Terms of use for Rechnungskauf mit Ratepay

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The following conditions ("**Agreement**") apply to the use of Rechnungskauf mit Ratepay for Merchants and are part of the PayPal terms of use by [reference.](#)

1. Payment upon invoice in cooperation with Ratepay

Rechnungskauf mit Ratepay is a product made available to PayPal merchants bound by the PayPal User Agreement ("**Merchants**"), who want to offer their buyers, who are German residents ("**Customers**"), the possibility to buy goods and potential ancillary services online and settle their payments actively per invoice as a one-time payment. For this purpose, PayPal offers a product for payment upon invoice in cooperation with Ratepay ("**Ratepay**") on the PayPal Platform ("**Rechnungskauf mit Ratepay**"). Merchants have no claim against PayPal to offer Rechnungskauf mit Ratepay. Currently Rechnungskauf mit Ratepay is only available for consumer Customers unless agreed otherwise between PayPal and the Merchant. PayPal reserves the right not to offer Rechnungskauf mit Ratepay to a Merchant and to terminate or restrict Rechnungskauf mit Ratepay in whole or in part at any time, including but not limited to the right not to purchase receivables for purchases of certain products, product groups or from certain industries.

In the scope of Rechnungskauf mit Ratepay PayPal purchases from the Merchant all receivables against a Customer of the Merchant which arise from the use of Rechnungskauf mit Ratepay ("**Customer Contracts**"). Ratepay purchases these receivables from PayPal. PayPal will credit the purchase price for the receivables to the Merchant's PayPal Account as further outlined below, regardless of any payment by the Customer.

2. Requirements for the use of Rechnungskauf mit Ratepay

Rechnungskauf mit Ratepay may as a general rule (unless agreed otherwise between PayPal and the Merchant) be used for transaction amounts ranging between EUR 5 and EUR 2,500.00 comprising the shopping cart value owed by the Customer according to the Customer Contract as well as any associated charges (including but not limited to shipping costs) and fees incurred including statutory VAT as communicated at check-out unless the Capture Call includes an Amount Extension ("**Nominal Amount**").

The Merchant shall implement the requirements of the integration documents as detailed on the dedicated [developer pages](#) ("Integration Documents") as provided to the Merchant. He is especially obliged to provide PayPal with all necessary Customer, transaction and technical data. When integrating and/or selecting Rechnungskauf mit Ratepay as a payment method to be offered in his online shop, the Merchant accepts and acknowledges to be bound the terms relating to Rechnungskauf mit Ratepay as reflected herein.

The Merchant shall display to the Customer the Ratepay Terms of Payment for the Customer for Rechnungskauf mit Ratepay, which cover the specific terms of the Customer Contract as well as the credit check terms of Ratepay which are part of the Ratepay Data Privacy Statement as well as PayPal's Privacy Statement. To be able to use Rechnungskauf mit Ratepay, the Customer will be obliged to agree to these terms.

The Merchant is responsible for invoicing the Customer including the notification that the Merchant Receivable has been assigned to Ratepay and that the Customer may only pay Ratepay with debt-discharging effect. The Customer will also receive payment instructions from Ratepay via email. The Merchant shall ask the Customer to contact Ratepay directly with enquiries and objections regarding the payment of Merchant Receivables.

3. Check-out and Credit Check

Once the Customer chooses to pay and check-out via Rechnungskauf mit Ratepay, the Merchant will send an API call to PayPal including the required data as specified in the Integration Documents ("**Payment Request**"). Following this, Ratepay will in its own name perform an identity and credit check on the Customer ("**Credit Check**"). Rechnungskauf mit Ratepay shall not be offered to a Customer if the Credit Check has resulted in the ineligibility of the Customer for the intended Customer Contract. Ratepay has the right to perform this Credit Check at its own standards and to rate Customers as eligible or ineligible for Rechnungskauf mit Ratepay. If Ratepay determines that a Customer is eligible for Rechnungskauf mit Ratepay, the Merchant will be notified via API call ("**Payment Acceptance**").

If Ratepay determines that a Customer is ineligible for Rechnungskauf mit Ratepay, the Customer will immediately be shown a declining message. A Customer Contract will not be concluded in this case. The Customer will be reverted back to the payment selection page of the Merchant.

The Merchant shall inform PayPal of the relevant details of the Merchant Receivable via API call as further outlined in the Integration Documents.

If outlined in the Integration Documents for the specific Merchant integration ("**Deferred Capture Integration**"), the Merchant shall send a payment capture once the items are ready for shipment ("**Capture Call**") which PayPal will accept ("**Acceptance Call**") unless it cannot be accepted for technical reasons (e.g., incomplete transaction information, expiry of shipping time frame etc.). In the Deferred Capture Integration, the Merchant can send partial Capture Calls and will receive corresponding Acceptance Calls.

In the Deferred Capture Integration, PayPal may grant the Merchant the option to increase the Nominal Amount in the Capture Call ("Amount Extension"). PayPal may refrain from sending the Acceptance Call in case the Amount Extension exceeds the limitations as detailed in the Integration Documents.

The integration that does not require the Merchant to inform PayPal separately of the shipment of the item is referred to as "**Simplified Integration**". For the avoidance of doubt, in either integration, the Merchant is obliged to fulfill his duties to provide valid proof of delivery or other information as further described in section 6.

4. Purchase and Assignment of Receivables

The Merchant hereby agrees to sell and PayPal agrees to purchase all its monetary receivables and rights against the Customer deriving from future Customer Contracts including the Nominal Amount, as well as any Ancillary Rights (as defined below) ("**Merchant Receivable(s)**") as identified through the submission of Payment Request and Payment Acceptance.

By submitting the Payment Request to PayPal, the Merchant will offer to sell a Merchant Receivable. PayPal will accept to purchase the relevant Merchant Receivable by issuing a Payment Acceptance.

"**Ancillary Rights**" include with respect to the Merchant Receivables (in each case regardless of whether these are transferred together with the Merchant Receivables by virtue of law in accordance with section 401 BGB):

- Rights in relation to securities and collateral for the Merchant Receivables;

- Receivables from trade credit, transport, burglary, theft, fire, and default insurance;
- Quasi-contractual claims, claims based on unjust enrichment and claims in tort;
- Conditional claims by the Merchant and PayPal for surrender or repossession from an immediate owner;
- Priority claims, design rights, rights of withdrawal and rights of appeal as well as all other legal positions, interest claims, claims for compensation, warranty claims, claims for contractual penalties against Customers or third parties who are the direct owners of the goods; and/or
- Other claims against third parties relating to the Merchant Receivables (such as claims against central regulators and purchasing associations, claims against carriers), as well as other subsidiary rights in connection with the Merchant Receivables and/or the underlying legal transactions and contracts.

Additional or new receivables against the Customer from the reversal of Customer Contracts (such as return costs) are not Ancillary Rights. These receivables are not transferred from the Merchant to PayPal within the scope of the Merchant Receivables.

The Merchant hereby assigns all current and future Merchant Receivables to PayPal. PayPal hereby accepts the assignment of the Merchant Receivables. For each Merchant Receivable, both the assignment and its acceptance shall be subject to the condition precedent that the Payment Acceptance for the respective Merchant Receivable is submitted. Additionally, in the case of a Deferred Capture Integration, the assignment and its acceptance shall also be subject to the condition precedent that PayPal sends the Acceptance Call.

PayPal will resell and assign the Merchant Receivables to Ratepay. PayPal and Ratepay may resell and assign the Merchant Receivables (e.g., for purposes of collection) without any restrictions.

If there are any doubts about the effectiveness of the assignment of the Merchant Receivables and this requires a further declaration or action on the part of the Merchant, the Merchant shall make this declaration or perform this action.

Immediately upon completion of the order the Merchant shall notify the Customer on the confirmation page of the Merchant's online shop of the assignment to Ratepay and the payment obligation of the Customer exclusively to Ratepay.

5. Crediting of Purchase Price; Fees

For Merchant Receivables PayPal shall credit the Merchant an amount ("**Purchase Price**") as set out below:

- The Nominal Amount payable by the Customer minus
- Fees payable by Merchant according to the [Fees Page](#); PayPal shall not apply a fee for the assignment of Merchant Receivables itself.

The Merchant may need to self-assess VAT in the country where they are established, subject to the applicable VAT law.

In the Simplified Integration, the Purchase Price becomes due after the issuance of the Payment Acceptance. In case of a Deferred Capture Integration, the Purchase Price becomes due after the issuance of the Acceptance Call. PayPal shall credit the Merchant's PayPal Account with an E-Money amount equal to the Purchase Price. In case of partial Capture Call and Acceptance Call, the Purchase Price becomes due as far as partial Capture Call and Acceptance Call are exchanged.

6. Rights of recourse and rescission

PayPal shall not have a right of recourse against the Merchant for Merchant Receivables that cannot be recovered in whole or in part because the Customer does not pay or is unable to pay nor in the event of Customer or third party fraud unless the Merchant did (i) not secure the Merchant's online shop with appropriate state-of-the-art measures, such as encryption technology ("TLS"), regular security updates, suitable password guidelines, access protection for the IT infrastructure and/or (ii) secure web development. A recourse is only excluded if the payment has been shown to the Merchant as completed in the Merchant's PayPal Account.

If a Customer asserts the defense of non-fulfilment of contract (e.g., item not received) or if a Customer refuses payment by asserting other defenses or objections, PayPal may take recourse with the Merchant unless the Merchant fulfills his duties to provide valid proof of delivery or other information as further outlined in the Integration Documents. PayPal is entitled to share any information with relevance to actual or potential dispute cases with Ratepay. The Merchant may provide tracking information (carrier name and tracking number) to PayPal before requested for PayPal to subsequently share this information with Ratepay for the purpose of answering customer requests or solving disputes.

The Merchant shall immediately inform PayPal of a refund via his PayPal account as further laid down in the Integration Documents if

- a Customer fully or partly exercises their statutory right of withdrawal with regard to the Customer Contract; or
- the Merchant accepts a full or partial return of the goods and service of a Customer related to the relevant Merchant Receivable in an individual case or changes the Customer Contract which impacts the relevant Merchant Receivable in an individual case.

In such cases, the Merchant shall reimburse PayPal for any amounts already paid to the Merchant (if any). Such refund is only possible until 180 days after (i), in the Simplified Integration, the Payment Acceptance, (ii) in the Deferred Capture Integration, the Acceptance Call.

The Merchant shall also reimburse PayPal upon PayPal's notice of a reversal for any amounts already paid to the Merchant (if any) if

- the Merchant does not transfer the full documentation required for resolution of a disputes case after a request by PayPal within the agreed timeline in accordance with the Integration Documents; or
- The Merchant Receivables are not governed by the law of the Federal Republic of Germany or
- A representation or warranty as stipulated in section 7 is not true or correct for a Merchant Receivable.

In cases of the above refunds and reversals, PayPal may set off the amount for the respective Merchant Receivable from the Merchant's PayPal balance in accordance with the User Agreement. The set-off is solely subject to the statutory limitation period. This set off is deemed a declaration of withdrawal from the purchase of the respective Merchant Receivable ("**PayPal Withdrawal**").

Under the condition precedent of a PayPal Withdrawal for a specific Merchant Receivable, PayPal hereby assigns all such current and future Merchant Receivables (unless extinguished by operation of law) to the Merchant, and the Merchant hereby accepts this assignment.

7. Representations and Warranties; Legal Consequences of a Breach

The Merchant hereby represents – irrespective of fault, whether willful or negligent – that the following is true and correct at the time of conclusion of this Agreement, when the assignment becomes effective and at any point in time thereafter for the Merchant Receivables (collectively "**Representations**"):

a. The Merchant is the sole and unlimited legal and beneficial owner of the Merchant Receivables;
b. The Merchant holds the full right to transfer, with full title guarantee, any and all of the Merchant Receivables;
c. The Merchant Receivables exist, are valid and are governed by the law of the Federal Republic of Germany;
d. The Merchant Receivables have not been assigned or transferred to any third party, in particular, but without limitation, they are not subject to floating charges,

global assignments (in German: Globalzession) or similar security granted to third parties except for security agreements where the Merchant has been authorized to dispose of the Merchant Receivables as required under this User Agreement; if the Merchant Receivables are subject to extended retention of title (in German: verlängerter Eigentumsvorbehalt), the Merchant assures that he is authorized to collect (and sell) the Merchant Receivable and that he will use the purchase price for such receivables in the ordinary course of its business to satisfy its suppliers who have delivered goods under the extended retention of title;

e. The Merchant Receivables are not subject to any third party liability claims, in particular claims in accordance with section 13c UStG.

For the entire term of use of Rechnungskauf mit Ratepay (if not stated otherwise hereinafter) the Merchant undertakes the following vis-à-vis PayPal (collectively "**Warranties**"):

a. The Merchant continues to maintain his PayPal account;
b. The Merchant shall not autonomously collect payments relating to the Merchant Receivables;
c. The Merchant shall provide the service resulting from the Customer Contract in full, on time and free of defects and no objections or defenses based on other contractual relationships between the Merchant and the Customer can be raised against the purchased Merchant Receivables;
d. In the Simplified Integration, the Merchant must ship items no later than within 7 (seven) days after Payment Acceptance. In the Deferred Capture Integration, the Merchant shall only initiate Capture Call once the items are ready for shipment and will be dispatched within 2 (two) days. In the Deferred Capture Integration, the Merchant shall have items ready for shipment no later than within the timeframe detailed in the Integration Documents;
e. The Merchant will notify the Customer of the assignment of the Merchant Receivables to Ratepay and provide an invoice to the Customer including the note that the Customer may only pay Ratepay with a debt-discharging effect;
f. The Merchant shall be in compliance with all requirements set forth in the Integration Documents provided to the Merchant;
g. The Merchant shall only enter into Customer Contracts for physical goods and not for intangible goods or services, unless these intangible goods or services are in direct relationship with the purchased physical good (such as shipping or assembly costs). The Merchant shall specifically not enter into Customer Contracts for digital or virtual goods, including but not limited to any form of vouchers, such as gift vouchers, gift cards, cash codes. The Merchant shall only enter into Customer Contracts in transactions which are in line with the PayPal Acceptable Use Policy;
h. The Merchant shall use its best effort to ensure the validity of the assignment, shall not impair the Merchant Receivables in their existence or their commercial usability, shall ensure the best commercial usability of the Merchant Receivables and shall notify PayPal without undue delay if existence or commercial usability of the Merchant Receivables is considerably impaired;

i. The Merchant shall not allow the Customer to change his address (invoice or shipping address) or any other of the Customer's data in the online shop or during the order process after the credit check has been performed. To the extent the Merchant engages third parties to ship the goods, the Merchant shall ensure that also such third party shall not allow changes of address or other data;

j. The Merchant shall not deliver the goods after Ratepay or PayPal informed it that there is a suspicion of fraud as long as the Merchant can prevent the delivery by reacting immediately to such a notification;

k. The Merchant shall upon request by PayPal take such actions necessary or required to ensure the rights of PayPal or Ratepay to the Merchant Receivables or to exercise such rights;

l. The Merchant shall support PayPal with the performance of collection efforts regarding the Merchant Receivables by providing to PayPal proof of delivery or other documents supporting the existence, the value, validity of the Merchant Receivables within the granted timeline as well as potentially an affidavit/attestation in order to enforce the claim in legal proceedings;

m. The Merchant shall pay Value Added Tax (VAT) to the competent Tax Authority on Merchant Receivables. If PayPal has notified the Merchant that a Merchant Receivable is uncollectible, the Merchant owes refund of the VAT amount of that Merchant Receivable to PayPal in so far as the Merchant is entitled to request refund of such VAT amount from the competent Tax Authority. The Merchant is solely responsible to prepare and provide the Tax Authority with accurate documentation for VAT refunds. PayPal is entitled to set off refundable VAT amounts against the Merchant's PayPal balance. The Merchant authorizes PayPal to collect such refundable VAT amount from the Merchant's bank account via direct debit for this purpose. Where the actual VAT amount included in the Merchant Receivable is not available to PayPal, this VAT amount shall be determined by PayPal based on the gross invoice amount;

n. The Merchant shall keep accurate and up to date the registered name of the business, the business address and, if applicable, the VAT registration number granted by the tax authority in the business address country. PayPal will use these details to determine and validate the VAT status of the merchant and the VAT applicable to the fees, if any. Failure to do so might result in additional VAT cost to the merchant;

o. The Merchant shall not grant any right of rescission to its Customers exceeding the applicable statutory right of rescission;

p. The Merchant shall grant to its Customers a term of payment of 30 days after (i), in the Simplified Integration, Payment Acceptance or (ii), in the Deferred Capture Integration, Acceptance Call;

q. The Merchant shall only send a Capture Call with Amount Extension as far as the Amount Extension lies within the limitations detailed in the Integration Documents and as far as the Merchant has agreed on Amount Extension with the Customer. The Merchant shall be solely responsible for transparently informing the Customer about the Amount Extension.

If the Merchant is in breach of any of the Representations or Warranties herein, the Merchant shall inform PayPal hereof immediately and, if possible, cure such breach without undue delay. PayPal will set an adequate grace period for the cure of the breach to the Merchant if and to the extent it is possible for the Merchant to cure the breach. If the Merchant does not cure the breach within the grace period set by PayPal, section 6 applies. The requirement of a grace period set by PayPal shall not apply, if a cure of the breach is a priori impossible. The Merchant is obliged to indemnify and hold PayPal harmless for any losses or damages that PayPal may suffer as a result of a breach of any Representation or Warranty.

If the Merchant is in breach of a Representation or Warranty and if (and as far as) PayPal has received on a Merchant Receivable an amount as per section 5., last paragraph, in an amount of the respective Merchant Receivable and if PayPal has terminated the use of Rechnungskauf mit Ratepay by the Merchant or in full, PayPal shall reassign the Merchant Receivable back to the Merchant as far as legally permissible.

8. Indemnity

The Merchant shall notify PayPal in case of any material or systemic complaints received in relation to Rechnungskauf mit Ratepay.

The Merchant shall act on PayPal's instructions to take such action as is necessary to preserve or enforce PayPal's and Ratepay's rights in the Merchant Receivables. Further, the Merchant is obliged to support PayPal in its collection efforts of the Merchant Receivables by providing necessary proof of delivery or other documents supporting the existence, value and validity of the Merchant Receivables as the case may be.

The Merchant shall defend, indemnify and hold harmless PayPal against any claim by any third party including PayPal's legal expenses: (a) where claim is due to or arising out of the Merchant's alleged (i) breach of any Representation, Warranty, or obligation in this User Agreement, (ii) violation of any applicable laws or regulations, or (iii) negligence or misconduct, or (b) where claim asserts that the Merchant's technology (whether owned by the Merchant or licensed from a third party) or services provided under and used in accordance with this User Agreement, infringe such third party's intellectual property rights.

9. Data Protection

Both PayPal and the Merchant agree and acknowledge that both PayPal and the Merchant are each independent data controllers, and not joint data controllers, in respect of personal data processed by each of them under this Agreement.

Both PayPal and the Merchant undertake to comply with privacy law (as applicable to each of them) and the fulfilment of their respective obligations under this User Agreement and to procure that their respective personnel comply with privacy law.

Both PayPal and the Merchant agree and warrant that neither PayPal nor the Merchant shall knowingly do or omit to do anything in relation to personal data which either knows would put PayPal or the Merchant in breach of its obligations under the privacy law.

Both PayPal and the Merchant must provide such reasonable assistance to the other so that it may comply with such obligations as are imposed on it by the privacy law, including (but not limited to) providing the other with reasonable co-operation and assistance in complying with any request received from an individual for access to copies of personal data relating to them and to fulfil its statutory regulatory obligations in relation to any competent regulator. Any breach of the provisions of this clause shall be notified in writing by the breaching party to the other party as soon as reasonably practicable.

The Merchant shall ensure and warrant that it obtains all necessary data protection consents from the Customer to allow PayPal to fulfil its duties and exercise its rights under this User Agreement. The Merchant also warrants that, in such respect, it complies with transparency obligations as controller under privacy law. This includes sharing shipping and delivery information with PayPal for PayPal to subsequently share this information with Ratepay for the purpose of answering customer requests or solving disputes.

10. Termination

PayPal reserves the right to limit or terminate the use of Rechnungskauf mit Ratepay by a Merchant at any time without notice, including without limitation regarding certain products, groups of products or values.

Upon the effective date of the termination of this Agreement, the Merchant shall no longer sell to PayPal and PayPal shall no longer purchase from the Merchant any Merchant Receivables.

This Agreement shall remain in force with respect to Merchant Receivables for which the Merchant has received a Payment Acceptance prior to termination of this Agreement. If the termination is triggered by a violation of representations or warranties as stipulated in section 7, this Agreement shall only remain in force with respect to Merchant Receivables that have come into existence and for which the applicable conditions precedent for the assignment pursuant to section 4 have been fulfilled prior to the termination of this Agreement.

11. Limitation of liability

The liability of PayPal and its agents in connection with Rechnungskauf mit Ratepay is excluded for cases of slight negligence. In all other cases the liability of PayPal and its agents is limited to an amount equal to 20.00 percent of the total amount of fees which the Merchant has paid to PayPal in the preceding calendar year for the use of Rechnungskauf mit Ratepay. Nothing in this clause shall limit the liability of PayPal for loss of life or limb or health or for a breach of a major obligation or for cases of gross culpability.

Otherwise, the provisions of the No warranty section of the PayPal User Agreement shall apply.

These conditions do not constitute a contract in favour of third parties within the meaning of section 328 BGB or a contract with protective effect in favour of third parties. Third parties, in particular Ratepay and Customers, are not entitled to derive claims or rights from these conditions.

12. Applicable Law and Jurisdiction

These conditions and the use of Rechnungskauf mit Ratepay are governed by the laws of the Federal Republic of Germany. The regulations of international private law and the UN Sales Convention do not apply.

The exclusive jurisdiction for disputes arising from or in connection with this Agreement is Berlin, Germany. However, PayPal can initiate proceedings in other courts, if assets belonging to the Merchant fall under their jurisdiction. Compulsory places of jurisdiction remain unaffected by this rule.

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