

# General business terms for the use of payment services of PAVIS Payments GmbH

## TERMS OF USE

The present translation is provided for the Customer's convenience only. The original German text of the General Business Terms for the use of payment services of PAVIS Payments GmbH (Bedingungen für die Nutzung von Zahlungsdiensten der PAVIS Payments GmbH) 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, constructions, meanings or interpretations shall govern exclusively.

### 1. General

#### 1.1 Scope of validity of the Terms of Use

PAVIS Payments GmbH, Gautinger Straße 10, 82319 Starnberg ("PAVIS Payments") provides payment services for natural persons or legal persons ("Customer") on the basis of these Terms of Use ("Payment Service Contract"). PAVIS Payments and the Customer are hereinafter referred to as "Parties."

#### 1.2 Contractual purpose

When concluding the Payment Service Contract, the Customer acts exclusively while performing its commercial or self-employed professional activity. Use of the services that are to be provided according to the Payment Service Contract for other purposes is not permitted.

#### 1.3 Information obligations of PAVIS Payments

The information obligations of PAVIS Payments arising from Sections 675d Para. 1 Sentence 1 German Civil Code [Bürgerliches Gesetzbuch - BGB] in conjunction with Art. 248 Sections 3-9 Introductory Act to the German Civil Code [Einführungsgesetz zum Bürgerlichen Gesetzbuch - EGBGB] are excluded and shall not apply to the services of PAVIS Payments towards the Customer.

### 2. Object of the Payment Service Contract

The Customer can commission PAVIS Payments, to forward the funds ("funds") previously made available to PAVIS Payments on an account ("Payment Account") opened for this purpose at a credit institution commissioned by PAVIS Payments for this purpose ("Bank") at the time stipulated by the Customer cashless for the benefit of a receiver account ("Target Account") stipulated by the Customer ("Credit Transfer Order"). The details that are necessary for execution of the Credit Transfer Order shall be determined according to Sections 12.1, 13.1.1 and 13.2.1 of these Terms of Use ("Necessary Details"). The Customer shall notify PAVIS Payments of the Necessary Details within the scope of the respective Credit Transfer Order either himself or by means of an explanatory messenger.

### 3. Main service obligations of PAVIS Payments

#### 3.1 Trusteeship agreement between PAVIS Payments and the Customer

PAVIS Payments as the trustee will accept and deposit the funds made available by the Customer according to Section 2 into one or several Payment Accounts at the Bank for the Customer as the trustor. The Payment Accounts shall be kept in the name of PAVIS Payments as open trust accounts within the meaning of Section 17 Para. 1 Sentence 2 No. 1b German Act on the Supervision of Payment Services [Gesetz über die Beaufsichtigung von Zahlungsdiensten - ZAG]. The Payment Accounts can also be kept as collective trust accounts. PAVIS Payments will ensure that the payment amounts deposited according to Sentence 1 can be allocated to the Customer at all times with regard to the bookkeeping and, at no time, are commingled with the

funds of any natural or legal person other than payment service users on whose behalf they are held.

#### 3.2 Forwarded order

The credit transfer into the Target Account shall be carried out by PAVIS Payments, by order of the Customer, instructing the Bank (forwarded order – *weitergeleiteter Auftrag*) to execute the credit transfer. The general business terms of the Bank shall apply to the legal relationship between PAVIS Payments and the Bank.

#### 4. Issuance of the Credit Transfer Orders and authorization

##### 4.1 Unique identifier of the payee

For the issuance of a Credit Transfer Order with PAVIS Payments the Customer has to use the following unique payee identifier or another ID of the payment service provider of the payee.

Destination area	Currency	Unique payee identifier
Germany	EUR	IBAN <sup>1</sup>
Cross-border within the European Economic Area <sup>2</sup>	EUR	IBAN
Domestic country or within the European Economic Area	Currencies other than EUR	IBAN and BIC <sup>3</sup> or account number and BIC
Outside the European Economic Area	EUR or other currencies	IBAN and BIC or account number and BIC

##### 4.2 Issuance of the Credit Transfer Order

(1)

The Customer shall issue the Credit Transfer Order with PAVIS Payments by means of a technical procedure authorized by PAVIS Payments or in the manner agreed otherwise with PAVIS Payments with the Necessary Details pursuant to Section 12.1 respectively Sections 13.1.1. and 13.2.1.

(2)

The Customer must ensure legibility, completeness and accuracy of this information. Illegible, incomplete or incorrect information may lead to delays and to misrouting of credit transfers, possibly resulting in loss or damage for the Customer. Where illegible, incomplete or incorrect information is given, PAVIS Payments may refuse to execute the credit transfer (see also Section 7).

##### 4.3 Authorization

The Customer shall authorize the Credit Transfer Order in the manner of a technical procedure authorized by PAVIS Payments or in the manner agreed otherwise with PAVIS Payments. By giving such authorization, the Customer also expressly consents to PAVIS Payments retrieving (from its database), processing, transmitting and storing their personal data required by to execute the Credit Transfer Order.

<sup>1</sup> International Bank Account Number

<sup>2</sup> The following are currently members of the European Economic Area: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France (including French Guiana, Guadeloupe, Martinique, Mayotte, Réunion), Germany, Greece, Hungary, Iceland, Ireland, Italy,

Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden as well as the United Kingdom of Great Britain and Northern Ireland.

<sup>3</sup> Bank Identifier Code

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## 5. Receipt of Credit Transfer Order by PAVIS Payments

### 5.1 Receipt of Credit Transfer Order

(1) The Credit Transfer Order shall become valid as soon as it has been received by PAVIS Payments. Receipt shall take place upon delivery of the Credit Transfer order into PAVIS Payment's designated receiving facilities.

(2) If the point in time of receipt of a Credit Transfer Order pursuant to Paragraph 1 is not a business day of PAVIS Payments, the Credit Transfer Order shall be deemed to have been received on the following business day. Business days of PAVIS Payments are Monday to Friday.

(3) If a Credit Transfer Order is received after the acceptance time agreed between the Customer and PAVIS Payments, for the purpose of determining when the execution period commences (see Sections 12.2, 13.1.2, 13.2.2), it shall be deemed to have been received on the following business day.

### 5.2 Revocation of Credit Transfer Orders

(1) Until a Credit Transfer Order has been received by PAVIS Payments (see Section 5.1 (1) and (2)), the Customer may revoke the Credit Transfer Order by making a declaration to this effect to PAVIS Payments. Notwithstanding Section 5.1 (1) and (2), once a Credit Transfer Order has been received, it may no longer be revoked.

(2) A Credit Transfer Order may only be revoked after the points in time referred to in Section 5.1 (1) and (2) if the Customer and PAVIS Payments have agreed to this. This agreement shall become effective if PAVIS Payments manages to prevent execution or to recover the amount of the credit transfer.

## 6. Execution of Credit Transfer Orders

6.1 PAVIS Payments shall execute the Customer's Credit Transfer Order if the information required for execution (see Sections 12.1, 13.1.1 and 13.2.1) is provided in the required manner (see Sections 4.1 and 4.2), the Credit Transfer Order is authorized by the Customer (see Section 4.3) and a sufficient credit balance in the currency of the Credit Transfer Order is available or sufficient credit has been granted ("**Conditions for Execution**").

6.2 PAVIS Payments and other payment service providers involved in the execution of a Credit Transfer Order shall be entitled to execute the credit transfer solely on the basis of the unique payee identifier provided by the Customer (see **Section 4.1**).

## 7. Refusal of execution

7.1 If the Conditions for Execution (see **Section 6.1**) are not fulfilled, PAVIS Payments may refuse to execute the Credit Transfer Order. PAVIS Payments shall inform the Customer thereof without delay, but in any case within the period agreed under Section 12.2 or Sections 13.1.2 and 13.2.2. When doing so, PAVIS Payments shall, if as possible, state the reasons for the refusal and indicate ways in which errors that led to the refusal can be rectified.

7.2 If PAVIS Payments is clearly unable to assign a unique identifier provided by the Customer for any payee, Payment Account or payee's payment service provider, PAVIS Payments shall inform the Customer thereof without delay and, if necessary, return the amount of the credit transfer.

## 8. Transmission of Credit Transfer Order Data

8.1 When executing a credit transfer, PAVIS Payments shall transmit the details contained in the Credit Transfer Order ("**Credit Transfer Order Data**") to the payee's payment service provider either directly or through intermediary institutions. The payee's payment service provider may make the Credit Transfer Order Data, which shall also include the payer's IBAN, available to the payee in full or in part.

8.2 Where cross-border Credit Transfer Orders and domestic priority credit transfers are involved, the Credit Transfer

Order Data may also be forwarded to the payee's payment service provider via the Society for Worldwide Interbank Financial Telecommunications (SWIFT), based in Belgium. For system security reasons, SWIFT stores the Credit Transfer Order Data temporarily at its operating centers in the European Union, Switzerland and the United States.

## 9. Notification of unauthorized or incorrectly executed Credit Transfer Orders

The Customer shall inform PAVIS Payments without delay on finding that a Credit Transfer Order was unauthorized or executed incorrectly.

## 10. Charges and expenses

10.1 No charges shall be incurred for the services of PAVIS Payments towards the Customers.

10.2 A possible claim of PAVIS Payments to reimbursement of expenses shall be in accordance with the statutory regulations. PAVIS Payments is, in particular, entitled to request an advance payment for expenses that are necessary to execute an order of the Customer.

## 11. Exchange rate

If the Customer issues a Credit Transfer Order in a currency other than euros, the amount shall nevertheless be due in euros. The exchange rate applicable hereto shall be stipulated individually for each payment transaction.

## 12. Credit Transfers within Germany and to other countries of the European Economic Area (EEA) in euros or other EEA currencies<sup>4</sup>

### 12.1 Necessary Details

In the event of credit transfers within Germany and to other countries of the European Economic Area (EEA) in euros or other EEA currencies, the Customer must provide the Necessary Details in the Credit Transfer Order:

- name of the payee
- unique payee identifier (see Section 4.1), if the BIC is not known in credit transfers denominated in EEA currencies other than euros, the full name and the address of the payee's payment service provider should be indicated instead
- destination country
- currency
- amount
- name of the Customer

### 12.2 Maximum execution period

#### 12.2.1 Length of execution period

PAVIS Payments shall be obliged to ensure that the funds are received by the payee's payment service provider at the latest within the execution deadline agreed between the Parties.

#### 12.2.2 Commencement of execution period

(1) The execution period shall commence as soon as the Customer's Credit Transfer Order is received by PAVIS Payments (see Section 5.1).

(2) If PAVIS Payments and the Customer agree that the execution of the Credit Transfer Order should commence on a certain date or at the end of a certain period or on the date on which the Customer has provided PAVIS Payments with the funds required for execution of the order, the date indicated in the Credit Transfer Order or otherwise agreed shall determine when the execution period commences. If the agreed date is not a business day of PAVIS Payments (see Section 5.1 (2)), the execution period shall commence on the following business day. The business days of PAVIS Payments shall be set out in Section 5.1 (2)).

## 12.3 Customer's entitlement to a refund and compensation

### (1) Refund for unauthorized credit transfers

If a Credit Transfer Order (see Section 4.3) is unauthorized, PAVIS Payments shall have no claim against the Customer for reimbursement of its expenses. It

<sup>4</sup> EEA currencies currently include: the euro, British pound sterling, Bulgarian lev, Danish krone, Icelandic krone, Croatian kuna, Norwegian krone,

Polish zloty, Romanian leu, Swedish krone, Swiss franc, Czech krone, and Hungarian forint.

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shall be obliged to refund the Credit Transfer Order amount to the Customer.

## (2) **Claims for non-execution of an authorized credit transfer, incorrect or late execution of credit transfer or an unauthorized credit transfer**

If an authorized credit transfer is not executed, not executed correctly or if a credit transfer is not authorized, besides possible hand-over claims according to Section 667 BGB and Sections 812 et seq. BGB, the Customer shall have claims for damages according to the following regulations:

- PAVIS Payments shall be liable for any fault on its own part. If the Customer has contributed to the occurrence of any loss or damage through culpable conduct, the principles of contributory negligence shall determine the extent to which PAVIS Payments and the Customer must bear the loss or damage.
- PAVIS Payments shall not be liable for any fault of intermediary institutions chosen by it. In such cases, PAVIS Payment's liability shall be limited to the careful selection and instruction of the first intermediary institution (order passed to a third party). The Parties make it clear that the Bank concerns an intermediary within the aforementioned meaning.
- A claim for damages of the Customer is limited, with respect to the amount, to the Credit Transfer Order amount plus the fees invoiced by PAVIS Payments and interest. Insofar as this concerns the assertion of consequential damages, the claim shall be limited to a maximum of EUR 25,000 per Credit Transfer Order. These limitations to liability shall not apply to deliberate intent or gross negligence of PAVIS Payments and to risks, which PAVIS Payments has assumed on an exceptional basis, as well as not to unauthorized Credit Transfer Orders.

## 12.4 **Preclusion of liability and objection**

### (1) **Preclusion of liability**

Any liability by PAVIS Payments under Section 12.3 shall be precluded:

- If PAVIS Payments proves to the Customer that the full amount of the Credit Transfer Order was received by the payee's payment service provider in due time.
- If the Credit Transfer Order was executed in conformity with the incorrect unique payee identifier provided by the Customer. In this case, the Customer can, however, ask PAVIS Payments to make reasonable efforts, within the scope of its possibilities to recover the Credit Transfer Order amount. The Customer has to reimburse PAVIS Payments for the work and expenses incurred for this purpose.

### (2) **Preclusion of claims due to expiry of time**

Any claims by the Customer under Section 12.3 and any objections of the Customer against PAVIS Payments as a result of non-execution or incorrect execution of Credit Transfer Orders, or as a result of unauthorized Credit Transfers Orders, shall be precluded if the Customer fails to duly inform PAVIS Payments within a period of 13 months at the latest after being debited for an unauthorized or incorrectly executed Credit Transfer Order. This period shall start to run only once PAVIS Payments has informed the Customer about the debit entry for the Credit Transfer Order through the agreed account information channel no later than one month after the debit entry was made; otherwise, the date on which the Customer is informed shall determine when the period commences. Customers may also assert compensation claims according to Section 13.3 (2) after expiry of the

period referred to in Sentence 1 if they were prevented, through no fault of their own, from adhering to this period.

## (3) **Preclusion of claims for other reasons**

Any claims by the Customer shall be precluded if the circumstances substantiating a claim

- are based on an unusual and unforeseeable event, on which PAVIS Payments has no influence and whose consequences could not have been avoided even by exercising due diligence, or
- were brought by PAVIS Payments as a result of a statutory obligation.

## 13. **Credit Transfer Orders within Germany and to other states of the European Economic Area (EEA) in currencies of a state outside the EEA (third state currency)<sup>5</sup> as well as orders to states outside the EEA (third states)<sup>6</sup>**

### 13.1 **Credit Transfer Orders within Germany and to other states of the European Economic Area (EEA) in currencies of a state outside the EEA (third state currency)**

#### 13.1.1 **Necessary Details**

The Customer must provide the following Necessary Details for the execution of Credit Transfer Orders:

- name of the payee
- unique payee identifier (see Section 4.1), if the BIC is not known in credit transfers denominated in EEA currencies other than euros, the full name and the address of the payee's payment service provider should be indicated instead
- destination country
- currency
- amount
- name of the Customer

#### 13.1.2 **Execution period**

The Credit Transfer Orders will be effected as soon as possible.

#### 13.1.3 **Claims of the Customer for refund and compensation**

The regulations of Sections 12.3 and 12.4 shall apply accordingly.

## 13.2 **Orders to states outside the EEA (third states)<sup>7</sup>**

### 13.2.1 **Necessary Details**

The Customer must provide the following Necessary Details for the execution of Credit Transfer Orders:

- name of the payee
- unique payee identifier (see Section 4.1), if the BIC is not known in credit transfers denominated in EEA currencies other than Euro, the full name and the address of the payee's payment service provider should be indicated instead
- destination country
- currency
- amount
- name of the Customer

### 13.2.2 **Execution time**

The Credit Transfer Orders will be effected as soon as possible.

### 13.2.3 **Claims of the Customer for refund and compensations**

The regulations of Sections 12.3 and 12.4 shall apply accordingly.

<sup>5</sup> US dollars, for example.

<sup>6</sup> The third countries are all states outside the European Economic Area (currently: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France (including French Guiana, Guadeloupe, Martinique, Mayotte, Réunion), Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden as well as the United Kingdom of Great Britain and Northern Ireland).

<sup>7</sup> The third countries are all states outside the European Economic Area (currently: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France (including French Guiana, Guadeloupe, Martinique, Mayotte, Réunion), Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden as well as the United Kingdom of Great Britain and Northern Ireland).

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### **14. Term of the Payment Service Contract**

#### **(1) Term**

This Payment Service Contract shall be concluded for an indefinite period of time and can be terminated according to paragraphs (2) to (4).

#### **(2) Rights of termination of the Customer**

The Customer can terminate this contract at any time by adhering to a notice period of 90 days.

#### **(3) Rights of termination of both Parties**

Both Parties can terminate this Payment Service Contract extraordinarily if the cooperation of PAVIS Payments GmbH and PAVIS GmbH regarding the processing, of the payment agreement that is to be carried out according to this Payment Service Contract, ends. In this case the termination can be carried out effective as of the time, at which the cooperation also ends.

#### **(4) Statutory rights of termination**

Statutory rights of termination of the Parties shall remain unaffected.

### **15. Final provisions**

#### **15.1 Applicable law**

The law of the Federal Republic of Germany shall apply to the legal relationships between PAVIS Payments and the Customer under the exclusion of the UN Convention on Contracts for the International Sale of Goods.

#### **15.2 Place of jurisdiction**

The exclusive place of jurisdiction for all disputes from or in connection with this Payment Service Contract is Munich, Germany.

#### **15.3 Amendments to contract**

##### **(1)**

Any changes to this Payment Service Contract shall be offered to the Customer in text form no later than two months before the proposed date of entry into force. The Customer's approval shall – subject to a termination of the Customer pursuant to Section 15.3 (2) – be deemed granted if he has not reported his disapproval before the proposed time at which the amendments shall enter into force. The deadline shall be adhered to if the Customer sends his disapproval to PAVIS Payments before the proposed time at which the amendments shall become effective. PAVIS Payments shall expressly draw the Customer's attention to this tacit approval in its offer.

##### **(2)**

In addition, the Customer can also terminate the Payment Service Contract free of charge and without notice before the proposed time at which the amendments shall enter into force. PAVIS Payments shall expressly draw the Customer's attention to his right of termination in its offer. Contractual relationships, which may exist beyond this contract, shall remain unaffected by such a termination.

#### **15.4 Severability clause**

Should one or several provisions of these Terms of Use be or become determined completely or partially illegal, invalid or otherwise unenforceable, the validity of the remaining clauses remain untouched by this. Provisions that are not included or invalid provisions of these Terms of Use shall be replaced by the relevant statutory provisions. If such statutory provisions are not available in the respective case (loophole in the regulations) or if these would lead to an unbearable result, the Parties will enter into negotiations in this respect to agree upon a valid regulation to replace the provision that was not included or the invalid provision, which shall as far as possible correspond with it from a commercial point of view.