

# General Terms and Conditions for Services of retail7 GmbH

## Part A - General Part

### 1. General Information

#### 1.1 Scope

retail7 GmbH ("retail7") offers its customers ("customer") software solutions and related services (together "services"), the content and scope of which are described separately in a service description and made available to the customer ("service description"). These "General Terms and Conditions" ("GTC") shall apply to the provision of services in the respectively current version at the time of conclusion of the contract. These GTC shall also apply to all future services provided by retail7, unless the Parties expressly agree otherwise.

These GTC shall only apply if the customer is an entrepreneur (Section 14 BGB (German Civil Code)), a legal entity under public law or a special estate under public law. The offers of retail7 are directed exclusively to persons from the aforementioned group.

Changes to these General Terms and Conditions (e.g. in particular as a result of changes to legislation, jurisdiction, or market conditions) shall be announced to the customer no later than 4 weeks prior to the proposed date of them taking effect. If the customer does not agree with the changes, it is free to terminate the contractual relationship by giving notice at any time from the time it becomes aware of the announced changes until they take effect, irrespective of any other existing rights of termination.

The customer is deemed to have given approval if it has not raised its objection or given notice of termination before the proposed date that the changes take effect. retail7 will make special reference to this deemed approval in the new General Terms and Conditions that are announced. Furthermore, the customer is deemed to have accepted the offer if it continues to use the provided services and IT products without objection after the time of the change.

#### 1.2 Conclusion of Contract

The contract, including the GTC, is concluded between the Parties when the customer orders services provided by retail7 (e.g. via a website or an app of retail7), retail7 accepts this offer or begins performance of the contract, e.g. provision of the service.

Likewise, the contract is concluded if retail7, without an order from the customer, begins to provide the service at the customer's request or if the customer accepts a service from retail7.

The customer's General Terms and Conditions shall not apply, even if reference is made to them in electronic and automated orders, order forms, order confirmations or in other communication, or if retail7 has commenced performance without reservation in the knowledge of the customer's General Terms and Conditions.

#### 1.3 Inclusion of Special Parts of the GTC

In addition to "Part A - General Part" of these General Terms and Conditions, the provisions of one or more special parts of the General Terms and Conditions shall apply in the version current at the time of conclusion of the contract, insofar as the services provided by retail7 can be attributed to one or more special parts. A specific reference to the special parts of the GTC is not required.

#### 1.4 Order of Precedence

The contract between the customer and retail7 regarding the provision of services is composed of the following documents (if relevant). In case of ambiguity or contradiction, the documents shall apply in the following descending order of precedence:

1. The order confirmation from retail7 including its attachments
2. The special provisions of the GTC (Parts B - \*\*), insofar as these are relevant for the respective business relationship
3. This General Section of the GTC (Part A)
4. Annex modules (e.g.: for data processing)
5. The technical service description (including, if available, Service Level Agreements, project planning, or similar) of retail7 (excluding commercial and legal content)

Other documents, such as offer presentations, information on websites, brochures, prospectuses, draft offers, cost and budget estimates, shall not form part of or form the basis of the contract unless they have been expressly included.

Annex modules take precedence over all other documents for their specific area of regulation (e.g. data protection) if they contain more specific regulations.

## **2. Organization of Service Provision**

retail7 provides the services independently. Only retail7 is authorized to issue instructions to the employees it employs as part of the provision of services.

The Parties shall inform each other in good time of all relevant matters affecting the provision of services.

## **3. General Performance Obligations**

### **3.1 Service Provision**

The customer has obtained sufficient information about the services of retail7 prior to conclusion of the contract.

retail7 shall only be liable for the services agreed in the contract, in particular in the order confirmation and service description of retail7, and for the quality described therein. The preparation and delivery of documentation (e.g. manuals, operating instructions) shall only be owed if this documentation is expressly part of the services according to the product descriptions.

retail7 shall provide the services in accordance with the legal provisions applicable to it as the provider of the services.

### **3.2 Other Services**

Further services (e.g. consulting, support, maintenance, training) are only owed by retail7 if they are explicitly defined in the service description or agreed upon separately or if they are ordered.

The customer shall owe a separate fee for these services.

### **3.3 Place of Performance**

retail7 shall provide the services at the agreed place of performance. In the absence of an agreement on the place of performance, the service shall be provided at the place where it must be properly provided; in case of doubt, at the registered office of retail7.

### **3.4 Time of Performance and Default**

retail7 shall provide the services at the agreed time of performance. A time of performance shall only be deemed to have been agreed if the contract expressly designates a deadline as binding. In the absence of such an express agreement, the service shall be provided as soon as this is feasible in the ordinary course of business; in case of doubt, within a reasonable period of time, but no later than the successful completion of the electronic activation process for services provided by retail7.

If retail7 fails to meet a binding deadline and is responsible for this, retail7 shall only be deemed to be in default if the customer sends a written reminder. In the event of default, the customer shall be entitled and obligated to grant retail7 a reasonable grace period of at least ten (10) working days in writing.

If retail7 is impeded in the provision of its services for reasons for which it is not responsible, the subsequent deadlines shall be automatically postponed by the duration of the impediment as well as a reasonable start-up time. retail7 shall not be responsible in particular for non-existent or insufficient collaboration by the customer and force majeure. An event of force majeure shall be deemed to have occurred if it lies outside the sphere of risk of retail7, is unforeseeable and cannot be avoided by exercising due diligence (e.g. natural events, mobilization, official measures, failure or impairment of power, telecommunications or transport networks, operational disruptions, labor disputes).

### **3.5 Use of Open Source Software or Third-Party Software**

retail7 is permitted to use software that can be regularly obtained free of charge and open source ("Open Source Software or OSS") to provide the services. The license terms of the respective OSS apply (OSS License Terms). Only to the extent that the OSS License Terms permit deviations and/or additions, the terms of this contract shall also apply.

If retail7 uses third-party software in its solution that is not OSS, retail7 shall ensure the proper licensing of such software.

#### **3.5.1 Use of the Software by the Customer**

If the use of the service requires the use of additional third-party software (incl. OSS) not provided by retail7, retail7 shall inform the customer thereof. This is usually done through the requirements list (also called system requirements) in the service description (on the website/app) for the respective

product used by the customer. The customer alone is responsible for the procurement, licensing, deployment and operation of this third-party software. This third-party software is not part of retail7's services.

### **3.5.2 Marketplace Services**

retail7 also offers a so-called Marketplace via its solutions, through which the customer can obtain further software or additional functions, in some cases from third-party providers.

If the third-party software is not offered by retail7 as its own service according to the service description, retail7 shall only act as an intermediary and shall not offer any maintenance, service, support or similar for this software. retail7 shall in principle only be liable for the services of third-party providers in accordance with Items 8 and 9 of these GTC.

retail7 expressly points out that when using third-party software, even if offered by retail7 according to the service description, the GTC and Terms of Use of the respective third-party provider shall additionally apply.

## **4. Collaborative Duties of the Customer**

### **4.1 Contact Person/Account Holder**

At the start of the contract or at the time of registration, the customer shall name an account holder who actually exists and can be reached by the specified means of communication. The email address to be provided in the registration process must be valid and active, and must be regularly checked by the account holder for the receipt of new messages. The data of the account holder must always be kept up to date by the customer.

### **4.2 Collaboration**

The customer is obligated to collaborate in the provision of services if a) this is necessary and reasonable (in particular, the provision of information) or b) this has been expressly agreed in the contract. Unless otherwise agreed, this includes in particular the use of hardware that meets the respective system requirements specified in the service description and for whose procurement the customer is responsible, as well as the provision of telecommunication connections/lines, necessary equipment and the commissioning thereof. The customer shall perform its collaboration duties in good time and free of charge. The customer shall bear the consequences of non-existent, insufficient or untimely collaboration, in particular the additional costs incurred by retail7 as a result, unless the customer is not responsible for these consequences.

### **4.3 Access Rights**

The customer shall allow retail7 access (physical/remote) to all systems to the extent necessary to provide the services. retail7 shall comply with the customer's IT security requirements provided that these have been communicated to retail7 by the time the contract is concluded and this is reasonable.

## **5. Rights of retail7**

### **5.1 Copyrights and Other Intellectual Property Rights**

All rights, in particular copyrights and other intellectual property rights, to the services of retail7 shall remain exclusively with retail7, with the exception of those rights which retail7 expressly grants to the customer through this contract. In particular, retail7 remains entitled to make the services available to third parties.

### **5.2 Rights of Third Parties**

All rights, in particular copyrights and other intellectual property rights, to services provided by third parties (e.g. software providers) shall remain exclusively with them. The granting of these rights shall be governed solely in relation to and by the contracts, GTC and further specifications of the respective third party.

## **6. Information Rights of retail7**

At the request of retail7, retail7 shall be informed by the customer comprehensively in writing about how the customer uses the services. The customer must prove that this is done in accordance with the terms of the contract.

## **7. General Remuneration Provisions**

### **7.1 Remuneration**

The customer shall pay retail7 the agreed remuneration for the provision of the service.

If remuneration has not been expressly agreed, the customer shall pay retail7 remuneration if, under the circumstances, provision of the service can only be expected in return for remuneration. The amount of remuneration shall be determined in accordance with the agreed price table of retail7 that is valid at the time of the order and linked or displayed in the order process or in accordance with a separate offer or agreed conditions.

In the absence of an expressly agreed price, the customary remuneration shall be deemed to have been agreed.

retail7 shall be entitled to demand corresponding partial remuneration for partial services.

retail7 may demand reasonable advance payments.

Effort, cost and budget estimates of retail7 are only binding if they are expressly designated as binding.

## **7.2 Remuneration in the Event of Premature Termination of the Contract**

If the customer terminates the contract prematurely in whole or in part, it shall remunerate retail7 for the services rendered up to the effective date of termination in accordance with the agreed remuneration. In case of doubt, this shall be paid on a pro rata basis. In return, retail7 shall provide the service to the customer in the quality existing at that time.

The above provisions shall not apply in cases where the software is provided temporarily. In this case, the remuneration shall be paid until the termination of the contract is effective in accordance with the minimum term of the contract.

## **7.3 Invoices**

Unless otherwise agreed, retail7 shall invoice the services monthly in advance. The invoice shall contain all information required by law as well as the information on which the Parties may have additionally agreed upon conclusion of the contract.

Invoices are sent electronically to the customer's electronic address (email) specified in the contract and provided to the customer in its retail7 account.

retail7 invoices are due immediately and payable without deduction. Unless otherwise agreed, payment shall be made by debiting the means of payment stored in the ordering process on the due date. In the event that the specified means of payment does not have sufficient funds, or if the payment cannot be effected for any other reason, retail7 shall be entitled to make up to two (2) further attempts to debit the specified means of payment at the customer's expense within sixty (60) days of the first unsuccessful debit attempt.

In any case, the debt shall only be cleared upon unconditional crediting of the payment in favor of retail7.

Once a period of 14 days from the first unsuccessful debit attempt has expired without the due payment being effected in favor of retail7, default shall occur without further reminder.

## **7.4 Retention and Setoff**

The customer may only assert a right of retention or a right to refuse performance or a right of setoff insofar as the counterclaim has been legally established or is not disputed.

The exercise of a right of retention that is not based on a right from the respective contractual relationship is excluded.

## **7.5 Accidental Loss**

retail7 shall be entitled to remuneration even if the service has been lost prior to the transfer of risk to the customer and retail7 is not responsible for this.

## **8. Liability for Defects**

retail7's liability for defects shall be governed by the statutory provisions, unless otherwise stipulated below.

### **8.1 Liability for Material Defects**

#### **8.1.1 Information Obligations**

The customer shall notify retail7 in writing of any defects as soon as they become known. In this case, communication via email or a ticket tool/customer form provided by retail7 on the website or in its account, if applicable, shall also be deemed to be in writing. The customer shall describe the defects in detail and provide all of the information necessary for retail7 to reproduce the defect. Only then is retail7 obligated to remedy the defect.

### 8.1.2 Workaround

If retail7 is obligated to remedy a material defect, retail7 may, at its discretion, change the service in such a way that the material defect is eliminated (rectification), provide the service again (subsequent delivery) or show the customer a reasonable means of using the service without the material defect occurring (workaround).

### 8.1.3 Costs of Remedying Defects

The customer shall bear the costs of remedying defects within the scope of the statutory provisions. If it turns out that the cause of a malfunction is not due to a defect for which retail7 is responsible, but is due to other circumstances, retail7 is entitled to charge the customer for the expenses and costs incurred in connection with the analysis of the cause of the malfunction and the efforts to remedy the malfunction at reasonable and customary market prices.

## 8.2 Liability for Title Defects

### 8.2.1 Rights of Third Parties

retail7 shall provide its services in such a way that third parties cannot assert any rights or only the rights assumed in the contract with respect to the services.

### 8.2.2 Indemnification Obligation and Defense by the Customer

retail7 shall indemnify the customer against any claims of third parties which the customer may suffer as a result of the fact that the service provided by retail7 infringes the rights of a third party, unless retail7 is not responsible for this. The obligation to indemnify shall only exist if the customer informs retail7 without delay as soon as a third party alleges an infringement of rights against the customer, the customer assigns the sole defense against the alleged infringement to retail7, including the conduct of litigation as well as the right to conclude judicial or extrajudicial settlements, and the customer does not acknowledge any claims of the third party or make similar declarations without the consent of retail7. The customer shall support retail7 to the best of its ability in defending against the claims of the third party and shall cooperate fully with it.

In particular, the customer shall inform retail7 without delay of any fact of which it becomes aware that could be related to the assertion of claims by third parties. Any indemnification will not be paid to the customer until a corresponding legally binding final judgment has been issued.

retail7 shall in particular not be obligated to indemnify if the right of the third party has been infringed by the customer modifying the service provided by retail7, combining the service with items (including software) not supplied by retail7 or using the software in a manner other than contractually agreed or provided for in the documentation.

### 8.2.3 Defense Options of retail7

retail7 may, at its own discretion, modify the service in question or replace it with another service in such a way that no third party rights are infringed any longer, but the agreed use of the service in question is still guaranteed, or procure a right for the customer to continue using the service.

If these defense options of retail7 remain unsuccessful and it resorts to the services of third parties under license and these license agreements prove to be invalid, the Parties shall be entitled to terminate the contract (in case of doubt: extraordinarily).

## 8.3 Limitation Period

The limitation period for material defects and title defects as well as for claims arising from indemnification according to Item 8.2.2 shall be one (1) year from acceptance or handover of the service. Excluded from this are claims for damages due to injury to life, limb or health as well as due to damages caused by gross negligence or intent by retail7. In this respect, the statutory limitation periods shall apply.

The limitation period shall not be suspended by a notice of defects by the customer.

## 9. Liability

The statutory provisions shall apply to the liability of retail7 and the customer, unless otherwise provided below.

### 9.1 Unlimited Liability

retail7 shall be liable without limitation for damages and expenses:

- from injury to life, limb or health
- due to the absence or omission of a guaranteed characteristic or in the event of non-compliance with

a warranty

- which are based on an intentional or grossly negligent breach of duty
- which are governed by the Product Liability Law

## **9.2 Limitation of Liability**

retail7 shall be liable, limited to compensation for foreseeable damage typical for the contract, for such damage that is based on a slightly negligent breach of material duties by retail7 or one of its legal representatives or vicarious agents. Material duties are obligations whose fulfillment makes the proper performance of the contract possible in the first place and compliance with which the customer can rely on. Otherwise, any liability of retail7 is excluded.

retail7 shall not be liable for the reimbursement of expenses - except in cases provided for under Item 9.1 - unless this is necessary for the purpose of supplementary performance according to Section 439, Paragraph 2 and 3 or Section 635, Paragraph 2 BGB.

Furthermore, retail7 shall not be liable for defects which are due to the fact that the software has been used by the customer contrary to the documentation or specifications or has been operated in a system environment which does not comply with the documentation or specifications of retail7.

retail7 shall also not be liable for defects and damages if these have been caused by a third party (e.g. IT service provider). This also applies to such third parties who distribute their own software via retail7 or its systems.

The liability amount is limited to half of the - in the case of continuing obligations, (potentially) annual - contract volume.

## **9.3 Exclusion of Limitation of Liability**

A limitation of liability or of the limitation period due to claims for defects according to Items 8 and 9 of these General Terms and Conditions shall not come into consideration if retail7 has fraudulently concealed the defect or has provided a guarantee for the quality of the item.

## **10. Force Majeure**

If retail7 is prevented from providing its service due to the occurrence of unforeseeable, extraordinary circumstances which it cannot avert despite exercising reasonable care - e.g. due to operational disruptions, official interventions, power supply issues, strike or lockout - regardless of whether these circumstances occur in the sphere of retail7 or in the sphere of its suppliers, the delivery period shall be extended to a reasonable extent, provided that service provision does not become impossible. If service provision becomes impossible due to the above circumstances, retail7 shall be released from its performance obligations. The customer shall provide consideration for those parts of the service that have already been delivered and that it can use in accordance with the contract.

## **11. Commissioning of Third Parties**

retail7 shall be free to commission third parties to perform obligations under the contract on behalf of retail7 (subcontractors). If requested by retail7, the customer will cooperate with the subcontractors in the same way as with retail7.

retail7 shall be liable for the subcontractors used by it in accordance with Section 278 BGB, within the scope of the limitations of liability agreed in the contract.

## **12. Confidentiality/Data Protection**

### **12.1 Confidentiality**

Unless otherwise provided, all information provided by retail7 to the customer shall be treated as secret and strictly confidential and shall be secured by appropriate protective measures.

During and after the contractual relations, the customer may neither exploit this information itself nor make it accessible to third parties.

Confidential information in this sense shall be deemed to include, in particular, information on products, manufacturing processes, software, expertise/trade secrets, business relationships, business strategies, business plans, financial planning, personnel matters, irrespective of the medium in which they are contained.

This confidential information was not previously known or readily available, either in its entirety or in its details. Therefore, they are of economic value and there is a legitimate interest in keeping them secret. The confidential information is protected by appropriate confidentiality measures on the part of the respective owner and the recipient.

All information obtained by the customer or its group companies or created within the scope of the order, including the work results, shall be returned by the customer to retail7 after execution of the

order, including all copies made, or shall be deleted and/or destroyed upon request. In the case of deletion and/or destruction, reconstruction of the information must be impossible. The complete return or deletion and/or destruction must be confirmed in writing by the customer at retail7's request. This obligation to maintain confidentiality shall not apply to information that is lawfully in the public domain or otherwise lawfully obtained - including from third parties - or to the Parties' independent developments outside their services. The burden of proving that such information was obtained unlawfully or that it is not an independent development outside the scope of the Parties' services shall lie with the customer.

Statutory and official disclosure obligations remain unaffected. Confidential information of the customer may only be transmitted by retail7 to group companies and its vicarious agents with the written consent of the customer and subject to a confidentiality obligation.

If special legal requirements apply to financial services, for example with regard to banking secrecy, these shall be observed by the customer.

For the purposes of this confidentiality agreement, information that is not covered by the Law on the Protection of Trade Secrets (Geschäftsgeheimnisschutzgesetz) shall also be protected as confidential information.

## **12.2 Reverse Engineering**

The customer shall not acquire ownership or (outside the use of confidential information for the purposes of execution of the contract) any further rights of use to the confidential information of the respective other party. The customer shall refrain from exploiting or imitating the confidential information itself in any way outside the contractual agreements (in particular by way of so-called "reverse engineering") or from having it exploited or imitated by third parties and, in particular, from applying for industrial property rights - in particular trademarks, designs, patents or utility models - to the confidential information.

## **12.3 Data Protection**

Unless otherwise agreed, the customer shall be the data controller and shall comply with the provisions of the GDPR and the Federal Data Protection Act (BDSG). retail7 shall act for the customer as a processor within the meaning of Article 28 GDPR and in accordance with the Data Processing Agreement (**annex module 1**). retail7 points out that, depending on any additional services selected (e.g. in particular in the case of additional marketplace services according to Item 3.5.3, which are either brokered by retail7 between third parties and the customer or for the provision of which retail7 uses third parties), further Data Processing Agreements must be concluded by the customer with third parties. In this case, retail7 will refer to this in the associated product/module description.

## **13. Use of the Customer as a Reference and Use of the Logo**

The Parties shall not report contracts publicly and shall keep them confidential. retail7 shall be entitled to use the customer's name, company logo or registered trademarks or samples as a reference, unless the customer notifies retail7 in writing that it does not wish to be named as a reference.

## **14. Transfer of the Contract to Group Companies of retail7**

retail7 is entitled to transfer the contract with the customer to other group companies of retail7 (Sections 15 et seq. AktG (German Stock Corporation Act)) without the customer's consent. However, the customer is entitled to object to the use of the transfer for justifiable reasons - e.g. uncertain performance of the acquiring company. Such objection must be made immediately and in writing.

## **15. Miscellaneous**

### **15.1 Transfer of Rights**

A transfer of rights and obligations of the customer is only permissible with the written consent of retail7. Section 354a German Commercial Code (HGB) remains unaffected.

### **15.2 Escape Clause**

Should individual provisions of these GTC and its individual parts be or become invalid or unenforceable or prove to be incomplete, the remaining provisions are not affected. The Parties undertake to replace the invalid, unenforceable or missing provisions by valid provisions that come closest to the meaning, economic purpose and will of the Parties at the conclusion of the contract.

### **15.3 Text Form Requirement**

Text form is sufficient for the conclusion of the contract, including changes or additions.

## 16. Applicable Law and Place of Jurisdiction

If a legal dispute cannot be avoided, the Parties agree that the exclusive place of jurisdiction shall be the regional court of Berlin. The legal relationship is subject to German law to the exclusion of the CISG provisions.

## Special Part

### Part B - Provision of Software

#### 1. General Information

These special provisions of the GTC (Part B) shall apply in addition to the general conditions of the GTC (Part A) as a uniform contract if retail7 provides services to the customer in which retail7 rents standard software to the customer.

#### 2. Contractual Object

##### 2.1 Services

retail7 shall provide the customer with standard software, in particular for the operation of POS systems, in the respectively current version for the term of the contract. retail7 shall provide the following services depending on the selected scope of services:

2.1.1 | Provision and operation of the software installed on servers of retail7 (cloud servers) via an Internet connection using a browser (software-as-a-service model, "SaaS")

2.1.2 Enabling the download of a software client ready for installation as an app ("App") for one of the operating systems designated as compatible in the service description from the website of retail7 ("Website") or the relevant App stores (Windows Marketplace, Apple App Store, Google Play Store)

2.1.3 Provision of various software modules selected by the customer in the most current version, which are downloaded to the software client by the customer, as well as the provision of additional software, which is made available via the retail7 Marketplace (hereinafter "Marketplace") and can be used via the app or by means of cloud servers. This does not include the purchase of third-party software for which retail7 acts as an intermediary (**hereinafter collectively referred to as "software"**).

2.1.4 Support via email and telephone hotline to assist with the operation of the app and software.

2.1.5 Furthermore, the customer receives access via the Internet to the applicable documentation (e.g. FAQ, How-tos), which is provided exclusively online. The specific scope of the individual services that can be ordered by the customer is described on the website in the service descriptions (together "Services"), which can be accessed online there.

##### 2.2 Ordering and Cancellation of Services

Services may only be ordered or canceled via the software provided to the customer by retail7, the Marketplace or via the customer's retail7 account. Among other things, the customer can order or cancel the services for end devices (e.g. cash registers) on which the software is installed. The customer will then receive a corresponding order/cancellation confirmation.

All ordered services, changes to services and canceled services are listed online by retail7 in an overview in the customer's retail7 account during the term of the contract.

If services have to be ordered, the customer is informed directly during the process (e.g. when installing a cash register) and then separately by email about the order and commencement of the service. Otherwise, the time stated in the order confirmation shall apply.

##### 2.3 Updates and Changes

The customer shall automatically receive the latest version of the software that it purchased, which retail7 may modify, extend or also restrict at regular intervals at its own discretion, taking into account the intended business purposes. This includes both functional changes as well as user interface or back-end system changes, which may be for the purposes of bug fixing, improving functionality, or data security, among others. The changes can also be found in an updated service description. The currently published version of the service description shall always be the definitive version. The provisions below regarding the customer's rights in the event of material changes shall remain unaffected.



In the event of material changes (e.g. changes that result in a restriction of the contractually agreed scope of services or that result in the software no longer being able to be used for the purposes assumed under the contract), retail7 shall inform the customer of these changes to the software ("Material Changes") by email. The notice period for such material changes shall be six (6) weeks in advance - except in the case of changes required at short notice (e.g. as part of IT security) - and shall be communicated to the customer by email. If the customer does not agree with the announced material changes, it is free to exercise the ordinary right of termination granted to it under Item 11.

### **3. Provision of the Software, Maintenance, Installation and Consultation**

#### **3.1 Provision**

retail7 shall provide the customer with the software, including - if agreed - the documentation, in digital form in accordance with 2.1 at the agreed time of delivery. Delivery of the software shall be deemed to have taken place when retail7 makes the software available to the customer.

The customer is responsible for establishing and maintaining the necessary remote data transmission/Internet connection to the specified URL as described in the service descriptions.

#### **3.2 Maintenance**

retail7 reserves the right to perform maintenance or similar on the cloud services and software during the term of the contract with the customer. This is regularly carried out in the standard maintenance windows resulting from the service description, to which reference is hereby expressly made. At these times, use of the software may be restricted. If this work (e.g. concerning safety or defects) is required at short notice, it can also be performed outside the standard maintenance windows.

#### **3.3 Installation and Consultation**

Additional adaptations or modifications to the software, support during installation and integration as well as the creation of interfaces to third-party software by retail7 shall only be owed if and to the extent that this has been agreed separately or has been ordered by the customer as an (additional) service.

### **4. Obligations of the Customer**

#### **4.1 Collaboration**

The customer shall provide the required system environment (in particular a stable, secure Internet connection as well as the required hardware) in running order in accordance with the specifications in the service descriptions.

#### **4.2 Duty of Care of the Customer**

The customer shall take suitable precautions to protect the software from unauthorized access by third parties.

The customer shall inform its employees and other persons entitled to dependent use according to Item 5.6 about the provisions of the contract, in particular about the restrictions on use and the conditions of use (see Item 4.3, for example).

#### **4.3 Access to the Software**

Separate access data must be created for each user. Users are obligated to keep these and any passwords assigned strictly confidential. Collective users are only allowed in exceptional cases. In this case, the access data must be communicated exclusively to authorized persons from your own organization and must otherwise be treated as strictly confidential. The applicable password rules must be observed.

Furthermore, the customer shall ensure that no data, in particular personalized customer data, passwords, etc., are entered on websites or platforms other than those provided by retail7. In particular, it is prohibited to disclose the aforementioned data by email or telephone.

### **5. Rights of Use**

#### **5.1 Terms of Use**

The customer undertakes to use the software or the software client and the app provided to it for use only in accordance with this contract and the corresponding service description. Any use beyond the scope of this contract is only permitted with prior written consent from retail7.

#### **5.2 Scope of the Rights of Use**

retail7 grants the customer the non-exclusive and non-transferable right to install, run and use the

downloaded software client or the downloaded app as well as the downloaded software in the most current version for the customer's own use on the number of (end) devices (hardware) specified in the service descriptions or ordered by the customer within the scope of its business operations in accordance with the provisions of this contract for the term of this contract. This does not apply to third-party software obtained from retail7's Marketplace.

retail7 merely brokers this and does not offer it as its own solution. As a result, the terms of use of the respective third-party provider shall apply.

Further restrictions to the right of use may result from the service descriptions.

### **5.3 Reproduction of the Software**

In addition to the rights of use granted above, the customer shall only be entitled to reproduce the software under the conditions of Section 69 d, Paragraph 1, German Copyright Law (UrhG), provided that this is technically possible. Other reproductions are not permitted.

### **5.4 Reworking the Software; Decompiling**

The customer may not make any modifications to the software unless these are necessary for the intended use and are technically possible. Reworking is permissible if it is necessary for the rectification of a defect and retail7 is in default with the rectification of the defect, retail7 refuses to rectify the defect without justification or is unable to rectify the defect without delay for other reasons attributable to its area of responsibility. Reworking shall also be permissible if it is necessary to remedy compatibility problems in the interaction of the software with other software required by the customer, and retail7 is not willing or able to remedy such problems in return for reasonable compensation in line with market conditions.

The customer may not commission third parties who are competitors of retail7 with measures according to paragraph 1, unless the customer proves that the risk of disclosure of important trade and business secrets of retail7 (in particular, the functions and design of the software) is excluded. Decompiling the software is only permitted if the prerequisites and conditions specified in Section 69 e, Paragraph 1 UrhG are met. The information obtained in this way may not be used or passed on contrary to the provisions of Section 69 e, Paragraph 2 UrhG. Prior to such decompilation, the customer shall ask retail7 in writing to provide it with the information required.

### **5.5 Proprietary Notices**

Identifications of the software, the software client or the app, in particular copyright notices, trademarks, serial numbers or similar may not be removed, changed or made unrecognizable.

### **5.6 Provision of Software to Third Parties**

The customer is not entitled to provide the software to third parties, in particular to sell or rent it, without the permission of retail7.

Dependent use by the customer's employees or other third parties subject to the customer's right to issue instructions or belonging to the customer's own organization, shall be permitted within the scope of the agreed rights of use, provided that the confidentiality obligations regulated in the general part of these GTC (Part A), in particular the obligation of employees or third parties to confidentiality, are observed. In particular, this also includes third-party services, e.g. in the area of IT support.

The (also independent) use by companies affiliated with the customer, franchisees/franchisors or comparable business partners is permitted in accordance with the above provisions. Provided that the customer must grant the third party corresponding rights of use for such use, this shall only be permissible within the scope of the rights of use agreed between retail7 and the customer and subject to the passing on of the restrictions resulting from these GTC and the handing over of the GTC of retail7 to the third party by the customer prior to the granting of rights.

### **5.7 Duration and Details of the Right of Use**

The duration of the right to use the software client, the app or the software begins at the time of activation.

The right of use shall expire upon termination of the contract between retail7 and the customer, cancellation of the respective service or reduction to the number of end devices used by the customer. Any further use is not permitted.

Once the right to use the software has ended, the customer shall cease using the software, delete the software client (and any copies) and the app, with the exception of the customer's data, which is subject to legal retention obligations. The customer shall confirm the complete deletion or cessation of use in writing upon retail7's request.

Upon termination of the contract, retail7 will technically prevent and delete all possibilities of use for the customer on centrally operated components.

The above provisions shall also apply to services which the customer subsequently receives from retail7 under warranty or maintenance. Furthermore, as soon as the customer uses such subsequently delivered services, the right to use earlier versions of the services that are replaced by a subsequently delivered service shall expire.

## **6. Test/Demo Access**

retail7 may provide the customer with free test access to the software for demonstration purposes.

With the provision of the test access, the GTC of retail7 shall apply.

Test access is time-limited. It begins with the provision of the software according to the specifications in the order process or in the electronic order confirmation and may not be used productively. Test access ends automatically after the term specified in the order process or in the electronic order confirmation.

## **6.1 General**

The rental includes the remuneration for the services specified and ordered under Item 2.1 of these GTC on initially one end device. This also applies if the customer does not actively use the services.

For the provision of the ordered services on additional end devices, additional costs, which are described in the price table available on the website, are incurred in each case.

Further details can be found in the service descriptions, e.g. the hardware relevant for the remuneration (e.g. the number of cash registers on which the software is installed) or the remuneration for the services that can be ordered.

The sales tax - in the legally determined amount - is not included in the rent and will be charged separately.

If, within a calendar month, other or further services are ordered by the customer in addition to those already ordered, these shall be invoiced retroactively on a pro rata basis for the period of use at the beginning of the following calendar month and the means of payment specified by the customer shall be debited by the remuneration to be paid when the invoice is issued at the due date.

## **6.2 Default of Payment by the Customer**

If the customer defaults on the payment of the rent, the customer shall owe retail7 additional default interest from the first day of default at the rate set by law.

## **7. Vouchers/Gift Certificates**

The customer can use so-called "vouchers" to purchase retail7 services. When doing so, the customer acquires the right to use the software from activation of the voucher by entering a code for the respective services and period described on the voucher. The provisions under Item 5 on rights of use shall also apply.

Once the booking period of the voucher expires, the contractual relationship shall automatically continue in accordance with the provisions of the GTC of retail7.

If the customer cancels the services or discontinues the use of the voucher before the end of the booking period for the voucher, there is no claim to receive payment of the remaining value of the unused period after cancellation. This also applies in particular to vouchers purchased by the customer via third parties.

## **8. Rights of the Customer in Case of Defects**

In addition to the provisions of Part A of the GTC, the following provisions shall apply.

Termination by the customer according to Section 543, Paragraph 2, Sentence 1, Item 1 BGB, due to failure to provide use in accordance with the contract is only permissible if retail7 has been given at least two attempts to remedy the defect and these have failed.

## **9. Limitations of Liability**

In addition to the provisions of Part A of the GTC, the following provisions shall apply.

The strict liability of retail7 according to Section 536 a, Paragraph 1, 1st alternative BGB, due to defects already existing at the time of conclusion of the contract is excluded. In this respect, retail7 shall only be liable depending on fault.

## **10. Commencement and Term of the Contract, Termination of the Rental Agreement**

### **10.1 Commencement and Term of the Contract**

The rental agreement under this Part B of the GTC shall commence on the first activation date of a service and shall have a minimum term of one (1) calendar month, which shall be automatically extended by one additional calendar month.

It is possible to start the contract during the month. In this case, the minimum term includes the remaining time until the end of the calendar month and the following calendar month. Thereafter, the contract shall be automatically extended by one (1) additional calendar month.

In the event of changes to an activated service, to the number of end devices, to the order or in the event of cancellation of individual modules/services, the rental agreement shall be continued from the respective activation date with the then updated content (including service, remuneration).

## **10.2 Termination**

Termination is permitted for both Parties with notice of one (1) day to the end of the respective calendar month.

Partial terminations of individual services are permissible. In this case, the rental agreement shall be continued from the date specified in the new order/termination confirmation with the then updated content (including service, remuneration).

Termination by the customer must always take place by means of a declaration in the customer's retail7 account.

This is done by deselecting (canceling) the respective services. Only in the event that this environment is not working in individual cases may the customer also give notice of termination to retail7 in text form using other means of communication.

A tacit extension of the rental relationship after expiry of the rental period is excluded.

If the renter continues to use the rental object after expiry of the rental period, the rental relationship shall not be deemed to have been extended. Section 545 BGB shall not apply.

## **11. Limitation Period**

The limitation period for material defects and title defects as well as for claims arising from indemnification according to Item 8.2.2 shall be one (1) year from termination of the rental agreement. Excluded from this are claims for damages due to injury to life, limb or health as well as due to damages caused by gross negligence or intent by retail7. In this respect, the statutory limitation periods shall apply.

The limitation period shall not be suspended by a notice of a defect by the customer.

The claims of retail7 under Section 548, Paragraph 1 BGB, shall also be subject to a limitation period of one (1) year.

## **12. Right of Extraordinary Termination**

Either party may terminate this contract without notice for good cause. Good cause shall be deemed to exist in particular if: a) an application has been filed to open insolvency proceedings against the assets of the other party, or

b) insolvency proceedings have been opened against the assets of the respective other party or the opening has been rejected for a lack of assets, or

c) proceedings are conducted to take an affidavit from the other party.

Good cause for retail7 shall also be deemed to exist if:

a) the customer is in default of payment of the rent for two consecutive deadlines or of a not insignificant part of the rent. This also applies if the customer defaults on payment of the rent in a period that extends over more than two deadlines in an amount that reaches the rent for two months.

b) the customer substantially exceeds the granted rights of use despite a reminder.

## **13. Obligations upon Termination of the Contract / Return**

### **13.1 Software**

Upon termination of the contract, the customer shall delete the software client/app and any other software etc. provided. Any copies of the software provided by retail7 must be deleted completely and permanently.

### **13.2 Data**

Upon termination of the contract, the customer shall back up any data that it still requires before the end of the remaining term. retail7 shall make such data available to the customer in a common format for download in the customer's retail7 account.

After termination of the contract, retail7 shall retain the customer's data for a further 30 days and

make it available to the customer upon request. Thereafter, the data will be deleted by retail7, unless it is required to continue storing it in order to fulfill its own (retention) obligations.

## **Special Part**

### **Part C - Consulting and Development Services**

#### **1. General Information**

These special provisions of the GTC (Part C) shall apply in addition to the general conditions of the GTC (Parts A and B) as a uniform contract if retail7 provides services to the customer in connection with software provided on a rental basis which is adapted in accordance with the following conditions or if other consulting/training services (also referred to as consulting services) are provided to this extent.

Consulting/training services can generally be ordered and provided independently of the conclusion of a contract in accordance with Part B of the GTC. Development services shall always be performed on the contractual object on which Part B is based.

#### **2. Contractual Object**

##### **2.1 Services**

The services to be provided in accordance with this Part C of the GTC result from the respective individual contract concluded for these services or from an order confirmation provided by retail7. Unless otherwise expressly agreed, the provisions of this Part C of the General Terms and Conditions shall apply to the service types Consulting (training, project management and/or consulting services) as well as to contracts for work (contracts which have development services - also referred to as custom developments - as their subject matter), in addition to Parts A and - where relevant, B - of the General Terms and Conditions, even without specific reference thereto.

##### **2.2 Conclusion of Contract**

Services according to this Section C of the GTC must always be agreed separately from any services possibly agreed upon between the Parties under Part A or Part B of the GTC.

In this respect, a contract is only concluded if the customer accepts an offer made by retail7 at least in text form (i.e. at least by email) or by means of the retail7 account set up for it.

##### **2.3 Service Provision**

2.3.1 | retail7 shall provide consulting and/or development services in accordance with the service description stated in the respective offer or contract. 2.3.2 Unless expressly agreed otherwise or unless such a service is the subject of the contractual obligation assumed by retail7, the customer shall always bear the risk as to the suitability or expediency of the service provided by retail7 for the customer's intended purposes.

If a customer does not have sufficient expertise of their own to make an appropriate assessment, expressly specified consulting services in accordance with this Part C of the GTC shall be agreed with retail7. In this respect, the customer is in particular aware that any development services provided will only be usable by the customer to the extent that and for as long as a basic contractual relationship (software rental) for services pursuant to Part B of the GTC has been agreed between the Parties. Upon termination of such a basic contractual relationship pursuant to Part B of the GTC, the possibility of using development services rendered by retail7 shall cease at the same time, without the customer being entitled to compensation with respect to services rendered pursuant to Part C of these GTC. If, in individual cases, services are provided at the customer's premises by employees of retail7 or third parties commissioned by retail7, retail7 shall always retain the right to issue instructions to these employees.

##### **2.4 Special Collaborative Duties**

Irrespective of the customer's collaborative duties already resulting from Parts A and B, at least the additional special collaborative duties described below shall apply to the provision of services in connection with Part C of the GTC. Additional collaborative duties on the part of the customer may arise from the offer or the contract confirmation.

- If the order is to be performed (in whole or in part) at the customer's premises, the customer shall create the conditions necessary for the provision of the service in a timely manner and free of charge.
- The customer shall conscientiously test work results for material defects and usability with regard to the contractually agreed or expected quality before commencing their operational use. This also applies to services received as part of supplementary performance.
- The customer shall designate a responsible contact person, also for the services to be provided in

accordance with Part C, no later than upon acceptance of the contract. This contact person may be the same as the one named in accordance with Item 4.1 Part A of the GTC - but must nevertheless be specifically named by the customer as the "project manager" for services in accordance with Part C of the GTC.

The project manager shall be deemed to be authorized to receive or to make all declarations in connection with services pursuant to Part C of the GTC for the customer, if applicable, in addition to the contact person to be named in accordance with Item 4.1 Part A of the GTC. This shall also and in particular expressly apply to any declarations to be made in connection with acceptance procedures.

- The customer shall provide retail7 with all information required for the planning and implementation of services pursuant to this Part C of the GTC in good time prior to the commencement of the services and shall create the necessary framework conditions for the provision of services by retail7. In this respect, the customer shall in particular also create any necessary technical access points/interfaces and disclose them to retail7 - including relevant documentation.

- The customer is solely responsible for training users and creating end-user documentation.

Failure by the customer to fulfill its collaborative duties (including failure to cooperate in a timely manner or to cooperate in the manner agreed upon) may give rise to claims for damages by retail7 to the extent permitted by law.

### **3. Rights of Use (Work Rendered)**

With regard to the rights of use to be granted for the work rendered pursuant to this Part C of the GTC, these rights shall be granted to the customer according to their content and exclusively in accordance with Item 3.2 Part B of the GTC. In this respect, the right of use granted for developments is always linked to an existing basic contractual relationship with retail7 in accordance with Part B of the GTC (special reservation of rights of use).

However, in addition to the terms of use in accordance with Part B of the GTC, the rights of use to development services shall only be granted after acceptance has taken place (conduct replacing acceptance or a deemed acceptance shall be considered equivalent to acceptance) and after full payment of the agreed remuneration (general reservation of rights of use).

### **4. Acceptance**

After the handover of work rendered and the declaration of readiness for acceptance by retail7, the customer shall provide an acceptance confirmation in text form or electronically in the customer's retail7 account for the services specified in the contract as work rendered or to be classified as work rendered according to the nature of the performance. As a rule, the development service is delivered in the customer's retail7 environment or via the Marketplace.

The customer shall immediately test the work rendered for compliance with the content of the contract. Defects must be reported individually without delay using the support form provided or via the retail7 ticket system.

The notification of defects shall in particular include an appropriate, comprehensive and comprehensible description of the defect, if necessary with the provision of documents illustrating the defect. Immaterial defects do not entitle the customer to refuse acceptance.

Acceptance of the work rendered must be given by the customer within two weeks of delivery or provision of the work results by retail7.

Development services shall also be deemed to have been accepted as soon as they are used productively, even without an express declaration of acceptance by the customer.

### **5. Other Terms of Payment**

For the services under this Part C of the GTC, the following shall apply in addition to Item 7, Part A of the GTC regarding the terms of remuneration/payment:

Unless otherwise agreed, the customer shall owe retail7 remuneration on a time and material basis in the form of daily rates in accordance with their valid price list (in the customer's individual retail7 account). A daily rate always refers to a service provision of 8 hours per calendar day. Work performed shall be remunerated on a pro rata basis, i.e. per hour or part thereof, in accordance with the activity records provided to the customer by retail7. Any agreed lump sum/fixed prices are excluded from this. Any activity records provided shall be deemed to be correct in scope and accepted by the customer, unless the customer complains about it in text form within one week of it being provided to the customer. retail7 will then invoice for the services.

Any travel expenses incurred will be invoiced in accordance with the aforementioned price list, provided that they have been incurred.

Unless otherwise agreed, retail7 shall invoice development services upon acceptance or an event

replacing acceptance.

Unless otherwise agreed, consulting services shall be invoiced on the date on which the service is rendered.

Irrespective of the above, retail7 shall be entitled to issue aggregated collective invoices for services rendered, if necessary, which may be subsequent to the invoicing dates described above.

## **6. Special Provisions on Liability for Defects**

If services (here: consulting services) are the subject of the provision of services, the statutory provisions shall apply, taking into account the limitations of liability according to Part A of the GTC.

## **7. Maintenance of Development Services**

If development services (custom developments) have been commissioned by the customer in accordance with this Part C of the GTC, a monthly maintenance fee of 2% shall accrue on the creation costs of the custom developments marked as maintenance-relevant, unless otherwise expressly agreed between the Parties. Developments that retail7 adopts into the standard product or project management/consulting services, among others, are not relevant to maintenance. The monthly maintenance fee shall be paid for the entire duration of the use of the custom developments in addition to the standard product in accordance with Part B of the GTC for each month of use that has commenced. If developments are transferred to the standard product by retail7, the maintenance fee is waived as soon as the custom development is no longer used.

In this respect, the object of the maintenance service is exclusively to ensure the continued operability of the custom development services in connection with the standard solution as well as the analysis and rectification of software errors within a reasonable period of time. Unless otherwise expressly agreed between the Parties, no further services are associated with the maintenance of custom developments.

## **Special Part**

### **Part D - "emailbon" Service**

#### **8. General Information**

retail7 offers its customers the provision of a receipt in digital form. retail7 offers this service, among other things, as a standalone solution for connection to any POS solution.

Contractual Object

#### **8.1 Services**

The service to be provided in accordance with this Part D of the GTC for the "emailbon" digital receipt is part of retail7's scope of solutions. When using the POS solution from retail7, the service is provided after an order has been placed via the Marketplace or via the agreed scope of services.

retail7 also offers the service as a standalone solution for connection to any POS solution or pre-integrated into solutions from GK Software SE.

In this case, retail7 shall provide the customer with the software limited to the specific, selected scope of services of "emailbon".

The specific parts of the service are determined by the respective service description, the order, and the conditions.

If relevant, Parts A to C of the GTC shall apply, even without specific reference to the provision of services under this Part D of the GTC.

#### **8.2 Conclusion of Contract**

Services according to this Part D of the GTC shall be agreed separately, unless the service is already included due to other agreements between the Parties.

In this respect, a contract is only concluded if the customer accepts an offer made by retail7 at least in text form (i.e. at least by email) or by means of the retail7 account set up for it.

#### **8.3 Special Collaborative Duties**

Irrespective of the duties arising from Parts A-C, the customer shall observe the collaborative duties arising from the service description. In particular, it is mandatory for the customer to observe an agreed retention period for sales receipts in the backend system. Other Terms of Payment

## **9. Miscellaneous**

9.1 It is the responsibility of the customer/taxpaying customer to duly comply with its obligations. The customer must ensure, with the help of the service description and, if necessary, following tax advice,

that it is able to fully meet the obligations that it is subject to.

**9.2** | Ensuring compatibility with the POS system used by the customer in standalone operation is the sole responsibility of the customer, unless otherwise agreed.

## **Annex 1 to the GTC**

### **Data Processing Agreement according to Article 28, Paragraph, 3 General Data Protection Regulation (GDPR)**

#### **1. General Information**

Unless otherwise specified in this Annex (hereinafter referred to as the "Data Processing Agreement") or the other provisions of the General Terms and Conditions including the Annexes (hereinafter referred to as the "main contract"), the definitions shall apply in accordance with Article 4, GDPR (General Data Protection Regulation).

If the contractor (hereinafter referred to as "retail7") acts on behalf of the client (hereinafter referred to as the "customer") and processes personal data of the customer, the following agreement on data processing shall be deemed to have been concluded between the Parties with the download of the software client/app by the customer, but no later than with the activation and use of the software, in order to ensure the lawful processing of personal data by retail7. In this respect, the Agreement specifies the rights and obligations of both Parties under data protection law as part of data processing.

#### **2. Nature and Purpose of Processing**

The processing of personal data results from the data processing described in the General Terms and Conditions including the Annexes (hereinafter referred to as the "main contract"). Processing only takes place if the customer uses the software for the purposes of data processing described in the main contract.

#### **3. Subject and Duration**

The subject of this Agreement is the processing of personal data by retail7 for the customer on the customer's behalf and in accordance with the customer's instructions in connection with the main contract.

In detail, retail7 processes the following data, provided that it is personal, for the customer as a processor within the meaning of the GDPR:

- User profiles
- End customer data of the client
- Billing data and billing history
- Logging data

It is not possible for the client to provide an exhaustive list of personal data due to the setting and processing options within the software.

The data subject categories concerned by the processing carried out by retail7 include:

- Representatives, contact persons and/or employees of the client
- End customer data of the client

The provisions regarding the term and termination of the main contract also apply to the Data Processing Agreement, so that a termination of one contract is accompanied by the termination of the other contract.

#### **4. Obligations of the Customer**

The customer is solely responsible for determining the permissibility of the data processing, in particular in accordance with Article 6, Paragraph 1 GDPR and for safeguarding the rights of the data subjects in accordance with Article 12 to 22 GDPR. At the same time, retail7 is obligated to forward any such inquiries to the customer, provided that they are clearly and exclusively directed towards the customer. If third parties make claims against retail7 due to the processing of customer data in accordance with this Agreement, the customer shall indemnify retail7 against all such claims at first request. Article 82 GDPR remains unaffected by the indemnification from liability.

The customer shall immediately and fully inform retail7 if errors or irregularities related to the processing of data are detected in the results of processing.

The customer is obligated to treat all knowledge of trade secrets and data security measures of retail7 obtained as part of the contractual relationship as confidential.

If retail7 is obligated to provide information about the processing of the customer's data to a state authority or person or to cooperate with these authorities in any other way, the customer is obligated to support retail7 on first request in providing such information or in fulfilling other cooperation



obligations.

## **5. Obligations of retail7**

retail7 shall process personal data exclusively within the framework of the contractual agreements concerned and in accordance with the instructions of the customer, unless it is obligated by the law of the European Union or by a national law to process the data in another way (e.g. investigations by law enforcement or state security authorities). In such cases, retail7 shall notify the customer of these legal requirements prior to processing, unless the law in question prohibits such notification due to an important public interest (Article 28, Paragraph 3, Item 2a GDPR).

retail7 shall inform the customer immediately if it believes that an instruction issued by the customer is in breach of legal provisions (Article 28, Paragraph 3, Item 3 GDPR). retail7 is entitled to postpone the implementation of the relevant instruction until the validity of the instruction is confirmed or the instruction is amended by the customer.

The instructions are initially defined by the Data Processing Agreement and may thereafter be amended, supplemented or replaced by the customer in writing to retail7 by means of individual instructions (individual instruction). The customer shall immediately confirm verbal instructions in writing.

Instructions not provided for in the Data Processing Agreement shall be treated as a request for a change in performance. Should individual instructions go beyond the scope of performance of these provisions, the costs incurred as a result shall be borne by the customer.

retail7 shall inform the customer immediately of any data breaches or infringements by retail7 or persons employed by retail7 of data protection regulations, of the stipulations made in the Framework Agreement or in this Agreement and the specific and clear suspicion of such infringements when processing personal data. This applies in particular to the customer's notification and communication obligations in accordance with Article 33 and Article 34 GDPR. retail7 shall provide immediate and appropriate support to the customer in fulfilling their obligations in accordance with Article 33 and Article 34 GDPR if necessary (Article 28, Paragraph 3, Item 2f GDPR). Notifications in accordance with Article 33 and Article 34 GDPR for the customer can only be made by retail7 after prior instruction by a person authorized to issue instructions as per Section 3 of this Agreement.

Notwithstanding the other provisions of this Agreement, retail7 shall fulfill the obligations in accordance with Article 28 to 33 GDPR; in this respect, retail7 shall ensure compliance with the following provisions in particular:

- a. written appointment of a data protection officer who carries out their activities in accordance with Article 38 and 39 GDPR.
- b. confidentiality maintained in accordance with Article 28, Paragraph 3, Item 2b; Article 29; Article 32, Paragraph 4 GDPR. When carrying out work, retail7 shall only use employees who are bound to confidentiality and who have previously been made familiar with the provisions on data protection relevant to them. retail7 and any person reporting to retail7 who has access to personal data may process such data only in accordance with the instructions of the customer, including the powers granted by this Agreement, unless they are legally obligated to do so.
- c. on request of the supervisory authority, the customer and retail7 work together with the supervisory authority to fulfill their tasks.

## **6. Place of Performance**

retail7 is authorized to carry out the processing activities in a member state of the European Union or a signatory state of the European Economic Area. The same applies to "sub-processors". The latter may also provide their services in third countries if the requirements of Article 44 GDPR are met. The agreed performance locations are listed in Annex A and, if applicable, also include the necessary legal bases for the transfer of personal data outside the European Union or the European Economic Area.

## **7. Sub-Contractual Relations**

retail7 is entitled to use subcontractors for subcontracted data processing but with the following conditions:

The customer agrees to the commissioning of the subcontractors listed in Annex A with the conclusion of this Agreement under the condition of a contractual agreement in accordance with Article 28, Paragraph 2-4 GDPR.

Outsourcing to a subcontractor or changing an existing subcontractor is permissible if:

- retail7 informs the customer of their intention to outsource to a subcontractor in writing or in text form

- the customer does not object to the change in writing or in text form to retail7 within one week of the information being provided. In the absence of an objection within the aforementioned period, consent shall be deemed to have been granted

- there is an underlying contractual agreement in accordance with Article 28, Paragraph 2-4 GDPR

An objection to the use of a subcontractor may only be made for important data protection reasons. If there is an important data protection reason, both the customer and retail7 are entitled to terminate the contractual relationship without notice at the time of the planned use of the subcontractor. If the customer does not give approval through its objection for reasons other than important data protection reasons, retail7 may terminate the contract without notice at the time of the planned use of the subcontractor.

retail7 shall design the contractual agreements with used subcontractors in such a way that the data protection regulations correspond to those in the contractual relationship between the customer and retail7. If the subcontractor fails to comply with its assumed data protection obligations, retail7 shall be liable to the customer for compliance with the subcontractor's obligations.

By written request, the customer may demand information about the subcontractor's obligations relevant to data protection, if necessary, also by inspecting the relevant contractual documents.

### **8. Technical and Organizational Measures**

retail7 ensures a sufficient level of protection for the data processing in accordance with Article 32, Paragraph 1 GDPR, cf. Article 28, Paragraph 3, Item 2c GDPR. The concrete technical and organizational measures are specified in Annex B to this Agreement.

The technical and organizational measures are subject to technical advancement and further development. In this respect, retail7 is permitted to implement alternative adequate measures. The security level of the alternative measures must not fall short of the security level of the defined measures. Substantial changes must be documented.

### **9. Evidence**

retail7 shall demonstrate to the customer compliance with the obligations set forth in this Data Processing Agreement by appropriate means upon request.

retail7 is obligated to provide the customer, upon written request and within a reasonable time, with any information that is necessary to monitor compliance with these obligations.

If, in individual cases, inspections by the customer or by an auditor commissioned by the customer should be necessary for the purpose of verification, such inspections shall be carried out during normal business hours with due regard to operational processes, taking into account a reasonable lead time and following notification. The effort required for an inspection is limited to one day per calendar year for retail7. The costs incurred by retail7 in the course of the inspection shall be reimbursed by the customer to the extent permitted by law.

retail7 shall have the authority to make the performance of the inspection as per Paragraph 3 subject to the signing of a confidentiality agreement, in particular with regard to the data of other persons concerned and all business and trade secrets. In the absence of an adequate lead time and advance notice, retail7 may refuse the inspection unless retail7 or the persons employed by it under the order have demonstrably violated the provisions of this Data Processing Agreement or those of the relevant data protection laws. Should the auditor commissioned by the customer be in competition with retail7, retail7 shall have the right of objection against such an auditor, whereby the customer shall commission another auditor.

Should a data protection authority or other official supervisory authority of the customer carry out an inspection, Paragraph 3 and 4 shall apply accordingly. It is not necessary to sign a confidentiality agreement if this supervisory authority is subject to professional or statutory confidentiality, where a violation is punishable under the Criminal Code.

### **10. Deletion and Return of Personal Data**

After termination of the processing services, retail7 will delete all personal data with a retention period of 14 days, with the exception of the customer's data, which retail7 still requires and is allowed to use for legitimate purposes according to the data protection law according to Article 6 GDPR (in particular for proper billing of their services to the customer). Data, which is not to be deleted or handed over in accordance with sentence 1 above upon termination of the Agreement, shall be treated in the same way after the purpose has been fulfilled or no longer exists.

Documentation, which serves as proof of the orderly and proper data processing, shall be retained by retail7 in accordance with the respective retention periods beyond the end of the Agreement. In order to be released from this contractual obligation, retail7 can hand over the documentation to the

customer at the end of the Agreement.

## 11. Final Provisions

This Agreement replaces all applicable regulations on data processing between the Parties with regard to the subject of the Service Level Agreement.

Modifications and amendments to this Agreement and its annexes must be made in written form. This also applies to the revocation of the requirement for the written form.

The place of jurisdiction for any disputes between the Parties under or in connection with this Agreement is Berlin.

Should individual regulations of this Agreement be or become invalid or unenforceable, the validity of the remaining regulations shall not be affected. The invalid or unenforceable regulation will be replaced by a valid and enforceable regulation that comes closest to the data protection and economic purpose of this Agreement. The above provisions shall apply accordingly in the event that this Agreement proves to be incomplete.

### Annex A to Annex 1 - Subcontractor

The customer agrees to the commissioning of the following subcontractors under the condition of a contractual agreement in accordance with Article 28, Paragraph 2-4 GDPR.

Valid from productive operation

#### Subcontractor

**(Company, Address) | Services | Location**

GK Software SE  
Waldstrasse 7  
08261 Schönebeck  
Germany |

- Software development
- Technical infrastructure for data processing, routing, web application firewall
- Maintenance and support (helpdesk) | EU / EEA

### Annex B to Annex 1 - Technical and Organizational Measures

retail7 takes technical and organizational measures to ensure the confidentiality, integrity, availability, and resilience of the systems. According to Article 32 GDPR, the state of the art, the implementation costs and the nature, scope and purposes of the processing as well as the likelihood and severity of the risk to the rights and freedoms of natural persons are taken into account.

## 1. Confidentiality

### 1.1 Physical Access Control

Physical access control encompasses measures designed to prevent unauthorized persons from gaining access to the data processing systems with which personal data is processed or used. The following are used for building and room security, for example: automatic access control systems, chip cards and transponders, as well as protection using alarm systems. Access to the premises by persons outside the company is restricted and can only take place if they are accompanied by an employee of retail7. Furthermore, organizational measures (e.g. service instructions requiring buildings to be locked) provide support.

#### System Access Control

System access control measures are intended to guard against unauthorized use of processing systems. For this purpose, access to processing systems is regulated by user roles and user rights. Other measures include a password policy, including specifications for password length and password changes, and the encryption of data storage media. The password to the administration interface is set by the customer itself - The passwords must meet predefined guidelines.

### 1.2 Data Usage Control

Data usage control is a control designed to ensure compliance with access authorizations. Users may only use data processing systems to the extent permitted by the configured access authorizations. This data usage control ensures that no one can process personal data beyond that permitted by their authorization level. To do so, there are authorization profiles and processes for assigning authorizations. The rights are assigned and documented by the system administrator. Administration access is limited to the most necessary employees.

### **1.3 Separation Control**

retail7 ensures through technical measures that customer data is stored physically or logically separated from other data. Data backup is also performed on logically and/or physically separated systems.

### **1.4 Pseudonymization**

The customer is responsible for the pseudonymization of personal data, as far as this is possible for the respective data processing process.

## **2. Integrity**

### **2.1 Transfer Control**

retail7 uses measures to ensure that personal data cannot be read, copied, changed, or removed without authorization during electronic transmission. The option of encrypted data transmission is provided as part of the main contract. Data such as backups are transferred purely via electronic transport channels. The transfer is carried out exclusively via encrypted channels.

All retail7 employees have been instructed as per Article 32, Paragraph 4 GDPR and are obligated to ensure that personal data is handled in accordance with data protection requirements. Furthermore, it is ensured that the data is deleted in accordance with data protection requirements after completion of the order.

### **2.2 Input Control**

The data is entered or recorded by the customer itself. Changes to the data are logged. The purpose of input control is to determine whether personal data has been entered, modified, or removed and by whom.

## **3. Availability and Resilience**

For the availability and resilience of the systems, measures are taken by retail7 to ensure that personal data is protected against accidental destruction or loss: Data is protected against accidental or deliberate destruction by a backup concept. Availability is ensured via redundancies of the underlying platform. IT security solutions are used to protect the systems, including DDOS Protection and Web Application Firewalls. A contingency plan in the event of a data breach provides additional security. Security checks at application level and standard processes when employees leave are designed to minimize the risk of data breaches in this area and ensure that systems and all personal data can be recovered rapidly.

## **4. Procedures for Regular Inspection, Assessment and Evaluation**

retail7 has introduced data protection management and incident response management. The organizational and technical measures taken are regularly reviewed and evaluated. Our employees are instructed in data protection law at regular intervals and they are familiar with the process instructions and user guidelines for data processing on behalf of the customer, also with regard to the customer's right to issue instructions. The GTC contain detailed information on the type and scope of the commissioned processing and use of the customer's personal data. retail7 has appointed a data protection officer who is involved in the relevant operational processes.