

General Terms and Conditions of Ingenico GmbH, Daniel-Goldbach-Str. 17 - 19, 40880 Ratingen, Germany

Last updated: October, 2015

The German version of these general terms and conditions is binding. The English version is for information purposes only.

§ 1 General Information – Area of Application

(1) As a supplier of payment transaction solutions, Ingenico GmbH (hereinafter referred to as "**Ingenico**") distributes payment terminals and other products (hereinafter referred to as the "**Supplied Item**" or "**Supplied Items**") and provides and performs services for the processing of cashless payment transactions. Ingenico's deliveries, services and offers are exclusively subject to these general terms and conditions. These general terms and conditions shall form part of all contracts that Ingenico concludes with its contractual partners (hereinafter referred to as "**Customers**"). They shall therefore also apply to all future deliveries, services and offers, even where they are not separately agreed upon again.

(2) The terms and conditions of the Customer or a third party shall not apply, even if Ingenico does not reject them in individual cases. Even if Ingenico refers to or references a text that contains the terms and conditions of the Customer or a third party, this shall not constitute consent to the application of the terms and conditions concerned.

(3) Insofar as these general terms and conditions prescribe the written form, submission by fax or e-mail shall be sufficient to meet this requirement.

§ 2 Offers – Offer Documents

(1) Offers made by Ingenico are subject to change and are non-binding unless they are expressly marked as binding or contain a specific acceptance period. If offers made by Ingenico are marked as binding, they shall be valid for a period of thirty (30) days from the date of issue unless otherwise specified in writing in the offer.

(2) The documents belonging to the offer and other information from Ingenico concerning the item to be supplied or service to be performed (e.g. weight, dimensions, utility values, load capacity, tolerance and technical data), as well as any depictions of the item or service (e.g. drawings and diagrams), are only approximations unless they are expressly marked as binding and insofar as use for the contractually intended purpose requires these to be precise.

(3) Orders submitted to Ingenico must be made in writing and shall be classified as offers in accordance with section 145 of the German Civil Code (*Bürgerliches Gesetzbuch*). The Customer shall be bound to this offer for a period of 30 days unless the Customer has excluded being bound to the offer in the order or has specified a different period for which the offer is binding.

(4) Ingenico reserves the right to reject an order, even during an ongoing business relationship, in particular in the case of a conflict with the Customer regarding payment for a previous order.

(5) The contract concluded in writing shall be the sole authoritative document for the legal relationship between Ingenico and the Customer. This contract can also be effected by way of the Customer accepting

an offer in writing or by Ingenico confirming an order from the Customer in writing. Any deviating written confirmations from Ingenico concerning a written order from the Customer shall be regarded as new offers.

(6) Oral acceptance by Ingenico prior to the conclusion of the contract is not legally binding.

(7) Any additions or amendments to the agreements made, including to these general terms and conditions, must be made in writing in order to be valid.

§ 3 Intellectual Property and Industrial Property Rights

(1) Ingenico shall retain the title and all industrial property rights in all offers and cost estimates that it submits and in all drawings, diagrams, calculations, literature, catalogues, models, tools and other documents and aids that it provides to the Customer. Such documents in full or the content of such documents may not be made accessible or known to third parties or used by the Customer or third parties for any other purpose than the purpose for which they were provided by Ingenico unless Ingenico has expressly agreed that the documents may be made accessible, made known or used in the individual case. The Customer shall immediately return such offers and cost estimates and any drawings, diagrams, calculations, literature, catalogues, models, tools and other documents and aids and destroy any copies made if requested to do so, or if no contract is concluded between Ingenico and the Customer, even if not expressly requested to do so, if the Customer no longer requires such documents in its regular course of business.

(2) If software is installed on the Supplied Items, the Customer shall be granted a simple non-exclusive right to use this installed software in object code form as part of the Supplied Item on a long-term basis and to resell the Supplied Items together with the installed software to third parties or to provide them to third parties on a temporary basis and the right to grant these third parties a simple non-exclusive right to use the installed software in object code form as part of the Supplied Items subject to this section 3.

(3) If software is provided that is not installed on a Supplied Item, this shall be directly installed on the end device for which it is intended either directly using Ingenico's download system or a download system provided to the Customer by Ingenico. For such software Ingenico shall also grant the Customer a simple non-exclusive right to use this software in object code form as part of an end device for which it is intended on a long-term basis and to grant third parties a simple non-exclusive right to use the installed software in object code form as part of an end device for which it is intended subject to this section 3.

(4) If in this connection Ingenico provides the Customer with software that is to be installed on the end device of a third party, Ingenico shall grant the Customer the right to grant the third party a simple non-exclusive right to use the installed software in object code form as part of an end device for which it is intended subject to this section 3.

(5) Copies of the software may only be made insofar as this is required for use of the software as stipulated in the contract. The Customer and/or the third-party acquirer is permitted to make back-up copies of the software to the extent required by the rules of technology. Back-up copies stored on portable data carriers must be marked as such and must display the Ingenico copyright notice.

(6) The Customer and/or third-party acquirer is only entitled to make additions, amendments and other modifications to the software as defined in section 69c no. 2 of the German Copyright Act (*Urheberrechtsgesetz*) to the extent permitted by law on the grounds that they are essential. The Customer and/or third-party acquirer is only permitted to decompile the software within the limits of section 69e of the German Copyright Act and only if Ingenico has not provided the data and/or information required to enable interoperability with other hardware and software after being requested to do so in writing setting a reasonable deadline.

(7) If within the framework of supplementary performance (section 9 of these general terms and conditions) or its repair service (section 10 of these general terms and conditions) Ingenico provides additions (e.g. patches) to the software or a new version of the software (e.g. an update or upgrade) that replaces the software previously provided, these additions and/or this new version shall be subject to the provisions of these general terms and conditions. If Ingenico provides a new version of the software, the rights of the Customer and/or third-party acquirer concerning the software replaced by the new version under these general terms and conditions shall lapse, even where Ingenico does not expressly request return thereof, as soon as the Customer and/or third-party acquirer starts using the new version productively.

(8) The Customer is only permitted to use the brand names under which the Supplied Items are sold in order to identify the Supplied Item in question. The Customer is not permitted to modify or remove the device identifiers.

§ 4 Prices – Payment Terms

(1) Unless otherwise agreed in writing, Ingenico's prices shall be "Ex Works" excluding packaging costs and other shipment, transportation, insurance and installation expenses. The packaging costs shall be invoiced separately. This shall also apply to the costs of shipment and transportation insofar as shipment has been agreed in exceptional cases.

(2) If there are more than 4 months between conclusion of the contract and delivery and Ingenico is not responsible for a delay in delivery, Ingenico is entitled to increase the price by a reasonable amount to take account of increased material, labour and other additional costs that must be borne by Ingenico. The Customer shall then be granted the right to withdraw from the contract.

(3) The statutory value added tax is not included in the prices given; this shall be stated separately on the invoice at the statutory rate on the day on which the invoice is issued.

(4) Unless otherwise agreed in writing, invoices shall be paid within thirty (30) days of the date of the invoice with no deductions. The payment must be made in euros for the benefit of Ingenico by bank transfer. The payment shall be deemed made once the payment has actually been credited to Ingenico's account.

(5) If prior to or after concluding of the contract Ingenico becomes aware of circumstances that may significantly decrease the Customers' credit rating, in particular if Ingenico has become aware of a payment problem, if the result of the financial investigation of the Customer is disadvantageous or if a factoring

company refuses to process the Customer's invoices, Ingenico shall be entitled to demand advance payments or securities.

§ 5 Offsetting

The Customer shall only be permitted to offset counterclaims or withhold payments on the basis of such counterclaims if these counterclaims have been finally established by a court of law, are uncontested or have been acknowledged by Ingenico.

§ 6 Delivery and Delivery Time

(1) Deliveries shall be made Ex Works (EXW - Incoterms 2010).

(2) Unless otherwise agreed in writing, Ingenico shall not be responsible for installing the Supplied Items. For installation Ingenico refers the Customer to the respective manuals which describe the installation process and the respective operational environment that must be provided by the Customer.

(3) Deadlines and dates for deliveries and services provided by Ingenico shall always only be approximate unless a fixed deadline or a fixed date has been expressly accepted or agreed in writing. Where shipments have been arranged in exceptional cases, delivery dates and delivery deadlines shall refer to the time when the item is handed over to the forwarding agent, shipper or other third party commissioned with transportation.

(4) Without prejudice to its rights arising from default by the Customer, Ingenico is entitled to request an extension to delivery and performance deadlines or that delivery and performance dates be put back by the period during which the Customer does not comply with its contractual obligations to Ingenico, in particular when the Customer does not provide documents that it is under an obligation to provide. The Customer has, in particular, an obligation to provide all of the required technical parameters and information required for the delivery and to clarify all technical details and resolve any queries. The Customer shall receive a detailed list of the required information from Ingenico for this purpose.

(5) Ingenico shall not be liable where the delivery is impossible or for delivery delays insofar as this is due to *force majeure* or other events that were unforeseeable when the contract was concluded (e.g. all types of disruption of operations, difficulties in procuring material or energy, transportation delays, strikes, legal lockouts, lack of manpower, energy or raw materials, difficulties in obtaining the required official licences or permits, official measures or absent, incorrect or unpunctual deliveries from suppliers) for which Ingenico is not responsible. If such events make it extremely difficult or impossible for Ingenico to make a delivery or perform a service and the hindrance is not only temporary, Ingenico is entitled to withdraw from the contract. In the case of temporary hindrances, the delivery or performance deadlines shall be extended or the delivery or performance dates shall be put back by the duration of the hindrance plus an appropriate lead period. Insofar as the Customer cannot be expected to accept the delivery or performance due to the delay, the Customer is entitled to withdraw from the contract by submitting a written declaration to Ingenico without undue delay.

(6) If Ingenico falls behind with a delivery or performance or a delivery or performance becomes impossible for Ingenico, regardless of the reason, Ingenico's liability for compensation for damages shall be limited in accordance with section 12 of these general terms and conditions.

(7) The statutory regulations shall apply if the Customer is in default with acceptance.

(8) Ingenico is entitled to make part deliveries if the Customer can use the part delivery within the framework of the intended contractual purpose, the delivery of the remaining ordered goods is assured and the Customer will not incur any significant additional work or extra costs as a result of the part delivery (unless Ingenico agrees to bear these additional costs).

§ 7 Shipment, Packaging, Passage of Risk

(1) Insofar as shipment has been agreed in exceptional cases and in the absence of a written agreement to the contrary, Ingenico's shipment shall be uninsured and at the risk of and expense of the Customer. For such cases Ingenico reserves the right to choose the transportation route and means of transportation.

(2) Ingenico shall arrange the packaging unless otherwise expressly agreed in writing. The packaging, as well as any special or additional packaging requested by the Customer, shall be invoiced on a time and material basis.

(3) Other than in the case of software adjusted or developed at the request of the Customer in accordance with section 8 of these general terms and conditions, the risk of accidental loss or accidental deterioration shall pass to the Customer when the goods are handed over to the forwarding agent or other individual or company commissioned to transport the goods (the beginning of the loading process shall be decisive in the case of shipment) at the latest, even if the goods are being delivered by Ingenico itself. The Customer undertakes to take out insurance in accordance with section 13, subsection 4 of these general terms and conditions from when the risk passes to it to cover the risks until the final transfer of title.

(4) If the transfer or the shipment is delayed due to circumstances for which the Customer is responsible, the risk shall pass to the Customer from the day on which the Supplied Item is ready for shipment and Ingenico has notified the Customer accordingly.

(5) In the case of software adjusted or developed at the request of the Customer in accordance with section 8 of these general terms and conditions, the risk shall pass to the Customer when the Customer accepts the software. The Customer must, however, ensure that technical and organisational measures are taken to protect the asset prior to this passage of risk.

(6) The Customer shall bear all storage costs after the passage of risk.

§ 8 Adjustment and Development of Software at the Request of the Customer and Acceptance

(1) Insofar as Ingenico provides the Customer with software that has been adjusted or developed at the request of the Customer in accordance with section 3 of these general terms and conditions, Ingenico shall carry out this adjustment or development either based on specifications provided by the Customer or based on specifications that Ingenico has developed in cooperation with the Customer.

(2) If, following the conclusion of the contract on the adjustment or development of software, the Customer requests amendments that deviate from the specifications provided to Ingenico or developed in

cooperation with Ingenico, the Customer must submit this amendment request to Ingenico in writing. Ingenico shall then check this amendment request and submit an offer based on the amendment request to the Customer if the amendment request has an influence on the performance period, dates and remuneration and is reasonable for Ingenico within the framework of its operational procedures. Ingenico shall carry out the work requested without taking the amendment request into account until an agreement on an amendment request has been reached.

(3) The rights of use regulated in section 3 shall also apply to software adjusted or developed at the request of the Customer.

(4) The Customer shall immediately run a performance test in the form of a certification on software that has been adjusted or developed at the request of the Customer once it has been transferred to the Customer. The Customer shall declare acceptance of this software immediately after a successful performance test. The performance test shall be deemed to have been successful if the software meets the requirements stipulated in the specifications provided by the Customer or developed by Ingenico in cooperation with the Customer. The Customer shall immediately inform Ingenico in writing if it becomes aware of any deviations from the requirements specified in the contract during the performance test.

(5) If the Customer does not immediately declare acceptance of the software, Ingenico shall be entitled to set a reasonable deadline by which the Customer must submit this declaration of acceptance in writing. The software shall be deemed to have been accepted by the Customer if the Customer fails to specify reasons for rejecting the acceptance of the software in writing by this deadline. Ingenico shall expressly point out this legal consequence to the Customer when setting such a deadline.

§ 9 Defects

(1) The Supplied Items shall be carefully examined immediately after the Customer has been notified that they are ready for shipment or, insofar as shipment has been arranged in an exceptional case, when the Supplied Items are delivered to the Customer or a third party specified by the Customer. They shall be deemed to have been accepted if Ingenico has not received written notification of apparent defects, or other defects that could be identified during an immediate and careful examination, within eight working days after the notification that the Supplied Items are ready for shipment or, insofar as shipment has been arranged in an exceptional case, after the Supplied Item has been delivered, or otherwise within eight working days after discovery of the defect or any earlier point at which the defect could be identified by the Customer during normal use of the Supplied Item without closer inspection. The rejected Supplied Item shall be returned carriage paid to Ingenico on request by Ingenico. Ingenico shall refund the costs of the lowest-priced shipping method where the notification of defects is justified.

(2) Insofar as is technically possible for the respective Supplied Item, the Customer shall properly and regularly back up its data whilst using the Supplied Item and also properly back up its data before returning the item to Ingenico in the case of defects.

(3) Insofar as the Supplied Item contains a material defect at the time of the passage of risk, Ingenico shall initially be entitled to provide supplementary performance. Ingenico may choose within a reasonable period to either remedy the defects by choosing to rectify them or by supplying a replacement.

(4) In the case of defects of title, Ingenico shall initially meet its warranty obligations by providing supplementary performance. Ingenico may choose within a reasonable period to provide the Customer with a legally unobjectionable opportunity to either use the Supplied Items or to use exchanged or amended Supplied Items.

(5) If Ingenico is not prepared or is unable to provide supplementary performance, in particular if the supplementary performance is delayed for longer than a reasonable period for reasons for which Ingenico is responsible or if the provision of the supplementary performance fails twice, the Customer shall be entitled to choose to either withdraw from the contract or to request a reduction of the purchase price providing that the other legal requirements are met.

(6) If Ingenico provides services to identify or rectify defects where it has no obligation to do so, Ingenico shall be entitled to demand remuneration for these services on the basis of its usual hourly rates. This applies especially where a defect cannot be proven or cannot be attributed to Ingenico.

(7) If third parties assert claims that prevent the Customer from exercising the rights of use granted to it, the Customer shall inform Ingenico immediately and comprehensively in writing. In doing so, the Customer shall authorise Ingenico to independently bring legal action against third parties in and out-of-court. If action is brought against the Customer, the Customer shall consult with Ingenico about this action and shall only take procedural action, in particular make acknowledgements and agree settlements, with Ingenico's consent.

(8) If Ingenico is responsible for the defect, the Customer is entitled to demand compensation for damages subject to the conditions defined in section 12 of these general terms and conditions.

(9) The warranty period shall be twelve months. This period is a limitation period and shall begin at the time of passage of risk. In the case of batteries, the warranty period shall not apply to defects caused by the usual wear and tear or the usual reduction in battery life or defects caused by improper use by the Customer.

(10) Ingenico shall not provide a warranty where defects have been caused by not following Ingenico's operating, storage or maintenance instructions, by amendments having been made to the Supplied Items, insofar as these are not required for use of the items for the intended purpose, or by using consumable materials that do not meet the original specifications.

§ 10 Repair Service

(1) Ingenico shall provide the Customer with a repair service for the Supplied Items following expiry of the warranty period (section 9, subsection 9 of these general terms and conditions) and/or when there is no warranty claim. If the Supplied Item contains a defect, the Customer may send the faulty device to Ingenico at its own expense. Ingenico shall then remedy this defect insofar as this is technically possible. The costs for the repair service are set out in the price list with which the Customer has been provided.

(2) The repair service is subject to corresponding replacement parts still being available for the Supplied Items sent for repair.

§ 11 Confidentiality

(1) The Customer shall observe confidentiality with respect to confidential information from Ingenico. The term "confidential information" particularly refers to drawings, models, templates, samples and similar documents, as well as technical and commercial details and other information that, by its nature, can be identified as internal company information or trade secrets of Ingenico. This obligation shall continue to apply for a period of 5 years after termination of the respective contract.

(2) This obligation shall not apply to confidential information: of which the Customer was provably already aware when the contract was concluded or was made aware of by a third party after the contract was concluded without violating a non-disclosure agreement, statutory provisions or official requirements; which was public knowledge when the contract was concluded or became public knowledge after the contract was concluded insofar as this is not based on a violation of these general terms and conditions; which must be disclosed due to legal obligations or by order of a court or public authority.

(3) The Customer shall only grant access to confidential information to advisors that are bound by professional secrecy or upon whom obligations corresponding to the non-disclosure obligations of these general terms and conditions have been imposed beforehand. Furthermore, the Customer shall only reveal confidential information to members of staff who need to be aware of this information in order to perform the contract and shall also place these members of staff under an obligation to maintain confidentiality, to the extent permitted by employment law, even after the end of their employment relationships.

(4) Unless otherwise agreed in writing, Ingenico is entitled to specify the name of the Customer in reference lists or similar documents.

§ 12 Liability

(1) Ingenico's liability for compensation for damages, regardless of the legal grounds and in particular in the case of damages due to an impossible, delayed, faulty or incorrect delivery, violation of contract, the violation of obligations in contractual negotiations and tortious action shall be limited in accordance with this section 12 of these general terms and conditions insofar as Ingenico is at fault.

(2) Ingenico shall be liable without limitation for intent and gross negligence and for the intentional or grossly negligent actions of its statutory representatives and of persons which Ingenico uses to perform its obligations.

(3) Ingenico shall also be liable for simply negligent violations of essential contractual obligations, the performance of which is essential for performance of the contract and on the observation of which the customer regularly relies and it entitled to rely (essential contractual obligations). Essential contractual obligations are the obligation to provide punctual delivery of a Supplied Item free of significant defects and obligations to advise and protect and duties of care that are intended to ensure that the Customer can use the Supplied Item in accordance with the contract or are intended to protect the life and limb of the Customer's staff or to protect the Customer's property against significant damage.

(4) In cases of negligent violations of essential contractual obligations, Ingenico's liability shall additionally be limited to the sum of EUR 25,000 per damage event and EUR 50,000 in total per calendar year and to the

type of damage which can be typically expected in connection with the Supplied Item. The liability for indirect damages, especially for lost profits is excluded.

(5) Ingenico's liability for not fulfilling warranties, assuming a risk of procurement, for culpable injury to life, body or health and in the framework of the liability under the Product Liability Act (*Produkthaftungsgesetz*) or from the point of view of manufacturer's liability remain unaffected.

(6) If a/the Supplied Item/s fail, since alternative payment methods are available, it shall be basically assumed that the Customer will not suffer any damage which goes beyond the technical issues. The Customer reserves, under the liability regime, the right to prove to Ingenico that it suffered further-reaching damage.

(7) Ingenico shall not liable for third-party software installed on the Customer's instructions. This shall also apply if the third-party software was first signed off by Ingenico since signing the software off merely means that installation is possible in principle.

(8) Compensation claims for damages of the Customer against Ingenico shall lapse after one year commencing when the Customer gains knowledge of the claim. This shall not apply to compensation claims for damages arising from tortious actions and under the Product Liability Act.

(9) If the Customer violates the obligation to properly back up data that is incumbent upon the Customer according to section 9 subsection 2 of these general terms and conditions, the amount for which Ingenico shall be liable within the framework of the above conditions for loss of data shall be limited in terms of amount to the damage that would also have been incurred even if the Customer had properly and regularly backed up the data.

§ 13 Retention of Title

(1) The retention of title agreed in accordance with this section 13 of these general terms and conditions shall serve to secure all respective current and future claims made by Ingenico against the Customer resulting from the contractual relationship between the contracting parties with regard to the Supplied Items and other services to be performed by Ingenico. This shall also apply to software that is firmly integrated into a device.

(2) The items supplied to the Customer by Ingenico shall remain the property of Ingenico until all secured claims have been paid in full. The Supplied Items shall hereinafter be referred to as the "goods subject to retention of title".

(3) The Customer is entitled to sell the goods subject to retention of title in the course of its ordinary business until they become recoverable (*verwertbar*) (section 13, subsection 8 of these general terms and conditions). The goods subject to retention of title may not be pledged or transferred as security.

(4) The Customer shall handle the goods subject to retention of title with care until title has been transferred to the Customer. The Customer shall, in particular, sufficiently insure these goods at face value against fire damage, water damage and theft at the Customer's own expense. The Customer shall keep the goods subject to retention of title safe for Ingenico at no charge.

(5) In the case of resale of the goods subject to retention of title, the Customer hereby now in advance assigns the resulting claim against the purchaser to Ingenico as security. The same shall apply to other

claims that replace the goods subject to retention of title or otherwise arise with regard to the goods subject to retention of title, for example insurance claims or claims based on tortious action in the case of loss or destruction. Ingenico hereby irrevocably authorises the Customer to collect the claim assigned to Ingenico in its own name. Ingenico is only permitted to revoke this collection authorisation in the case of a recovery event (*Verwertungsfall*).

(6) If third parties access the goods subject to retention of title, in particular as a result of a pledge, the Customer shall immediately advise the third parties of Ingenico's ownership and inform Ingenico of this in order to enable Ingenico to enforce its proprietary rights. If the third party is not able to reimburse the court or out-of-court costs for the protection of Ingenico's proprietary rights incurred in this context, the Customer shall be liable to Ingenico for these.

(7) Ingenico shall release the goods subject to retention of title and the claims replacing these goods when requested to do so by the Customer insofar as the value of the goods exceeds the claims to be secured by more than 20%. Ingenico shall be entitled to decide which of the securities should be released.

(8) If Ingenico withdraws from the contract (recovery event (*Verwertungsfall*)) due to behaviour by the Customer that is contrary to the contract, in particular due to default of payment, Ingenico shall be entitled to demand that the goods subject to retention of title be surrendered or, insofar as the goods subject to retention of title have already been resold in the ordinary course of business, to revoke the collection authorisation.

§ 14 Place of Performance – Court of Jurisdiction, Applicable Law

(1) The place of performance for all obligations arising directly or indirectly from this contractual relationship, including payment obligations, shall be Ingenico's registered office.

(2) The exclusive place of jurisdiction for all conflicts arising out of the contractual relationship between the parties shall be Ratingen, Germany, insofar as the Customer is a merchant, a legal person under public law or a special fund under public law. Ingenico is also entitled to bring legal action before a court competent for the registered office or a branch of the Customer.

(3) These general terms and conditions and the contract concluded between Ingenico and the Customer based on these general terms and conditions are subject to German law. The United Nations Convention on Contracts for the International Sale of Goods ("CISG") of April 11, 1980 is excluded.

§ 15 Invalid Provisions

Individual provisions of this Agreement being invalid or unenforceable shall not affect the remaining provisions of this Agreement. In place of the invalid or unenforceable provision a valid and enforceable provision shall apply which reflects as closely as possible what the parties had intended from an economic point of view or the provision which the parties would have agreed in place of the provision to be replaced in view of the intended result had they had known about the invalidity of the provision to be replaced. The same shall apply in the event of a lacuna. It is the express will of the parties that this section does not lead to a mere reversal of the burden of proof and that section 139 of the German Civil Code (*Bürgerliches Gesetzbuch*) is contracted out of completely.