

1. Introduction

These Subscriber Conditions (SC) govern the relationship between the customer (Partner) and PostFinance Ltd (PostFinance) within the framework of the EFT/POS system, which enables the Partner to accept cashless payments at its points of sale. The EFT/POS system also provides other functions such as cash withdrawals and good return.

All references to persons in these SC refer to both men and women and may apply to several people.

2. Eligibility for subscription and identity check

The EFT/POS system is excluded for sales transactions with immoral, indecent, disreputable, criminal or corrupt content (e.g. weapons, narcotics, pornographic representations, etc.). PostFinance can terminate the contract with the Partner with immediate effect at any time on account of its services.

PostFinance checks the identity and business activities of the Partner and its representative with the customary degree of due diligence. It uses technical and organizational means to detect and prevent misuse.

To this end, the Partner submits the documents indicated in the registration form as well as any further necessary documents to PostFinance.

3. The "EFT/POS with PostFinance Card Direct" system

PostFinance operates the "EFT/POS with PostFinance Card Direct" system. It is responsible for technical support and administration of the system. Its services may be fully or partially provided by third parties.

PostFinance can interrupt the operation of the system if this is necessary for important reasons. Maintenance work which may result in system interruptions will wherever possible be carried out outside regular business hours.

4. Guarantees of PostFinance

PostFinance will ensure the complete processing of data generated by its customers using PostFinance Card Direct (hereinafter "Customers") with the Partner in accordance with the applicable provisions and delivered to PostFinance.

For partners who maintain the business account for the entry of transactions with PostFinance, it provides a credit guarantee for each payment that has been duly authorized and is received by PostFinance within three bank working days of the payment transaction. Payments received later will be processed up to thirty (30) bank working days after the payment process in accordance with section 6.5 provided sufficient funds are available in the Customer's account.

PostFinance cannot provide a credit guarantee for partners who process credits and debits via the business account of a Swiss third-party bank. The Customer is free to conclude an agreement to this effect with his bank if necessary.

5. Changes to the equipment location

Any removal, change or new installation of EFT/POS equipment or its software must be reported to PostFinance, regardless of whether or not this occurs within the same branch. Any costs arising from incorrect information shall be borne by the Partner.

6. Obligations of the EFT/POS partner

6.1 Equipment

The Partner undertakes to equip its EFT/POS equipment with appropriate software that meets the latest software specifications (ep2) for EFT/POS equipment. It may only use equipment with homologated hardware and software which has been tested by a certification body recognized by PostFinance and which has a terminal version approved by ep2.

If the Partner uses several types of equipment at different offices, branches or subsidiaries, a separate "EFT/POS with PostFinance Card Direct" registration form has to be completed and signed for each location and sent to PostFinance.

6.2 Operation

The EFT/POS equipment may only be used in Switzerland. It must be correctly maintained and protected against unauthorized access by third parties. This ensures the Partner has the best possible availability of the equipment at the point of sale. If the transaction amount is not known upon authorization (e.g. at an unattended petrol station) an amount defined by PostFinance will be preauthorized on the card holder's account. The booking is carried out after data delivery with the effective amount.

The Partner must keep original transaction receipts for five years and will make them available to PostFinance upon request.

6.3 Cash withdrawals

If the Partner offers its Customers cash withdrawals, the transaction will be processed using the cash withdrawal function. Processing via the purchasing good function is not allowed.

6.4 Credentials

The Partner must ensure that its Customers can enter their credentials (e.g. PIN) without the Partner or third parties being able to see them.

6.5 Credits and debits

Partners who perform transactions via a PostFinance business account will be booked no later than the second bank working day after PostFinance's data center receives the data. PostFinance reserves the right to debit a previously credited amount fully or partially if the credit guarantee periods are exceeded in accordance with section 4.

In the case of partners who process debit and credit entries via a Swiss third-party bank, the time of the book entry, the value date and any modalities are determined by the corresponding third-party bank. PostFinance has no influence on this and cannot be held liable for any delays.

PostFinance will credit only those amounts for which transaction data are received within thirty (30) bank working days of the payment process.

The transaction amount will be booked to the Partner's account in the applicable transaction currency. Conversion from an initial currency to another currency is carried out at the rate set and published by PostFinance for the selected payment method at the time the transaction is processed by PostFinance. The Partner bears any exchange rate risks (e.g. if a rejected/returned transfer is being credited back again, if the systems fail and/or if trading has been suspended because of particular market events). For partners where the entry is posted via a Swiss third-party bank, the account must be kept in Swiss francs (CHF).

7. Negative balance from EFT/POS transactions for partners without a PostFinance business account

Any return of goods transactions or fees that result in a negative balance (debits higher than credits) will be charged to the Partner who does not use a PostFinance business account.

8. Conditions

The Partner must pay PostFinance a processing fee per transaction. PostFinance may charge a price for any manual entry of transactions from the device receipt and for other expenses (e.g. correction of entries resulting from an error by the Partner). More information can be found at postfinance.ch and in the EFT/POS factsheet.

9. Engagement of the service center

The Partner may commission the service center to access EFT/POS transaction data at PostFinance. It will notify PostFinance of this in advance in writing.

10. Information

The parties will keep one another informed about any important technical, organizational and administrative changes.

If the Partner fails to inform PostFinance of a change of ownership of the EFT/POS equipment in good time, PostFinance may pay all remuneration to the previous partner with discharging effect. This regulation also applies to an account switch in accordance with section 16 below.

In the event of a significant change to the Partner's ownership and control structure, it is obliged to inform PostFinance about it at least one month in advance. Due to such significant changes, PostFinance is entitled to terminate the "EFT/POS with PostFinance Card Direct" service with immediate effect. Provided PostFinance has not been informed in writing of a legal succession, it may pay all remuneration to the previous partner with discharging effect.

11. Liability

The parties shall only be liable towards one for any damages resulting from grossly negligent or wilful breach of their contractual obligations. They will take all necessary measures to protect against misuse, manipulation and theft of PostFinance Card Direct data. PostFinance will not be held liable by the Partner for damages that occur as a result of faults or interruptions to service or that are not within PostFinance's sphere of control.

12. Complaints

The Partner must notify PostFinance of any complaints in relation to the "EFT/POS with PostFinance Card Direct" service within thirty (30) bank working days of the corresponding business event occurring. Complaints that are not made in good time may result in the Partner being liable for any resulting damages.

13. Confidentiality

The parties undertake to treat all information arising from this contract that is neither evident nor publicly accessible as strictly confidential. PostFinance undertakes to maintain confidentiality towards third parties regarding the Partner's revenues. The Partner undertakes to maintain confidentiality about the transaction data generated from the use of the PostFinance Card Direct. The saving of card data and its use for other purposes by the Partner is prohibited. The disclosure of data by the Partner to third parties is prohibited. This will also apply after any termination of contract.

14. Data protection

14.1 General

The contractual partners undertake to comply with the provisions of applicable data protection law. In this context, the Partner undertakes to impose compliance with data protection regulations on staff who have access to confidential or otherwise sensitive data (particularly transaction data).

14.2 Data processing

The Partner expressly authorizes PostFinance to obtain all information essential to the "EFT/POS with PostFinance Card Direct" service from third parties and to disclose it to third parties which PostFinance considers important in relation to the provision of the "EFT/POS with PostFinance Card Direct" service or which it requires for the provision of the service. The Partner agrees that any data relating to the "EFT/POS with PostFinance Card Direct" service may be processed in Switzerland and abroad and gives his explicit consent to this.

15. Termination

The parties may terminate the "EFT/POS with PostFinance Card Direct" service at three months' notice to the end of a month by registered letter. The Partner will address notice of termination to: PostFinance Ltd, Acquiring Services, 3030 Berne, Switzerland.

If the Partner violates the provisions of these Subscriber Conditions or the law, PostFinance will be entitled to terminate the contract with the Partner without notice and without PostFinance being liable for compensation.

Transactions which PostFinance receives after the end of the EFT/POS business relationship will no longer be processed.

16. Account switch

If the Partner would like to switch its account for settling EFT/POS, it must notify PostFinance of this in writing. In addition to the new account number and the corresponding bank, it must also specify the exact date for the desired switch, taking a timeframe of thirty (30) banking days into account. The switch is binding for PostFinance and the Partner must ensure that the new bank account can be used for transactions.

17. Conclusion of contract

The contract between the parties will be deemed to be concluded upon receipt of PostFinance's letter of confirmation by the Partner.

18. Supplementary provisions

If the Partner maintains a business account with PostFinance for credits and debits associated with EFT/POS, the General Terms and Conditions and Subscriber Conditions of PostFinance Ltd shall apply in addition to the "EFT/POS with PostFinance Card Direct" Subscriber Conditions. In the case of contradictions, the "EFT/POS with PostFinance Card Direct" SC shall take precedence.

In the case of partners who are settling "EFT/POS with PostFinance Card Direct" via a Swiss third-party bank instead of a PostFinance business account, the below "Supplementary provisions for partners without a PostFinance business account" shall also apply.

Supplementary provisions for partners without a PostFinance business account

1. Bank working days

In business transactions with PostFinance, Saturdays, Sundays and statutory public holidays are not considered working days.

2. Powers of attorney

The Partner may be represented by third parties vis-à-vis PostFinance for the entire business relationship. The power of attorney regulations are binding until revoked. In particular, they shall not expire on the death, declaration of presumed death, loss of capacity to act or bankruptcy of the principal.

3. Incapacity to act

The Partner shall be liable for damages arising from incapacity to act on its part or on the part of its representative, unless PostFinance was informed in advance and in writing of the loss of capacity to act or of the possibility of carrying out banking transactions independently and in its interest.

4. Partner communication and data processing

The Partner agrees that communication may take place by post, telephone and, insofar as permissible by law, via electronic channels (such as video and audio channels, e-mail, etc.) to the addresses used by PostFinance or to those provided or known to it.

PostFinance may also store and evaluate communication in connection with the business relationship, in particular to combat misuse and for the purposes of evidence and training.

PostFinance may also use the data collected in the process to support the business relationship and for the purposes of market research and development. PostFinance publishes further information on the communication channels used, their risks and possibilities to object at postfinance.ch/legal-information.

5. Notification obligations

The Partner must notify PostFinance without delay of all information relevant to the business relationship and any changes thereto, e.g. name, address or correspondence address, legal form, domicile/registered office, nationality, beneficial owners and representatives, status as a US person, as well as revocation of powers of attorney, signing rights and capacity to act of the Partner itself or its representative.

The Partner must fulfil its obligations to provide information in writing, unless PostFinance also permits other communication channels or agrees such channels with the Partner.

The Partner is responsible for ensuring that contact with PostFinance is not broken off. If PostFinance is missing information relevant to the business relationship, the services can no longer be provided properly and the provisions on contactless and dormant assets will apply. More information can be found at postfinance.ch/legal-information.

Notifications from PostFinance will be deemed as delivered if they are sent to the most recent known address, are published publicly or are sent via a different suitable communications channel.

6. Conditions

PostFinance sets prices for its products and services (commissions, fees including customer asset fees, expenses, etc.). It reserves the right to adjust these at any time in line with the money and capital markets, inflation and other changes in cost. Taxes and additional charges as well as any third-party costs are borne by the Partner.

The Partner will be notified of prices, price changes and the introduction of new prices in a suitable manner and they will come into force on the date specified.

Once the Partner has been notified, he has the option of immediate termination if it objects to the changes. This must be done within a month at most. In the event of such termination, the Partner must not be subjected to any disadvantages due to termination or notice periods.

7. Legal and further obligations and limitations to services

PostFinance can take suitable measures in order to comply with or implement legal or regulatory provisions, international agreements or sanctions and its agreements with third parties for the purpose of a smooth business relationship or for internal compliance and security reasons. In such cases, PostFinance may in particular limit the use of the "EFT/POS with PostFinance Card Direct" service, restrict rights of disposal without giving reasons, cancel the business relationship or report it to a competent authority, make amendments to conditions, invoice for additional expenses and/or take other suitable measures with immediate effect.

The Partner is obliged to provide PostFinance on request with all the information and documents it requires to comply with the legal and regulatory provisions applicable to it or which are necessary for a smooth business relationship.

It is the Partner's own responsibility to comply with the legal and regulatory provisions applicable to it (e.g. the obligation to declare and pay taxes).

8. Engagement of third parties/outsourcing of business units

PostFinance is entitled to engage third parties in Switzerland and abroad to provide the "EFT/POS with PostFinance Card Direct" service and for the purposes of market research and development.

If PostFinance engages third parties or outsources business units, the Partner agrees that data may be disclosed and processed by these third parties to the extent necessary for cooperation.

9. Applicable law and place of jurisdiction

As far as admissible by law, the legal relationships between the Partner and PostFinance shall be subject to substantive Swiss law. Subject to conflicting and compulsory legal provisions, the sole place of jurisdiction for all proceedings is Berne. Berne shall also be the place of performance, unless otherwise agreed. The place of performance shall also be the place of debt collection for Partners whose domicile or registered office is not in Switzerland.

The Partner has the option of contacting the Ombudsman to settle any dispute before taking the matter to court.

10. Amendments

PostFinance reserves the right to make changes to the "EFT/POS with PostFinance Card Direct" service offered at any time and may amend these SC and associated contractual components such as the EFT/POS factsheet at any time. Any changes will be communicated in advance in an appropriate manner, indicating the date they come into effect. They are deemed to have been accepted unless the Partner terminates the contractual relationship within one month.

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