

Ingenico Standard Terms and Conditions – U.S.

The Ingenico Standard Terms and Conditions - U.S. contained herein (the “Terms”) shall apply to any purchase orders submitted by a party placing an order (“Buyer”) with Ingenico Inc. (“Ingenico”) for the sale of equipment and hardware (“Physical Products”), software components and object code licensed by Ingenico and services provided by Ingenico (collectively with Physical Products, the “Products”). Subject to the Terms set forth herein, the order, once accepted by Ingenico as provided below, shall form with these Terms an agreement between the Parties (the “Agreement”). Buyer and Ingenico are herein referred to as the “Parties” and each a “Party”. This Agreement shall govern the purchase and/or license of Products by Buyer and shall supersede any and all other terms or conditions, regardless of the timing and medium, unless otherwise agreed to in writing and executed in pen and ink by both of the Parties.

1. **PRICING; OFFERS.** The prices for the Products are those quoted by Ingenico to Buyer from time to time. Advertisements from Ingenico are informational only and not offers to contract. Buyer’s orders are offers to contract which Ingenico may either reject or accept. Acceptance shall be either through Ingenico’s written acceptance or fulfillment of such order which will be subject to this Agreement. Orders must be made in writing and once accepted by Ingenico cannot be cancelled or modified by Buyer, without Ingenico’s prior written consent. An order is not accepted by Ingenico until the latter has approved it in writing, or such order has been fulfilled by Ingenico. Ingenico reserves the right not to accept an order. Any acknowledgements, other agreements or correspondence from Buyer (collectively, “Ancillary Forms”) containing terms or conditions of sale, payment, lease, license or relating to the provision of services shall not modify this Agreement hereof, and Ingenico expressly objects to, rejects and disclaims any additional or inconsistent terms contained in any Ancillary Forms.
2. **CHANGES.** Ingenico may modify its price quote at any time, including changes to the Products or their corresponding prices; provided that only orders placed after the effective date of such change shall be affected.
3. **TRANSPORT.** Delivery shall be as mutually agreed between the Parties and indicated on the face of the order. All stated prices are FCA Ingenico’s manufacturing facility, warehouse or other facility that Ingenico designates in its discretion as the point of shipment from time to time (as defined in the then applicable Incoterms rules as of the date of the acceptance of the order), and the stated prices do not include any excise, sales, use or other taxes that Ingenico may be required to collect or pay upon the sale, delivery or license of the Products, including any services or fees to be invoiced by Ingenico related to any tariffs, valued added taxes or similar fees in connection with Ingenico or its affiliates importing the Products into the United States.
4. **TIME FRAMES.** While Ingenico shall make reasonable efforts to meet any acknowledged delivery date, these delivery dates remain estimates, and Ingenico shall not be liable to Buyer for its failure to meet any such delivery dates. Ingenico and Buyer agree that time is not of the essence.
5. **TITLE AND RISK OF LOSS.** Risk of loss to the Physical Products passes from Ingenico to Buyer upon the Physical Products being delivered to a common carrier.
6. **INSTALLATION - USE.** Unless specified otherwise in writing, Buyer and/or its designee shall be responsible for the installation of all Products in accordance with any instructions provided by Ingenico. Ingenico shall be under no obligation to perform any acceptance test procedures, and the date of Buyer’s acceptance of the Products shall be the date Ingenico delivered the Products to a common carrier. Buyer shall, under its responsibility and at its expense, enter into any subscription contracts needed to use the Physical Products. Buyer covenants to use and to ensure that Buyer and any end user use the Products in accordance with Ingenico’s written instructions and applicable law.
7. **PAYMENT.** Ingenico shall be entitled to invoice Buyer at the time each shipment of Products is delivered to a common carrier for shipment to Buyer; provided that Ingenico shall invoice Buyer, and Buyer agrees to pay Ingenico, fifty percent (50%) of the amount of all Ingenico mobile card reader (“MCR”) Physical Products (including, without limitation, MCR Physical Products sold by Ingenico under the “Ingenico Mobile Solutions,” “IMS”, and “Ingenico One” brands) in advance at the time of order placement and the balance at the time the MCR Physical Products are made available by Ingenico to a common carrier for shipment to Buyer. Full payment of the invoice is due to Ingenico within thirty (30) days from the invoice date by bank transfer. All payments are to be made in U.S. dollars, or in other applicable currency as quoted. Buyer shall make all payments due without regard to whether Buyer has inspected the delivered Products. If the invoice has not been paid in full by the due date, the overdue payments shall bear interest at the lesser rate of one and one half percent (1½%) per month, or the highest rate allowed by applicable law, and Buyer shall be liable for all collection costs incurred by Ingenico resulting from Buyer’s late payment.

In the event that Buyer has not paid the amounts due within thirty (30) days of the date of invoice, Ingenico shall have no obligation to ship any undelivered Products, regardless of their relation to the transaction giving rise to the payment obligation, until all outstanding invoices are paid, regardless of whether other outstanding invoices are not yet past due. In addition, Ingenico shall have the right to suspend its deliveries and the performance of its services and/or to cancel the sale or terminate the applicable order as provided in Section 11 below. Ingenico's right to suspend the Services and shipping of Products pursuant to this Section is separate from and in addition to Ingenico’s right to terminate this Agreement for non-payment as provided herein.

(Updated: 2/17/2021)

8. CONFIDENTIALITY. Any Ingenico information received or obtained by Buyer under this Agreement, which by its nature is to be considered confidential information, shall not be disclosed to third parties or reproduced by Buyer without Ingenico's prior written consent. This confidentiality obligation shall survive the termination of this Agreement. Ingenico shall be entitled to refer to the existence of its contractual relationship with Buyer within the scope of its activities. This Section is not intended to replace or supersede any non-disclosure agreement between Ingenico and Buyer concerning treatment of confidential information, but rather, is intended to be an addition or supplement to any such agreement which may already exist between the Parties.

9. WARRANTY.

9.1 Limited Warranty for Physical Products Manufactured by Ingenico. For Physical Products manufactured by Ingenico only, Ingenico warrants to Buyer that for a period of one year from the date Ingenico delivered the Physical Products to a common carrier (the "Physical Product Warranty Period") such Physical Products will perform substantially as described in Ingenico's published specifications as of the date of shipment for such Physical Products (the "Physical Product Warranty"). If, during the Physical Product Warranty Period, it is determined that a Physical Product does not conform to the Physical Product Warranty, then Buyer shall obtain from Ingenico a Return Material Authorization (RMA) and return such Physical Product to Ingenico. Upon receipt of a returned Physical Product during such Physical Product's Physical Product Warranty Period, Ingenico shall determine whether such Physical Product is defective and if found to be defective, in Ingenico's sole discretion, either repair or replace the Physical Product; or issue a credit to Buyer in an amount equal to the original purchase price paid by Buyer for the Physical Product, which credit Buyer may apply to Buyer's next order of the applicable Physical Product. The foregoing constitutes Buyer's sole and exclusive remedy for any breach of the Physical Product Warranty. Ingenico shall not be obligated to pay for any labor or other costs associated with the removal of defective Physical Products, the shipping of defective Physical Products from Buyer to Ingenico or the reinstallation of Physical Products, unless otherwise agreed by Ingenico in writing. No warranty coverage will be provided for Physical Products that: (i) have been altered, misused, modified, repaired or serviced in any respect except by Ingenico or its authorized agent, used for a purpose other than as set forth in the Physical Product documentation or installed contrary to the specific installation instructions; (ii) to the extent the claimed defect is not otherwise reproducible or was caused by environmental factors; (iii) damages resulting from insufficient packaging and/or improper packaging of the Products returned to Ingenico; (iv) problems following the use of products or accessories that are not supplied by Ingenico; and (v) the non-functioning of Physical Product resulting from the SIM operator's key.

9.2 Limited Warranty for Ingenico Software. Ingenico warrants to Buyer that for a period of sixty (60) days from the date of delivery ("Software Warranty Period"), all software components of Products shall substantially conform to the published functional specifications designated by Ingenico for use with such Product. During the Software Warranty Period, Ingenico shall, at its expense correct any non-conforming software components. Buyer's sole and exclusive remedy under this warranty will be limited to correction of the nonconformance, and Ingenico shall not be obligated to refund the license price nor pay for any labor or other costs associated with the removal of defective software components or the reinstallation of software components. No warranty coverage will be provided for software components of Products if (i) Buyer fails to notify Ingenico of the nonconformance within seven (7) days after such nonconformance has become apparent or (ii) the software components have been modified by any person not authorized by Ingenico, damaged or misused by Buyer or were improperly installed by Buyer or its designees. Buyer agrees to cooperate fully with Ingenico in carrying out such diagnostic and test routines as Ingenico requires.

9.3 Limited Warranty for Service and Installation. For repair and other services provided by Ingenico to Buyer, Ingenico warrants to Buyer, for a period of ninety (90) days from the date of Ingenico's provision of such services (the "Service Warranty Period"), that all repair and other services shall have been performed in a workerlike manner. Buyer's sole and exclusive remedy under this warranty will be limited to repair, replacement or Ingenico's reperformance of applicable services, at Ingenico's option.

9.4 Limitations. The warranties provided by Ingenico in Sections 9.1, 9.2 and 9.3 are the only warranties provided by Ingenico with respect to the Products, and may be modified only by a written instrument signed by Ingenico and accepted by Buyer. The express warranties of Ingenico stated in Sections 9.1, 9.2 and 9.3 above apply only to Products used in the United States; use outside the United States voids all warranties. Such warranties do not apply to Products not manufactured by Ingenico, software components not developed by Ingenico, consumable items (e.g. batteries and other non-serialized items), spare parts or services not provided by Ingenico. In addition, such warranties do not apply to any software component of a Product which is sold or licensed subject to a separate license agreement relating to such software component (including without limitation a "shrink wrap" license agreement); the warranties applicable to any such software component shall be solely as stated in such other license agreement. Ingenico makes no warranties that the use of the software components of any Product will be uninterrupted or error-free or that such software will operate in conjunction with any other software or with any Products other than the Products.

10. LIFECYCLE. Ingenico reserves the right to discontinue the sale of Products at any time. Buyer acknowledges and agrees that for the exclusive purpose of security in the context of a public key infrastructure, each Physical Product is configured during its manufacture with keys and certificates essential to its operation, which must be renewed every ten (10) years. This renewal can be carried out during a return of the Physical Products to a repair center for maintenance, or by remote updating when this service is available and specifically paid for by Buyer under the terms of a separate order. Buyer shall be required to issue a separate order and

to pay the then quoted rate for such configuration renewal fees. The attention of Buyer is drawn to the fact that in the absence of renewal of the key and the certificates according to these methods, the Physical Products will no longer be fully functional and will require a maintenance operation for this renewal subject to a separate order and Buyer's payment of the applicable fees.

11. TERMINATION OF THE AGREEMENT. Ingenico may terminate this Agreement fifteen (15) days after written notice is given in the event of a breach by Buyer of any of its obligations thereunder, without owing any compensation to Buyer, in particular, if it fails to make payment of the price by the agreed due date. Any right to terminate this Agreement shall be without prejudice to any other right or remedy of Ingenico in respect of the breach concerned, if any, or any other breach.

12. INTELLECTUAL PROPERTY.

12.1 Ownership. Certain Products contain proprietary electronics, software and technical information of Ingenico or its licensor and that ownership of all patents, copyrights, mask work rights, trademarks, trade names and other intellectual property rights relating to or residing in the Products (collectively, the "Intellectual Property Rights") shall remain with Ingenico or its licensors.

12.2 Limited License. Without limiting the generality of Section 12.1 above, with regard to any Intellectual Property Rights provided by Ingenico at any time (whether contained in a Physical Product or other media, downloaded remotely or otherwise transferred), the terms "purchase" and "sale" and similar terms used in this Agreement shall mean the grant to Buyer of a non-exclusive, non-transferrable limited license (i) to use such Intellectual Property Rights together with the Products in the United States for the sole purpose of using the Products, subject to the provisions in any separate license agreement or other document supplied by Ingenico to Buyer, and (ii) in connection with any resale of Products, to grant to the first purchaser thereof a sublicense to use such Intellectual Property Rights solely as provided for in this Section 12.2; provided however, Ingenico only grants Buyer the right to access and use the software programs embedded in the Physical Products or otherwise provided by Ingenico, and to use them for its own needs. This license is granted on a non-exclusive basis, for a period of time equal to the duration of the use of the corresponding Physical Products. The usage right includes the right to store, load, execute and display the software programs, as necessary to use them according to the documentation. Buyer may make a single copy of said software programs on any suitable medium exclusively for backup purposes.

12.3 Restricted Use. Buyer shall not copy, disassemble, disassemble, adapt, modify or alter, reverse engineer, decompile, disassemble all or part of said Products, in whole or in part, or otherwise obtain the source code for any software provided by Ingenico by any means, without Ingenico's prior written consent. Buyer may not remove from the Products (or their packaging or documentation), or alter any of Ingenico's trademarks, service marks, trade names, logos, patent or copyright notices or other markings, or add any other notices or markings without Ingenico's prior written consent. Buyer shall not register in its name or cause to be registered the "Ingenico" trademark or any other trademark or distinctive sign belonging to Ingenico and/or its affiliates or that could potentially be confused with those of Ingenico, as trademark, company name or trade name.

13. DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH HEREIN, INGENICO MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO ANY OF THE PRODUCTS. INGENICO DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OF THIRD PARTY RIGHTS.

14. LIMITATION OF LIABILITY. IN NO EVENT WILL INGENICO BE LIABLE FOR ANY LOST PROFITS OR FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL PUNITIVE OR OTHER SPECIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF DATA, LOSS OF EARNINGS, AS WELL AS ANY COMMERCIAL OR FINANCIAL LOSS) ARISING OUT OF OR RELATING TO ITS PRODUCTS REGARDLESS OF WHETHER SUCH DAMAGES ARE SOUGHT BASED ON THE CAUSE OR THE FORM OF ACTION, WHETHER BASED IN TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR BREACH OF WARRANTY, OR RESULT FROM USE OR MALFUNCTION OF THE PRODUCTS, LOSS OF PROFITS OR REVENUES OR COSTS OF REPLACEMENT GOODS, EVEN IF INGENICO IS INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, INGENICO'S TOTAL AND ACCUMULATED LIABILITY TO BUYER UNDER THE AGREEMENT, REGARDLESS OF THE CAUSE AND THE NUMBER OF CLAIMS, SHALL BE LIMITED TO THE PURCHASE PRICE, LICENSE FEE OR SERVICE FEE OF THE PRODUCT PURCHASED, LICENSED OR PROVIDED WHICH GAVE RISE TO THE LIABILITY.

15. FORCE MAJEURE. In case of the occurrence of natural disaster (such as floods, earthquakes or other acts of God), act of government, strike, riot, war, terrorism, import or export prohibition, flood, fire, component market shortage), pandemic, epidemic, or other cause beyond Ingenico's control ("Force Majeure Event"), Ingenico's obligations shall be suspended for the duration of the force majeure event, without compensation for Buyer. If the Force Majeure Event continues for more than three (3) months, this Agreement may be terminated by Ingenico; provided that Buyer acknowledges and agrees that delays in or failures of performance on the part of Ingenico resulting directly or indirectly from the COVID-19 pandemic, epidemic or sickness, including, without limitation, delays or failures due to foreign, federal, state or local governmental action (including directives, orders or travel restrictions), unavailability of products or unavailability of employees or independent contractors shall not constitute Force Majeure Events, shall not constitute breaches by Ingenico of any of its obligations hereunder and shall not entitle Buyer to any remedy, damages or credits hereunder or at law or equity.

16. ANTI-BRIBERY.

(Updated: 2/17/2021)

16.1 Compliance. Neither Party shall take any action under this Agreement that may violate any applicable anti-bribery or anti-corruption laws or regulations, including but not limited to the United States Foreign Corrupt Practices Act. Neither Party shall, directly or through any of its subsidiaries, affiliates, directors, officers, employees, agents or any person acting on its behalf, directly or indirectly (i) promise, give, offer to give, or authorize the giving of, or solicit, accept or agree to accept from any person anything of value, to or from any person, in order to improperly influence actions or decisions of any person, including for the purpose of obtaining any illegal or improper advantage or to achieve any other unlawful purpose in connection with this Agreement, (ii) impair or harm, or threaten to impair or harm, directly or indirectly, any person or the property of a person to influence improperly the actions of any person including any government official, (iii) launder the proceeds obtained from any of the practices mentioned in (i) and (ii) above or otherwise conceal the fraudulent source of such proceeds, (iv) finance, fund, sponsor or in any way subsidize the practice of illegal acts provided for in applicable anti-bribery or anticorruption laws and regulations, (v) defraud any public bidding or the contract resulting from it, and/or (vi) hinder or disturb investigations or inspection activities by public officers, bodies, entities or agents. If a Party becomes aware of any breach or violation of the provisions set forth in Section 16.1 above, it will immediately notify the other Party. In the event of a breach this Section 16.1, the breaching Party shall indemnify, and hold harmless, the other Party.

16.2 Indemnification for Violation of Anti-Corruption Laws. In the event of a breach of Section 16.1 by a Party, the other Party shall have the right to immediately terminate this Agreement at no cost and with no further liability or obligation to the breaching Party and without prejudice to any other right or remedy the non-breaching Party may have at law or equity or under this Agreement.

17. GOVERNING LAW; WAIVER OF JURY TRIAL. This Agreement is made under and shall be governed by and construed under the laws of the United States and the State of Georgia without regard to its conflicts of laws provisions and without regard to its principles of conflict of laws or the United Nations Convention on Contracts for the International Sale of Goods (1980). Any action, suit, or other proceeding shall be brought by either Party against the other Party in a State or Superior court of competent jurisdiction in the metropolitan area of Atlanta, Georgia or the United States District Court for the Northern District of Georgia. Both Parties hereby submit to the exclusive jurisdiction of such courts and waive any objection to jurisdiction or venue in any such proceeding. All actions, regardless of form, arising out of or related to this Agreement or the Products sold hereunder must be brought against Ingenico within the applicable statutory period, but in no event more than one (1) year after the date of delivery. To the extent permissible under applicable law, Buyer hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement or the transactions contemplated hereby.

18. ASSIGNMENT; SUBCONTRACTING. Buyer may not assign, delegate or otherwise transfer any right or obligation under this Agreement, whether by agreement, operation of law or otherwise, without Ingenico's prior written consent, which consent Ingenico may withhold in its sole discretion. Any attempt to assign, delegate or otherwise transfer any of Buyer's rights or obligations hereunder, without such written consent, shall be void. Subject to the preceding sentence, this Agreement shall bind Buyer's permitted successors and assigns. Notwithstanding anything to the contrary herein, Ingenico may engage subcontractors to perform any of its obligations under this Agreement.

19. WAIVER; INTERPRETATION; AMENDMENTS. Ingenico's failure to insist upon the strict performance of any term or condition herein shall not be deemed a waiver of any of Ingenico's rights or remedies hereunder, nor of its right to insist upon the strict performance of any term or condition in the future. Should a court of competent jurisdiction hold that any provision of this Agreement, or portion thereof, is void, voidable, invalid, or unenforceable for any reason, that court shall replace that provision with an enforceable one most closely resembling the court's interpretation of the Parties' original intent. Should the court be unable or unwilling to do so, that provision shall be struck from this Agreement and all remaining provisions shall continue in force. This Agreement may be amended only by a written document signed by duly authorized representatives of the Parties.