added Tax (VAT).

For services neither listed in the POS Service Agreement nor the price list for additional services, which are carried out on behalf of or, in the presumed interest of, the CP, and which can only to be expected to be performed against payment, Verifone can set the amount of the applicable fee at its own reasonable discretion (section 315 BGB (*nach billigem Ermessen*)).

Verifone may invoice the CP for those expenses that it deems necessary in the circumstances of the individual case, if such expenses become due while Inter-Card is acting on behalf of the CP or in its presumed interest. Expenses within this meaning are, in particular, payments that must be made to the German Banking Industry Committee (e.g. penalties for POS Terminals that do not meet the requirements of the German Banking Industry Committee), and for the cost of postage, if these expenses are made or costs incurred for the purposes of performing this agreement and further provided they cannot be attributed to Verifone's culpable violation of its obligations.

### 10.2 Payment conditions

All services fees are charged on a pro rata temporis basis, starting from the day of the operational provision of the system, and become due for payment on a monthly basis on the first Business Day of the month for the previous month, unless otherwise agreed.

If the CP does not authorise Verifone to collect the fees via the Direct Debit procedure, or wishes to that additional invoices be sent, Verifone may charge separate fees for this, at its own reasonable discretion (section 315 BGB).

### 10.3 Default of payment/offset option

After an occurrence of default, Verifone may charge a flat rate charge of €5.00 plus any external costs due for every forthcoming written reminder. The CP retains the right to provide evidence that costs and damage actually occurred for Verifone are lower.

Should the CP be in default, Verifone is entitled to suspend its services. The right to extraordinary termination remains unaffected thereby.

Verifone is entitled to offset any CP receivables or liabilities due towards/from Verifone against each other. In addition, Verifone is entitled to deduct the fees to which it is entitled before granting the credit note of the amount to be transferred according to Point 3.2. The CP can only offset against Verifone receivables if its receivables are undisputed or have been legally established.

### 10.4 Value Added Tax

If the CP operates its business in an EU member state and not in Germany, the fees to be paid by the CP are to be understood without VAT (the “reverse-charge” VAT procedure). The CP undertakes, especially in its own tax accounting, to treat the transactions as subject to VAT as part of the reverse charge procedure, to the extent this is applicable law, optional or required. The invoices to be issued by Verifone shall contain the information required as per the applicable sales tax law. The CP shall provide the information required for this purpose without undue delay.

If the CP operates its business in another EEA member state outside of the EU (currently Iceland, Liechtenstein, Norway), Switzerland or the United Kingdom, the CP must coordinate the fiscal treatment with Verifone in writing.

## 11. Liability of Verifone

### 11.1 Limitation of liability

Verifone shall be fully liable in cases of intent (Vorsatz) and gross negligence (grobe Fahrlässigkeit). In cases of other negligent behaviour, Verifone shall exclusively be liable for

- injury or damage to health (*Personenschäden*),
- damage which cannot be limited due to mandatory legal provisions, and
- damage that result from the violation of important obligations that engender the achievement of the objective of the POS Service Agreement, the fulfilment of which is material to the proper performance of the POS Service Agreement and on which the CP can regularly rely on (cardinal obligations (*Kardinalpflichten*)).

In the event of a violation of cardinal obligations, Verifone’s liability for simple negligent behaviour (einfache Fahrlässigkeit) is limited to those damages that are foreseeable and typical for the agreement upon the conclusion of the Agreement.

### 11.2 Exclusion of liability for circumstances not attributable to Verifone

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 dealings or due to other events for which it is not responsible (for example strikes, lockouts, traffic disruptions, orders from higher authorities, either domestic or foreign, breakdown and the disruption of electricity or telecommunication networks).

### 11.3 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 11.1 and 11.2. There shall be no liability without fault (keine verschuldensunabhängige Haftung). In deviation from sentence 1, Verifone’s liability towards the CP for damage occurred due to the incomplete or incorrect processing of a payment transaction which is not covered by section 675y BGB, shall be limited to €12,500.00. This does not apply to cases of intent or gross negligence or for risks that were specially assumed by Verifone.

## 12. Confidentiality and data protection

### 12.1 Confidentiality

The contractual parties shall keep all confidential information and data which they became aware of during their contractual relationship confidential and shall not make them accessible to third parties outside of the respective business group (associated companies in accordance with sections 15 et seq. (AktG) German Stock Corporations Act) (submission to associated companies takes only place if permitted in accordance with data protection legislation) if this is not required to perform the agreement or to comply with the legal obligations or contractual obligations towards the credit sector or credit card sector. Verifone warrants that both the access to the files it stores temporarily, and its data processing facility, are secured in a number of ways.

### 12.2 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 girocard Merchant Conditions. Verifone shall strictly comply with the statutory data protection laws.

In the case of girocard payments, Verifone shall transfer the payment transaction data for authorisation to the authorisation sites of the German Banking Industry Committee, and, in the case of girocard and ELV, to the German banking institutions for clearing and settlement. For other payments, gift- and bonus-card transactions, the transaction data shall be forwarded for further processing to the relevant contractual partners of the CP.

If personal data of a card holder is to be sent back to the CP by Verifone, the CP shall use this data, absent the express consent of the card holder, only for limit control, combating abuse and to avoid payment defaults, and not for other purposes, in particular profile formation (e.g. meticulous analysing of purchasing behaviour) or for sales and marketing purposes.

For personal data processed at Verifone, Verifone shall be the controller as defined by Art. 4 (7) of Regulation (EU) 2016/679 (General Data Protection Regulation), unless otherwise agreed in writing.

The CP's own responsibility under data protection law (in accordance with the relevant legal provisions) for the personal data it processes remains unaffected hereby.

In accordance with its own legal assessment, the CP will in particular implement own data protection notices (information obligations) in accordance with the legal requirements and the recommendations of the supervisory authority being responsible for the CP and will also take into account the text recommendation provided by Verifone and the procedure proposed by Verifone.

In addition, reference is made to Verifone's data protection notices for CP's and for cardholders in accordance with Art. 13 and 14 GDPR. These are available on Verifone's website [www.verifone.com/de/de/service](http://www.verifone.com/de/de/service).

### **13 Lawful conduct especially in export controls and combating corruption**

The CP is obliged to observe the applicable law in its business activities. This also applies in particular for 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 shall support one another in 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 contract or its fulfilment.

If Verifone should ascertain that the CP is violating export control provisions or anti-corruption provisions, Verifone is entitled to extraordinary termination of the contract. 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.

### **14 Final provisions**

#### **14.1 Application of German law**

German Law shall apply exclusively to the business relationship between the CP and Verifone.

#### **14.2 Place of jurisdiction**

The place of jurisdiction for all legal disputes arising from the conclusion, execution and termination of this contract, insofar as the CP is a trader, is Munich, Germany.

#### **14.3 Amendments to the contract**

Amendments to this contract shall be offered to the CP in text format at least two months before the proposed date of their entry into force. The CP may either agree to or reject the amendments before the date of their proposed entry into

force. The amendments shall be deemed to have been approved by the CP, subject to the CP terminating the contract, if it has not indicated its rejection before their proposed date of entry into force. This time limit shall be deemed adhered to if the CP sends its rejection to Verifone before the proposed date of the amendments entering into force. In its offer, Verifone shall specifically refer the CP to this effect regarding deemed consent.

Moreover, the CP may terminate the payment service before the proposed date of the amendments entering into force, without charge or prior notice. Verifone shall specifically refer the CP to this right of termination in its offer. Contractual relationships existing beyond this contract will be unaffected by any such termination.

#### **14.4 Amendments to fundamental circumstances**

Insofar as the circumstances forming the basis for the agreements should see any fundamental changes not taken into account in previous provisions, the contractual partners hereby undertake to make an adjustment appropriate to the altered circumstances.

#### **14.5 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 the Contractual 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.

#### **14.6 Complaints and alternative dispute resolution**

Any complaints from the CP against Verifone regarding to rights and obligations resulting from sections 675c to 676c BGB may be addressed to Verifone Payments GmbH, customer complaints, Karl-Hammerschmidt-Str. 1, 85609 Aschheim, Germany or via e-mail to [customerservice.vp@verifone.com](mailto:customerservice.vp@verifone.com). Verifone will respond to complaints submitted in this way in text form within 15 working days of receipt. If the response should not be possible within the time limit for reasons which are not the fault of Verifone, Verifone shall send a provisional response which clearly specifies the reasons for the delay in responding to the complaint and a date by which the CP will receive the definitive response. The definitive response may not be given any later than 35 working days after the complaint has been received.

Verifone participates in dispute resolution procedures conducted by the arbitration body of Deutsche Bundesbank. An arbitration application may be submitted there by e-mail to [schlichtung@bundesbank.de](mailto:schlichtung@bundesbank.de), by fax to +49 (0)69 709090-9901 or by post to Deutsche Bundesbank, - Schlichtungsstelle -, Postfach 11 12 32, D-60047 Frankfurt am Main. A



form for this purpose and further information on the procedure are available for download at <https://www.bundesbank.de/Navigation/DE/Service/Schlichtungsstelle/schlichtungsstelle.html>.

**Annexes**

- Notice text for card-based payments via Verifone
- Receipt text for Verifone electronic direct debit procedure (electronic direct debit via Verifone)

*This translation is provided for the CP's convenience only. The original German text of the General Business Conditions is binding in all respects. In the event of any divergence between the English and the German texts, constructions, meanings, or interpretations, the German text, construction, meaning or interpretation shall govern exclusively. The original German version is available here: <https://www.verifone.com/de/de/legal>.*