

## 1. Scope and Contractual Basis

- 1.1. These Special Terms and Conditions govern Unzer's services as a provider of cloud-based software applications such as 'POS Go' and 'Tillhub'.
- 1.2. Unzer is entitled to use the services of affiliated companies and third-party providers to fulfil its obligations.
- 1.3. These Special Terms and Conditions supplement the General Terms and Conditions of One Unzer ('One Unzer T&Cs'). Unless explicitly provided otherwise herein, the provisions of the One Unzer T&Cs apply to the provision of payment services under these special conditions. In the event of any contradiction between the 'One Unzer T&Cs' and these Special Terms and Conditions, these Special Terms and Conditions shall take precedence.

## 2. Scope of Service

- 2.1. The prerequisite for the use of Unzer's cloud-based software applications (hereinafter referred to as 'POS Apps') is that the Merchant (i) has concluded a rental contract for a terminal with Unzer in accordance with the '**Commercial Details**' under the Merchant Agreement or (ii) uses hardware that has already been approved by Unzer (collectively referred to hereinafter as 'device'). The details for renting a terminal from Unzer are governed by the '**Special Terms POS**' under the Merchant Agreement.
- 2.2. If the Merchant has selected a cloud-based software application (including POS Go, Tillhub) in accordance with the '**Commercial Details**', Unzer grants the Merchant the right to use the software application installed and preconfigured on the device and to use individual software functions ('features') associated with it. The cloud-based software application ('POS App') comprises:
  - a user software installed on a device that supports the App, as well as an administrative and accounting module ('dashboard') and is provided in the form of a cloud-based software (SaaS) solution.

The current scope of service of the POS App selected by the Merchant is set out in the 'Product Specifications', which can be accessed at <https://www.unzer.com/en/rechtliches/>.
- 2.3. The Merchant Agreement does not establish any intellectual property rights for the Merchant, with the exception of the aforementioned authorisation to use the POS App. The term 'licence' used below and in the product specifications for various product versions is therefore not to be understood in the sense of an intellectual property right, but as a factual right to use the POS App as a whole and in order to utilise a service.
- 2.4. Unzer grants the Merchant a non-transferrable licence, in return for payment, to use the POS App on a supporting device for the term of the Merchant Agreement. The 'licence' for the full use of the POS App is restricted to one end device with a fixed UUID (Unit User Identification). The number of licences ordered, as well as the applicable licence periods, are specified in the Merchant Agreement and the '**Commercial Details**'.
- 2.5. To ensure compliance with the principles of proper bookkeeping and storage of accounts, records, and documents in electronic form and for data access (GoBD), Unzer carries out a continuous backup on the server side when there is an Internet connection, which includes both the sales-related data (transaction data) and the non-sales-related data (master data). The Merchant is aware that if there is no Internet connection and the POS App is therefore not connected to the dashboard, the sales data for the current day will be recorded in temporary offline mode but will not simultaneously be transmitted to the database.

## 3. Obligations of the Merchant

- 3.1. Use for other purposes, in particular purposes that are in breach of contract or illegal, is prohibited.
- 3.2. An existing Internet connection via an open technology network is always required to use the POS App. This falls within the Merchant's area of responsibility.
- 3.3. To ensure compliance with the principles of proper bookkeeping and storage of accounts, records, and documents in electronic form and for data access (GoBD), the Merchant must ensure that the device they operate is connected with the technical security equipment (TSE) via the dashboard prior to the first tax-relevant transaction.
- 3.4. The Merchant is not authorised to use the POS App for purposes other than those agreed in these Special Terms and Conditions. In particular, the Merchant is not authorised
  - (1) to obtain possession of the source code and
  - (2) to use the POS App
    - a) for the processing of data other than their own data and the transaction data;
    - b) to duplicate or download the POS App, unless this is absolutely necessary for proper use;
    - c) to decompile or reproduce the POS App themselves or through third parties;
    - d) to use reverse engineering or comparable measures to analyse or extract data, to modify data, to create derivative works from it, or to copy the design of the POS App, or
    - e) to make it available to third parties outside the agreed user group.
- 3.5. The Merchant is required,
  - (1) To report faults and defects in connection with the POS App without delay by e-mail to [support@unzer.com](mailto:support@unzer.com);
  - (2) To report the assertion of alleged third party rights to Unzer without delay by e-mail to [support@unzer.com](mailto:support@unzer.com);
  - (3) When the POS App is installed by Unzer, to fulfil the technical requirements and prerequisites, as stated in Unzer's specifications in good time for the installation date at the desired location of the device at the Merchant's expense and to keep the same in good working order.
  - (4) When the POS App is installed by the Merchant or by third parties, to notify Unzer without delay of the successful installation ('readiness for operation') by e-mail to [support@unzer.com](mailto:support@unzer.com);
  - (5) Throughout the term of the agreement
    - a) to carry out a cash-flow balance (closing balance) for the POS App as a rule daily, but at least once a week and at the end of each month and to archive the same in a reliable form;
    - b) to review the receipt of the transactions processed through the POS App and to notify Unzer of any objections without delay upon becoming aware of the same, by e-mail in written form to [support@unzer.com](mailto:support@unzer.com); objections can only be raised within the exclusion period of 3 (three) months from the first opportunity to note the facts giving grounds for the objection, whereby the Merchant is aware that this does not automatically lead to compensation;
    - c) where there are indications that the POS App or accessory parts have been manipulated or are otherwise no longer available to the Merchant, to notify Unzer of this without delay by e-mail to [support@unzer.com](mailto:support@unzer.com).

## 4. Developments in the POS App

- 4.1. In particular in order to reflect technical or legal requirements or altered requirements of the Merchant, or

- in order to improve the functionality, Unzer is authorised to update, redesign and/or modify the POS App as appropriate during the contractual term.
- 4.2. Updates are automatically implemented in the POS App and provided to the Merchant at no additional cost.
  - 4.3. If, in so doing, Unzer does not materially amend the agreed performance components of the POS App (Cf. Section 4.7), Unzer shall notify the Merchant of the amendments or extension of the scope by e-mail or newsletter.
  - 4.4. Insofar as Unzer provides new versions, updates or upgrades of the POS App during the term of the Merchant Agreement, the right of use granted in accordance with Section 2 also extends to these updates and extensions.
  - 4.5. Unzer shall continue to provide and/or maintain the original version of the POS App for a period of one month following implementation of the further developments. This obligation shall not apply if the original version of the POS App exhibited significant security vulnerabilities.
  - 4.6. **Material Changes**  
If the update involves a material change, Unzer shall provide the Merchant with appropriate advance notice of the planned amendments, but at least four (4) weeks in advance of the change. A material change exists if key performance components are removed in the course of an update and / or the update involves the restriction or – in very rare exceptional cases – the removal of an existing function. In the event that the previous scope of service of the POS App can no longer be used due to the final removal, Unzer shall grant the Merchant a right to extraordinary termination. Pursuant to this, the Merchant is entitled to terminate the POS App without the need to observe a notice period. If, in addition to the POS App, the Merchant uses other services of Unzer under the Merchant Agreement, these shall remain unaffected by the termination, and the Merchant Agreement shall continue unamended in this regard.
  - 4.7. If the Merchant does not exercise the special right of termination granted in accordance with Section 4.6 within two (2) weeks of the implementation of the material changes, these shall be deemed to have been approved, and the Merchant Agreement shall continue to apply without restriction. The date stated in the notification of the changes shall be decisive in this regard.
5. **Troubleshooting the POS App**
    - 5.1. Unzer shall rectify any faults in the POS App within a reasonable period following notification by the Merchant, at Unzer's discretion by (i) eliminating the fault through the resolution of errors, (ii) providing a new version of the POS App (with a comparable range of functions), or (iii) demonstrating reasonable, appropriate and suitable options for bypassing the effects of the fault.
    - 5.2. Unzer's obligation to rectify faults does not apply to functional impairments, disruptions or damage to the POS App that can be attributed to a breach of duty by the Merchant pursuant to Section 3.
    - 5.3. Unzer shall not provide support services outside of working hours. However, requests can be submitted at any time by e-mail to [support@unzer.com](mailto:support@unzer.com). The response time commences when the next business day begins.
  6. **Support POS App and Service Level**
    - 6.1. Unzer is available to answer the Merchant's questions about the functionality and use of the POS App during standard business hours in the contract territory (Monday to Friday between 8 a.m. and 7 p.m., and on Saturdays between 9 a.m. and 6 p.m.) by phone (<https://help.unzer.com/>) or by e-mail via [support@unzer.com](mailto:support@unzer.com).
    - 6.2. Unzer will provide the POS App with a monthly availability of 99 per cent. This does not include outages caused by force majeure events, any planned maintenance work carried out by Unzer - provided this is communicated to the Merchant in advance with a notice period of four (4) calendar days - and outside of standard business hours in the agreed contract territory (see above). The burden of proof of the exceptional circumstances set out here shall be borne by the Merchant.
  7. **Infringement of Third-Party Rights**
    - 7.1. In the event of defects of title (in particular the infringement of third-party rights), Unzer is entitled to rectify the defects by securing the necessary rights for the further use of the POS App for the Merchant and/or by modifying and/or replacing the POS App in such a way that it no longer infringes the rights of third parties but continues to comply with the contractual agreements.
    - 7.2. Insofar as the Merchant is held liable by a court of law for infringement of third-party intellectual property rights and copyrights, despite using the POS App as contractually agreed, Unzer shall indemnify the Merchant against such claims under the following conditions: the Merchant
      - (1) notifies Unzer without delay, at least in text form by e-mail to [support@unzer.com](mailto:support@unzer.com), upon becoming aware of the claims asserted against them, submitting all relevant documentation;
      - (2) transfers control of all defence measures and settlement negotiations to Unzer. In particular, the Merchant shall not issue any judicial or extrajudicial acknowledgment - not even implied - of the third party's claims without Unzer's prior written consent; and
      - (3) supports Unzer in an appropriate manner in defending or settling claims.
  8. **Liability**  
In addition to the provisions on liability set out in the 'One Unzer T&Cs', the following applies:
    - 8.1. Unzer is not liable for damage attributable to
      - a) maintenance work or activities of third parties that are beyond the control of Unzer;
      - b) unsuitable, improper or otherwise non-contractual use, incorrect operation, incorrect or careless treatment, chemical / electrochemical or electronic exposure, modifications or repair work by the Merchant or third parties that were carried out without the prior approval of Unzer; or
      - c) accessory parts that were not purchased through Unzer.
    - 8.2. Unzer shall not be liable to the Merchant for damage to the POS App resulting from the Merchant's failure to update the POS App in good time or from improper use of the POS App, for example if the Merchant has granted a third-party permission to use the POS App or linked it to third-party products without first obtaining the express consent of Unzer, or if third-party devices belonging to the Merchant, such as electronic article surveillance systems, cause a malfunction in the POS App. The exclusion of liability also includes any consequential losses arising therefrom, including with regard to complaints from cardholders and operators of authorisation systems.
  9. **Termination for Cause, Withdrawal, Compensation for Non-Performance**
    - 9.1. Without prejudice to the provisions on termination for cause set out in the 'One Unzer T&Cs', Unzer has the right to terminate the Merchant Agreement for cause in whole or in part with immediate effect, in particular if the Merchant
      - a) uses Unzer's support to an unreasonable extent for enquiries that fall within the scope of its business operations and are not attributable to a lack of functionality of the POS App;
      - b) connects third-party systems to the API provided by Unzer for the use of the POS App without Unzer's prior written consent;
      - c) is in default of payment of the respective amount owed or a significant portion of the amount owed for at least two (2) consecutive payment dates, or if, after conclusion of the Merchant Contract, their financial circumstances deteriorate significantly, so that there is reason to fear that this will have a significant impact on the Merchant's business activities, assets or earnings.
    - 9.2. In addition, Unzer is entitled to a (partial) termination of the Merchant Agreement if POS App functions are no longer supported by Unzer.

## 10. Commencement and Termination of Contract

- 10.1. The contract shall commence on the start date agreed in the Merchant Agreement. The minimum contract term is specified in the 'Commercial Details' under the Merchant Agreement.
- 10.2. Unless explicitly provided in the 'Commercial Details', the contract term shall begin with the initial activation of the POS Application. The minimum contract term is 24 months. The Merchant Agreement shall be automatically renewed for a further 12 (twelve) months unless it is terminated with a notice period of six months prior to expiry.

## 11. Remuneration, Payment Terms

The amount of the remuneration is governed by the 'Commercial Details' under the Merchant Agreement.

## 12. Merchant's Access Rights in respect of Product and Service Data

- 12.1. Unzer provides the Merchant with the relevant product and service data along with exportable data via the Dashboard (i) in an easily accessible and secure manner, (ii) in a structured, commonly used and machine-readable format (either CSV or Excel), and (iii) with the option of exporting the data in the Dashboard.
- 12.2. The Merchant is responsible for regularly storing and backing up the retrieved data in its own IT environment and archiving it in accordance with the statutory retention periods (e.g. tax regulations).
- 12.3. Transfer of data to third parties at the Merchant's request  
At the Merchant's request, Unzer shall provide reasonable support, in return for payment, in transferring product, service and/or exportable data to a third party designated by the Merchant (e.g. ERP, accounting or merchandise management provider) ('Data Recipient').
- 12.4. The Merchant shall ensure that, for each data transfer to third parties ordered by Unzer, it bears responsibility for data protection (in particular the legal basis pursuant to the GDPR and duties to provide information) and
  - a) has obtained the necessary consents, permissions, or contractual assurances and
  - b) has obliged the data recipient to use the data only for the purposes stipulated by the Merchant,
  - c) to maintain confidentiality and any trade secrets and
  - d) to comply with the provisions of the Data Act and the GDPR.
- 12.5. Restrictions and protection of trade secrets  
Unzer is entitled to withhold data or parts of data or to demand irreversible deletion of the data,
  - a) if their disclosure would, in all likelihood, seriously compromise Unzer's trade secrets, or
  - b) if the Merchant fails to comply with reasonable confidentiality and security measures.

In such cases, Unzer shall inform the Merchant of the reasons and, wherever possible, provide alternative, less sensitive data versions or pseudonymisations.

## 13. Switching and Data Portability

- 13.1. If the Merchant intends to switch to a new cloud provider ('Switching'), they shall notify Unzer in writing by e-mail to [info@tillhub.de](mailto:info@tillhub.de) at least 30 calendar days before the end of the contract whether they wish to (i) export the data to their own on-premises IT infrastructure; (ii) to a third-party provider, or (iii) whether Unzer may delete the exportable data ('Switching Notice'). In the case of (i) and (ii), Unzer shall support the Merchant in implementing the switch for a period of up to 30 calendar days after termination of the contract by
  - a) providing all exportable data in a structured, commonly used and machine-readable format,
  - b) providing open interfaces and documentation, and
  - c) maintaining the agreed service security throughout the entire switching process.

- 13.2. When Switching to a third-party provider, the Merchant shall provide Unzer with all necessary data relating to the third-party provider in the Switching Notice.

### 13.3. Transition Period

Upon termination of the contract, a transition period of generally no more than 30 calendar days shall commence, during which the contract shall continue to apply for the purposes of Switching.

- 13.4. If it is not possible to complete the Switching within 30 calendar days of the contract termination for reasons for which Unzer is responsible, Unzer shall inform the Merchant within 14 calendar days and propose an alternative transition period of no more than seven months.
- 13.5. If Unzer does not receive a Switching Notice from the Merchant, the Merchant has the option of retrieving their data for a period of 30 calendar days after termination of the contract. After this period has expired, Unzer will delete all exportable data and digital assets of the Merchant in their entirety or anonymise them, provided that there are no legal retention obligations or legitimate interests (e.g. for evidentiary purposes) that prevent this.
- 13.6. Data Categories, Data Retrieval and Deletion  
Upon request, Unzer will provide the Merchant with a 'data portability' overview listing all categories of data and digital assets that can be transferred in the course of Switching, including at least all exportable data. Categories that serve exclusively for the internal functioning of the Unzer dashboard and whose disclosure would jeopardise trade secrets are clearly marked.
- 13.7 Subject to any provisions to the contrary, Unzer may charge a reasonable, cost-based fee for the services associated with this provision.

## 14. Data Protection

- 14.1 In order to use some of the POS App functions ('features') and as part of the POS App hosting, personal data is processed on behalf of and in accordance with the instructions of the Merchant. Details can be found in the separate Contract Processing Agreement pursuant to Art. 28 (3) GDPR. (can be accessed at <https://www.unzer.com/en/rechtliches/>).
- 14.2 As the data controller (Art. 4 No. 7 GDPR), the Merchant is responsible for complying with data protection obligations. This includes, in particular, compliance with the principles for the processing of personal data (Art. 5 GDPR).