

General Business Conditions for Giftcard Easy

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1 Scope of application

These General Business Conditions (hereinafter “GBC”) shall apply with respect to the products and services in the field of the sale, processing and administration of electronic gift cards (hereinafter “Gift Cards”) agreed between the Merchant and SIX Payment Services Ltd (hereinafter “SPS”) on the electronic platform provided for this purpose (hereinafter “Giftcard Platform”).

SPS enables the Merchant to order and administer Gift Cards through use of the Giftcard Platform and ensures the relevant reporting. SPS also ensures the activation and processing of the Gift Cards on the Merchant’s terminal infrastructure.

It is a precondition for the use of the Giftcard Platform operated by SPS that the Merchant concludes separate agreements for the acceptance of cashless means of payment and that payment terminals accredited by SPS are used.

The Gift Cards may only be used in the Merchant’s points of sale (so-called “two-party system”); cf. section 7.3.

2 Infrastructure of the Merchant

The Merchant shall be completely responsible for obtaining, operating and maintaining an infrastructure that is suitable for the use of the Giftcard Platform as well as for taking the technical security measures to prevent any misuse of the infrastructure.

3 Giftcard Platform of SPS

SPS operates and supports the Giftcard Platform in technical, organizational and administrative respects.

Notwithstanding the provisions of section 9, the Merchant shall have no right to the Giftcard Platform being available at all times and operating without disruption. SPS provides no warranty in this respect. SPS shall be authorized to interrupt, at its equitable discretion, the operation of the Giftcard Platform if it deems such an interruption to be necessary for imperative material reasons, for example system adjustments and updates, disruptions, risk of misuse.

SPS reserves the right to make technical or organizational changes or additions to the Giftcard Platform at any time without having to inform the Merchant.

4 Prices, taxes and payment modalities

4.1 Prices

For the products and services of SPS the prices and fees shown on the Giftcard Platform at the time of ordering shall apply.

4.2 Taxes

The prices and fees for products and services of SPS are, unless otherwise specified, exclusive of VAT, withholding taxes and other duties. All taxes and duties which under the legislation of the Merchant’s country are due or could in future become due with respect to the services to be rendered by SPS within the scope of the contractual relationship shall be borne by the Merchant. In all cases, the Merchant is obliged to adhere to

the provisions applicable in its country in relation to indirect taxes, withholding taxes and any other duties. The Merchant shall fully indemnify SPS against any claims derived therefrom by third parties against SPS.

4.3 Invoicing

4.3.1 Form

Invoices are submitted to the Merchant in hard copy.

4.3.2 Loading and service fees

The fees incurred for the loading or reloading of the Gift Cards as well as the service fees are calculated and invoiced to the Merchant on a quarterly basis.

4.4 Payment

The modality of payment mentioned on the invoice shall apply. The term of payment is 30 days after the invoice date; upon its expiration the Merchant shall fall into arrears without further notice.

The offsetting of the Merchant’s claims vis-à-vis SPS is only permitted with prior written consent from SPS.

4.5 Default of payment

In the event of the Merchant falling into arrears, SPS shall be entitled to charge default interest at the rate of 10% p.a. on the invoice amount and charge all costs for dunning and debt collection to the Merchant.

In the event of late payment, SPS shall also be entitled to offset the amount owed against any reimbursements arising out of the fulfillment of services for the acceptance of cashless means of payment.

In the event of the Merchant falling into arrears, SPS also reserves the right to suspend its services with prior warning until payment is made. The costs for the restoration of services shall be borne by the Merchant.

5 Ordering and delivery

5.1 General

The Merchant shall use the web shop that is integrated into the Giftcard Platform to order Gift Cards. Orders carried out via this web shop are assigned to the Merchant on a binding basis.

The Merchant shall pay the fees for the production and delivery of the Gift Cards when placing its order using a payment card or via money transfer following delivery of the Gift Cards, the latter case being regulated by sections 4.3 to 4.5.

5.2 Gift Card properties

5.2.1 Card design

The Merchant shall select a card design from the designs available at the time of ordering. The Merchant’s name and/or logo must be imprinted on the reverse of the Gift Cards.

Variations in color may occur due to the printing process and shall not be considered grounds for complaint or a deficiency.

Furthermore, SPS is free to define the content-related design of the Gift Cards as well as the style of the card designs offered. The Merchant shall not be entitled to the retention of previous card designs.

5.2.2 Period of validity and reloadability

All Gift Cards offered by SPS can be reloaded and are valid for a period of 2 or 5 years. The Merchant shall specify with which of the offered periods of validity the Gift Cards are to be issued when placing its order. The period of validity starts with the loading of the Gift Card and is extended by the originally chosen period of validity each time it is reloaded.

For activated Gift Cards, SPS shall display the balance of the individual Gift Card on the Giftcard Platform and make it available for processing (debiting upon redemption) or for information purposes (inquiries by the holder of the Gift Card (hereinafter "cardholder") or the Merchant).

5.2.3 Maximum loading amount

The maximum loading amount per Gift Card is CHF 3000.

The refunding of a loaded amount to the cardholder in cash is expressly prohibited.

5.3 Delivery

SPS is responsible for delivering the Gift Cards to the address specified on the Giftcard Platform. Delivery generally occurs within 3 weeks.

The risk relating to the damage or loss of the Gift Cards shall be transferred to the Merchant upon receipt of the Gift Cards.

5.4 Warranty

SPS warrants that the Gift Cards it delivers to the Merchant are functional. SPS undertakes to replace defective Gift Cards free of charge. Replacement takes place after the Merchant returns the defective Gift Cards to SPS.

The warranty period is limited to the period of validity of the relevant Gift Card and ends at the latest 30 months after the order is concluded by the Merchant.

6 Integration and use

6.1 Generalities

The Merchant accesses the Giftcard Platform over the Internet. SPS offers the Merchant a number of different interfaces that can be used to integrate the Giftcard services into its infrastructure. The responsibility for the integration of the Giftcard services rests with the Merchant. SPS provides assistance in the form of Giftcard integration support.

SPS offers no warranty concerning the software components provided to the Merchant for the integration of the Giftcard Platform into its infrastructure.

The administration area of the Giftcard Platform contains an area that can be accessed by the cardholder. The cardholder also has the option of using the "Giftcard Easy" app provided by SPS. In particular, this enables the account balance, purchases made and expiry date to be requested.

6.2 Access rights

For the use of the Giftcard Platform, SPS puts at the Merchant's disposal personalized login credentials (hereinafter "login credentials"). The Merchant is responsible for ensuring that the login credentials are adequately protected against access by unauthorized third parties. Furthermore, the passwords shall be changed on a regular basis.

Any party that identifies itself to SPS using the login credentials shall be considered as having been authorized by the Merchant to use the Giftcard Platform. SPS only verifies the login credentials; no further authentication is carried out.

If there are grounds to suspect that unauthorized third parties have gained access to the login credentials, the Merchant must ask SPS immediately to block the login credentials. The Merchant shall be liable for any actions taken by third parties using the login credentials as it is for its own actions. If the login credentials are lost, the Merchant may request a new login and/or password directly through the Giftcard Platform.

6.3 Copyrights

The software components of the Giftcard Platform as well as the Giftcard Easy app are protected by copyright and may only be used as intended. Any copying, alteration or tampering is prohibited. Any use for commercial purposes is prohibited.

If the provisions of this section are infringed against, all usage rights shall expire.

7 Obligations of the Merchant

7.1 Compliance with security requirements

The Merchant is obliged to ensure through appropriate measures that no manipulation is possible, in particular no improper transactions. The Merchant shall train its personnel in the correct use of the Giftcard Platform at adequate intervals, in particular upon its entry into operation. It shall also instruct its personnel about measures to be taken to prevent misuse and fraud.

7.2 Conformity of the offering

The Merchant is obliged not to use the Giftcard services in an abusive manner and to respect the law as well as the rights of third parties. In particular, the Merchant must ensure that the business executed via the Giftcard Platform is neither illegal nor immoral.

7.3 Points of sale

The Gift Cards may only be used in the points of sale (branch offices, branches, establishments, operating sites or web shops) of the Merchant whose name and/or logo is imprinted on the reverse of the Gift Card.

7.4 Gift Card terms of use

The Merchant is essentially free to define the terms of sale and use of the Gift Card vis-à-vis the cardholder. Should the Merchant wish to amend the text regarding use pre-printed by SPS (on the reverse of the Gift Card), a separate agreement is required in this regard. Upon conclusion of the order, the Merchant confirms its consent to the currently valid terms of use imprinted on the Gift Cards.

7.5 Legal relationship between Merchant and cardholder

SPS is not responsible for selling the Gift Card to the cardholder. The pertaining contractual relationship is established exclusively between the Merchant and the respective cardholder. The Merchant shall settle any legal objections in relation to commercial transactions with cardholders, in particular complaints and claims, directly with the cardholder.

7.6 Changes of address on the part of the Merchant

In the event of a change of address, the Merchant shall immediately amend its address data specified on the Giftcard Platform.

8 Data protection

The Contracting Parties are obliged to comply with the provisions of the respectively applicable data protection act.

The Merchant acknowledges that the data related to these GBC is processed in Switzerland and in countries of the EU. The Merchant agrees to this and grants its express consent to the data processing.

9 Liability

Notwithstanding ancillary statutory provisions and unless explicitly regulated otherwise, the Merchant shall be liable, in particular, for damage that SPS incurs as a result of the former, or third parties involved by it, failing to fulfill their obligations, notably in technical, organizational and administrative respects. In particular, SPS is entitled to pass on to the Merchant any potential claims for damages resulting from a culpable breach of duty by the Merchant or by third parties involved by it. The Merchant shall fully indemnify SPS in this respect and shall be liable for these claims and any additional case-related expenses.

Unless explicitly regulated otherwise, SPS or third parties involved by it shall be liable in case of wilful misconduct or gross negligence in accordance with the statutory provisions. The liability of SPS for slight negligence shall be fully excluded.

The liability of the Contracting Parties for culpable harm to life, body or health as well as the statutory product liability remain intact.

10 Notifications

All notifications shall be issued in writing unless another form has been explicitly agreed. Written form also includes electronically transmitted messages (e.g. via e-mail or via a platform provided by SPS within the scope of a service).

11 Modifications and additions, incl. fees

Modifications and additions to the GBC and other integral parts, must be made in writing in order to take effect and must be duly signed by both Contracting Parties. This remains subject to the provisions of paragraph 2 of this section. Conduct that deviates from the provisions of these GBC does not give rise to any contractual modification or addition.

SPS reserves the right at any time to modify or make additions to the GBC and other integral parts as well as the fees. Within the scope of every Gift Card order (prior to conclusion of the order process in the web shop), the Merchant acknowledges the applicability of the currently valid version of the "General business conditions for Giftcard Easy".

12 Coming into force, duration and termination

12.1 Coming into force

These GCB come into force upon acceptance by the Merchant within the scope of the Gift Card order process.

12.2 Duration

The contractual relationship is concluded for an indefinite duration.

12.3 Ordinary termination

The contractual relationship may be terminated by registered letter as per the end of a quarter, subject to a notice period of 6 months, for the

first time at the end of the quarter at least 12 months after the first Gift Card order.

The right to immediate termination for good cause of the Contracting Parties, pursuant to section 12.4, remains reserved.

12.4 Extraordinary termination

In the event of good cause, the Contracting Parties shall be entitled at any time to terminate the contractual relationship with immediate effect. In particular, good cause includes the following:

- serious or repeated breaches of the provisions of these GBC by the Merchant;
- inconsistencies in settled transactions;
- a significant change in the ownership structure and control of the Merchant;
- the opening of insolvency proceedings over the assets of the Merchant.

12.5 Consequences of contract termination

Following the termination of the contractual relationship, the Merchant shall remove all references to the corresponding services of SPS visible to customers.

SPS warrants the processing of all Gift Cards sold and activated by the Merchant prior to the termination of the contractual relationship up to 24 months after its termination in accordance with the contractual conditions.

Any Gift Cards not sold to cardholders or activated at the time of termination expire and can no longer be used. Following termination the Merchant receives a final invoice regarding the fees due.

13 Concluding provisions

13.1 Assignment prohibition

The Merchant may only assign any of the rights it has vis-à-vis SPS with prior written consent from SPS.

13.2 Involvement of third parties/assignment to Group companies

SPS reserves the right to transfer the fulfillment of its contractual obligations (technical and administrative) in whole or in part to third parties at any time without having to inform the Merchant. Such third parties are authorized to undertake legal acts arising out of the contractual relationship on behalf of SPS and for this purpose to act in the name of SPS.

SPS is entitled to assign the contractual relationship to another Group company. In such a case, the Merchant is to be suitably informed.

13.3 Severability clause

Should a provision of these GBC (including fees) be declared invalid, the remaining provisions shall not be affected thereby and are to be construed in such a way as if these GBC were concluded without the invalid provision. The same applies to any contractual omissions.

13.4 Applicable law and place of jurisdiction

All legal relationships between the Merchant and SPS arising from the contractual relationship are subject to Swiss law. The exclusive place of jurisdiction is Zurich.