

Area of Application

(1) The General Terms and Conditions for all services of PAYONE AccountConnect („AGB PAC“) of BS PAYONE GmbH („BS PAYONE“) irrespective of the scope of the engagement of BS PAYONE.

(2) The General Terms and Conditions PAYONE Account Connect apply in their respective valid form.

(3) Varying agreements between BS PAYONE and the contractual partner and compelling legal regulations have priority.

(4) The contract about BS PAYONE services is based on the provisions of the contract concluded between the parties to the contract and/or the service agreement concluded between the parties to the contract („service contract“) alongside the General Terms and Conditions PAYONE AccountConnect, and this includes the relevant BS PAYONE service descriptions, the list of prices / fees and services and, where appropriate, additional conditions for individual services. In the case of discrepancies between these General Terms and Conditions PAYONE AccountConnect and any agreed additional conditions, the additional conditions have priority in the case of doubt.

(5) The General Terms and Conditions PAYONE Account Connect apply exclusively. Differing terms of business of the contractual partner are not valid.

1. Offers, Reaching Contractual Agreement

(1) All offers from BS PAYONE to the contractual partner are provisional. With the signature and sending of the service contract to BS PAYONE, the contractual partner supplies an offer to conclude the contract.

(2) The contract has reached agreement when BS PAYONE confirms a contract conclusion in writing and security from the contractual partner has been correctly provided where appropriate.

2. Services from BS PAYONE and Due Dates Regarding Fees

(1) Type and scope of the services from BS PAYONE result from the respective service description, the list of prices / fees and services and the service contract.

(2) At the end of the installation works, BS PAYONE shall inform the relevant contact partner of the contractual partner about this by e-mail. From this moment, the components are ready to be individually configured by the party to the contract, and a one-time installation fee must be paid by them. From the time when BS PAYONE provided for the technical usage requirements

mentioned above, the party to the contract shall be obligated to pay installation fees on a monthly basis as well as the fees depending on the usage.

(3) BS PAYONE is entitled to make use of qualified third parties for providing the services. If BS PAYONE is also engaged for demand collection, BS PAYONE has a particular entitlement to engage a collection company for the collection of demands.

(4) The contractual partner hereby authorises BS PAYONE to undertake all actions which are necessary for providing the service.

(5) Supply dates are established jointly by the contractual partners and they are only binding if they are agreed in writing by post or fax.

(6) BS PAYONE and the contractual partner each nominate a contact person with the authority to make decisions for mutual agreement and clarification of all questions which occur while providing the service.

3. Changes to the Service Scope, Part Services

(1) BS PAYONE is authorised to make slight changes to the service scope as is customary, particularly regarding technical innovations or official conditions as long as this is not unreasonable for the contractual partner.

(2) BS PAYONE is entitled to provide part services as long as the contractual partner's interest in the part service applies.

4. Data Processing, Protection and Security

All data which are transferred to BS PAYONE from the contractual partner or a third party engaged by the contractual partner for processing must be in a condition which makes processing possible. If this is not the case they will not be processed and instead sent back to the contractual partner unprocessed at their own expense. In addition, the provisions on the basis of section 17 and section 15 sub-section (4) no. j of the General Contractual Conditions relating to the PAYONE PaymentService shall be applicable.

5. Prices, Payments

(1) The prices to be paid by the contractual partner comply with the price list which is valid at the point in time when the request passes to BS PAYONE. If BS PAYONE has given the contractual partner a binding offer which differs from the conditions of the price list, then this has priority. All prices are to be understood as plus the legally valid VAT if this applies. Travel costs and expenses are not included in the prices given and are calculated separately to the usual BS PAYONE rates.

(2) BS PAYONE may raise or lower prices following fair judgement with a notice period of six (6) weeks, especially when BS PAYONE itself is affected by price adaptations of third parties (e.g. of the supplier, his sub contractors or the transporters) and has not yet supplied its service to the contractual partner. In the case of a price increase which occurs within a period of six (6) weeks from the announcement of the price increase, the contractual partner has the right to terminate the contract with a further period of notice of six (6) weeks unless the price increase demonstrably occurs exclusively as a result of price adaptations of third parties in the sense of sentence 1 of this clause 5. (2).

(3) The accounting period is the calendar month unless another agreement has been made.

(4) BS PAYONE will create an invoice concerning the payment due in the accounting period each month up to the middle of the month following the accounting period with regard to the use-dependent payment.

(5) All amounts are due for payment for the contractual partner at the point of receipt of invoice unless the invoice shows a different due date. The receipt of the invoice is to be regarded as taken three days after posting unless the contractual partner proves that the invoice did not reach him until later if at all.

(6) All payments of the contractual partner are to be made in Euros (€) unless the parties have agreed payment in another currency.

(7) Irrespective of the specifications under clause 5. (8), BS PAYONE is entitled to stop its services until complete balance of the outstanding demand following previous written notification in the case of payment delay. This does not apply if the contractual partner has only delayed an insignificant amount. If there is a repeated delay with an amount which is not insignificant, BS PAYONE is also entitled to demand placement of security by the contract partner.

(8) If there is payment delay from the contractual partner, BS PAYONE is entitled, subject to further compensation, to demand default interest to the amount of 5% above the base rate of the European Central Bank at the time, to a minimum of 7 % from the contractual partner. If the contractual partner is not a consumer, BS PAYONE is entitled to demand default interest to the amount of 8% above the base rate of the European Central Bank at the time.

6. Liability, Compensation, Reimbursement of Expenses

If compensation or replacement of wasted expenditure is involved, BS PAYONE is liable for all damage which results, regardless of whether from contravention of the contract or actions which are not permissible, only in accordance with the following paragraphs:

(1) In the case of intention, claims following the law on product liability, transfer of a guarantee for the condition of a work service or object of sale (§§ 639, 444 BGB), fraudulently keeping a defect in a work service or object sale secret (§§ 639, 444 BGB) and injury to life, body or health, BS PAYONE is liable following the legal regulations.

(2) In the case of gross negligence the liability of BS PAYONE is restricted to compensation for the typical foreseeable damage.

(3) For simple negligence BS PAYONE is only liable if a significant contractual duty was contravened. In this case the liability is limited to the typical foreseeable damage. In all remaining cases of simple negligence, liability will not apply.

(4) For liability irrespective of the party at fault for damage occurring during the delay, the liability of BS PAYONE is equally limited to the typical foreseeable damage.

(5) All data which are to be transferred by the contractual partner or on their behalf to BS PAYONE for processing are not checked by BS PAYONE for accuracy of content. BS PAYONE is not liable for shortcomings or damage - irrespective of legal argument - which result from the contractual partner or third party from data which have been transferred with incorrect content.

7. Claims due to Material and Legal Defects

(1) If BS PAYONE provides work services or creates software for the contractual partner, the following applies with regard to the other claims due to material or legal defects (defects) which are not directed to compensation or reimbursement of expenses:

- a. BS PAYONE will provide the work services in such a way that they do not have defects which neutralise or considerably reduce the value or the usefulness compared with that which is habitual or required according to the contract.
- b. The liability of BS PAYONE does not encompass defects which can be directly or indirectly traced back to supplies and services of third parties who are not subcontractors of BS PAYONE or can be traced back to incorrect or faulty information, or unpunctual or missing cooperative actions of the contractual partner or third parties engaged by the contractual partner. Defects which stem from a change, process or use of the result of the service by the contractual partner or third party not in line with the agreement are excluded from the liability unless the contractual partner proves that the defects in question were not caused by the change, process or use in contravention of the agreement made by him or the third party.
- c. For part service results the statutory period of limitation begins, if work services are involved, running separately with its purchase, also in the case of the intended carrying out of a final inspection for each purchased part service result.

If BS PAYONE is subject to the test of presence of a defect or the rectification of a defect in agreement with the contractual partner, the statutory period of limitation subject to differing expressed agreements is not limited by this.

- d. The contractual partner is compelled to inform BS PAYONE of defects in writing without delay and to show detailed description of the defect and effect. If BS PAYONE demands it, the contractual partner is compelled to pass on the data processed in the discovery of a defect in electronic form.
- e. BS PAYONE will rectify defects which the contractual partner asserts in writing before running out of the statutory period of limitation. If BS PAYONE proves that no defect was present, BS PAYONE can demand the payment of the expenses for the services provided due to the alleged defect rectification in accordance with the reimbursement clauses arranged in the contract, otherwise following the reimbursement clauses applicable for BS PAYONE for such services plus resultant additional costs.
- f. The contractual partner is only entitled to withdrawal from the contract – if a withdrawal is not legally prohibited – or to reduction of the reimbursement following the unsuccessful

expiration of a period set down by him for rectification unless the time period set is non-essential according to legal requirements.

- g. In the case of a defect in a work service or object of sale being fraudulently kept secret or in the case of the transfer of a guarantee for the condition of a work service, the rights of the contractual partner comply exclusively with the legal requirements.

(2) For services from purchase contracts and service supply contracts on an equal footing the following applies: The contractual partner is compelled to check services provided by BS PAYONE immediately after their delivery. If the contractual partner does not indicate defects noticeable following a careful inspection immediately following delivery in writing, claims due to this defect are not permissible. The same applies if the contractual partner does not indicate concealed defects immediately after their discovery in writing.

(3) In the case of interruptions through force majeure for which BS PAYONE or their assistants cannot be held responsible, e. g. by strike, lockout, riot, natural catastrophes, seizures, licences which have not been given or have been revoked, which temporarily prevent BS PAYONE giving a proper service, the contractual partner does not have the right to terminate the contract. If such an interruption leads to a delay of service of more than two (2) months, the contractual partner may exceptionally terminate without a period of notice. Such a termination must occur in writing and in the form of a registered letter or by courier with acknowledgment of receipt.

8. Statutory Period of Limitation

(1) If work services of BS PAYONE are involved, any rights of the contractual partner for subsequent rectification, withdrawal from the contract, reduction and compensation or reimbursement of expenses which occur in connection with a defect have a statutory period of limitation of one year following inspection of the respective work service if BS PAYONE is not accused of intentional conduct.

If the supply of a purchase object by BS PAYONE is involved, the above applies in line with the supply of the object replacing the purchase.

(2) All remaining claims from non intentional contraventions of duty by BS PAYONE in connection with the supply of services in the framework of this contract have a statutory period of limitation two years after the emergence of the claim.

(3) The above regulations do not apply to claims which refer to fraudulent behaviour by BS PAYONE.

9. Maintenance of Confidentiality

(1) Both parties are compelled to keep information about the other party confidential regardless of the type of information unless the other party agrees to disclosure of the information. The parties take responsibility for the information only being accessible to workers of their company or assistants who definitely need this information for carrying out the contract and that these workers or assistants are also subject to a corresponding obligation to maintain confidentiality. This obligation to confidentiality applies without time limitation for the duration of the contract. If the parties have concluded a separate confidentiality agreement this has priority over the regulation of this clause 9.

(2) BS PAYONE is entitled to nominate the name or company name of the dealer to third parties as a reference.

This also applies in particular for the announcement of the offer of the dealer with the logo of the dealer and giving his name or company name on websites, brochures and other BS PAYONE documents. This does not result in any obligation for publication for BS PAYONE. If no naming or announcement by BS PAYONE is to occur, the trader must inform BS PAYONE of this in writing. The obligation of confidentiality (paragraph 1) is unaffected by this.

10. Security of the Contractual Partner

(1) BS PAYONE is entitled to demand the placement of a security by the contractual partner. The establishment of the type and amount of the security is at the discretion of BS PAYONE. The security serves in particular for protection of the contractual reimbursement and other payment claims which BS PAYONE is entitled to against the contractual partner. BS PAYONE is not obliged to accept a security differing from its guidelines and to begin providing the service.

(2) If it becomes apparent during the period of the contract that the individual size of the security originally agreed is no longer sufficient in BS PAYONE's view, BS PAYONE is entitled to demand placement of a suitably adapted security. If no placement of security was originally demanded by the contractual partner and BS PAYONE is at a later point in time of the opinion that one is required, BS PAYONE can then demand the placement of a corresponding security.

If the relevant security is not presented within an appropriate time period to be determined by BS PAYONE, BS PAYONE is entitled, following renewed written demand under placement of an extension, to stop the supply of the service until the security is paid without becoming subject to compensation to the contractual partner.

11. Cession, Compensation, Right to Withhold, Defect Objections

(1) The contractual partner may not assign and transfer any claims and demands to third parties without the written agreement of BS PAYONE. § 354a HGB remains unaffected.

(2) The contractual partner may only offset claims and demands of BS PAYONE if its counterclaim is uncontested or legally established.

12. Contract Period, Termination

(1) The minimum contractual term for contracts about recurrent services by BS PAYONE shall amount to 36 months, beginning on the first day of the month following the month of installation, plus the period of time of the partial month in which installation services were provided. This term is extended by a year if they are not terminated by one of the partners while maintaining a notice period of three (3) months at the end of a contract year. In the case that deviating minimum contractual terms are agreed upon, these shall be applicable accordingly.

(2) The contractual partner has exceptional termination rights in accordance with the clauses 5. (2) and 7. (3).

(3) The right to exceptional termination for an important reason remains unaffected.

(4) Each termination must be in writing to take effect and is to be passed on to the other party by registered post/signed receipt or by courier.

13. Copyright

If rights according to the law on copyright and related rights (Law on Copyright – UrhG) exist in the announced form with BS PAYONE or develop in the carrying out of the contract, these remain with BS PAYONE. If BS PAYONE software is to be made available in the framework of this agreement, BS PAYONE guarantees the contractual partner a non-exclusive, free right of use restricted to the location of the contractual partner or the place of installation. From a time perspective the right of use is restricted to the duration of this contract.

The contractual partner is not entitled to undertake changes, translations or other revision and reshaping of the software. Equally a translation back into the form of source programmes or in other forms of presentation is not permissible. The contractual partner is compelled to only make the software accessible to those workers and assistants who absolutely require it to carry out the contract. Each other type of making accessible and / or the passing on either as original or in the form of a complete or partial copy to others requires the prior written permission of BS PAYONE.

14. Closing Provisions

(1) BS PAYONE is entitled to change these General Terms and Conditions PAYONE AccountConnect. Alterations are deemed to be acknowledged by the contractual partner if he doesn't protest in writing within four (4) weeks of receiving a written message to this effect.

(2) For these services, carrying them out and all disputes resulting from them, German law applies exclusively.

(3) The place of fulfilment for the BS PAYONE services is the location of the main BS PAYONE headquarters.

(4) The legal domicile for all disputes between BS PAYONE and the contractual partner is the main headquarters of BS PAYONE or if BS PAYONE chooses also the location of the contractual partner.