

## PAYCONIQ MERCHANT TERMS AND CONDITIONS

These terms and conditions apply to the professional use of Payconiq by merchants and are valid from 23 January 2019. The information in these Terms and Conditions is subject to change.

### 1. GENERAL

#### 1.1. Definitions and applicability

- 1.1.1. Payconiq International S.A. ("we", "us" or "our") provides payment services under the brand name Payconiq. For offering (part of) our services to you we may make use of local payment service agents. By using our services, you can accept payments made by consumers using Payconiq ("App User(s)") via our own application or applications offered by Partners in which Payconiq is available (any of these applications: the "App").
- 1.1.2. These terms and conditions (the "Terms and Conditions") apply to your use of our services. By signing the contract to acquire our services (together with the application form, if applicable, referred to as the "Contract"), you confirm that you have read and accept these Terms and Conditions and our Privacy and Cookie Statement, which can be found e.g. on our website and on the local websites. You also confirm that we, or our Partner(s) if applicable, can provide you with these documents (including any changes thereto), and any other information regarding our services (collectively also referred to as the "Materials"), in electronic form only.
- 1.1.3. For the purposes of these Terms and Conditions the terms below are defined as follows:
- Affiliated Bank: A bank that we have entered into an agreement with for the execution of Payment Orders, initiated via Payconiq, for customers of that bank. A list of Affiliated Banks can be found on [www.payconiq.com/affiliated\\_banks](http://www.payconiq.com/affiliated_banks).
  - API: The set of functions, routines, protocols and procedures by which you are integrated with Payconiq.
  - API Key(s): The access codes and tokens made available to you, to enable the use of and access to the APIs.
  - Bank Account: The bank account(s) corresponding to the IBAN(s) you provided in the Contract as the account(s) you wish to receive Payment Transactions on.
  - Development Portal: The online environment made available to you for the purpose of supporting the implementation and integration of Payconiq, which includes our guidelines of integrating with Payconiq.
  - Merchant: A natural person or legal entity that has entered or will enter into an agreement with us, operating in a professional capacity, intending to receive payments through Payconiq in exchange for providing goods or services to the App User.
  - Merchant Portal: The online environment in which you can interact with us and retrieve and monitor your transactional and business (real time and historical) data.
  - Partner: An entity that, with our approval, enables the use of Payconiq through the integration of Payconiq and possible Value-added services ("VAS"), with the Partner's own services or products; and/or our payment service agents.
  - Payment Order: An instruction, given to us by an App User via the App to initiate a Payment Transaction on his behalf and for his account.
  - Payconiq: The services provided by us hereunder and our mobile payment solution, which e.g. provides you the possibility of receiving payments made by App Users.
  - Payconiq Property: The Development Portal and the Merchant Portal, [www.payconiq.com](http://www.payconiq.com) and the local websites, Payconiq related materials from our licensors used by us or Materials used by our licensees, as well as any other materials provided by us or our Partners for the use of our services such as API Keys and the APIs.
  - Payment Transaction: A payment for goods or services, instructed and authorized by an App User via the App, to be credited to you or for your account.
  - SEPA Direct Debit Mandate: The authorization given by you allowing us to send instructions to your bank to debit the specified bank account in favour of us on the basis of the Contract.
  - Working Day: A day determined by the European Central Bank as one on which banks are open for the performance of payment services, with the exception of Saturdays, Sundays and other non-working days: 1<sup>st</sup> of January, Good Friday, Easter Monday, 1<sup>st</sup> of May, and 25<sup>th</sup> and 26<sup>th</sup> December.
  - VAS: Value-added services which are (premium) features or add-ons to Payconiq, intended to add functionality for the benefit of App Users and/or Merchants and Partners.
- 1.1.4. The most recent versions of these Terms and Conditions and other Materials are available on [www.payconiq.com](http://www.payconiq.com) and/or on our local websites which you can access by selecting the country site of your preference.
- 1.1.5. If the Contract and these Terms and Conditions have been provided to you by one of our Partners (and the contact details of that Partner are provided in the Contract), you can comply with your information or notification obligations under clauses 1.2.1 VI and VIII, 1.2.2, 4.1.3, 4.1.4, 6.1.2, 8.1.2 and 12.1.1 by notifying or informing this Partner instead of us.

#### 1.2. Requirements and information

- 1.2.1. We are a regulated payment institution and, as such, are subject to various legal requirements, including but not limited to requirements on the combating of anti-money laundering, terrorism financing and/or financial fraud and "know-your-client" requirements. In turn, to be able to use our services, we require, amongst others, that you:
- I. have a registered address in the European Union and provide us with a European Union bank account;
  - II. declare to act for your own account and acknowledge that you are prohibited to accept payments on behalf of third parties;
  - III. sign the SEPA Direct Debit mandate, if agreed in the Contract, authorising us to send instructions to your bank to debit the bank account specified in this mandate to collect amounts owed by you on the basis of the Contract, e.g. for fees, costs and refunds;
  - IV. will not use Payconiq for activities or purposes which are in violation of applicable laws or regulations, or could have a harmful effect on us, our Partners' and/or Payconiq's reputation;
  - V. explicitly confirm that your ultimate beneficial owner(s) or legal representative(s) are not (i) identified on sanction lists or (ii) residents/citizens of countries considered of high risk for the purposes of anti-money laundering and counter terrorist financing;
  - VI. provide us, or our Partner(s) if applicable, with all the information requested in the Contract, such as your full legal name and trade name, type of business, statutory address, contact details, and details of your authorised representative(s) and ultimate beneficial owner(s);
  - VII. comply with any request for further or additional information that we may request throughout (i) the client-acceptance process or (ii) the term of this Contract;
  - VIII. explicitly confirm that we may trust that any information you have or will provide to us or our Partners if

applicable is correct, accurate and complete, until you notify us of the contrary.

- 1.2.2. You must notify us, or our Partner(s) if applicable, immediately about any material change in your business activities and, without undue delay, within 30 days, of any change/update to the information provided under Clause 1.2.1 above, as well as to any other information you have provided to us. Our contact details are contained in the Contract and can be found on [www.payconiq.com](http://www.payconiq.com) or on our local websites.
- 1.2.3. We have the right, without being obligated to pay you any form of compensation, to (i) refuse offering you our services; and/or immediately (ii) apply any of the measures as set out under Clause 6, if we have reasons to assume or believe you may offer products or services which could, among others, relate to:
  - I. pornography or adult content (unless it, represents only a non-substantial part of your activities) bestiality, perversity, prostitution and/or child pornography;
  - II. gambling and/or games of chance activities, unless you have the required licences from the relevant supervisory bodies and/or authorities;
  - III. money remittance or anonymous, untraceable or difficult-to-trace financial products, such as phone credit, crypto-currencies or prepaid cards with credit; or
  - IV. weapons/military, and any activities that are illegal according to your local legislation.
- 1.2.4. In the event that information and materials necessary for conclusion and/or the execution of the Contract are not (timely) at our disposal, or otherwise not in accordance with the provisions of the Materials, we shall, without prejudice to our other rights and remedies, be entitled to (i) deny the conclusion of a contract, (ii) suspend the execution of the Contract, or (iii) to wholly or partially terminate the Contract.
- 1.2.5. You are solely responsible for checking if the Bank Account is your bank account. If the Bank Account is not your bank account, we will not be liable to you for any amounts of Payment Orders transferred to the Bank Account.

## 2. PAYMENTS

### 2.1. Data for Payment Orders

- 2.1.1. In order for App Users to give Payment Orders, you will provide them with a Payconiq supported QR code (Quick Response code), a payment link navigating App Users to the App or another payment identifier, as applicable.
- 2.1.2. You are not allowed to copy the Payconiq supported QR codes, distribute them or use them in any other way than to provide App Users with the possibility of making payments for your products and/or services via Payconiq.
- 2.1.3. We may give you further binding instructions and stipulate requirements and restrictions for the use of Payconiq.

### 2.2. Initiating and paying out Payment Orders

- 2.2.1. Payment Orders given by App Users who have bank accounts with an Affiliated Bank, will be sent by us to the App Users' banks, in order for the bank to credit the amounts directly to the Bank Account.
- 2.2.2. In case of Payment Orders given by App Users who do not have a bank account with an Affiliated Bank, we, or the customer account foundation we may use, will initiate a payment to you, from our bank account or another bank account of our choosing, on behalf of and for account of the App Users. The respective App User's account will be debited for the corresponding amount.
- 2.2.3. We will notify you of the (status of) Payment Orders and Payment Transactions. This will be displayed to you through the API and/or Merchant Portal.
- 2.2.4. We, or the customer account foundation we may use, are responsible for:
  - I. correctly sending the Payment Order to the App User's bank and providing you with the status of the Payment Order, if an App User has a bank account with an Affiliated Bank; or
  - II. instructing our bank to transfer the respective amount to the Bank Account, if an App User does not have a bank account with an Affiliated Bank.

If we provide you the status Succeeded via the Merchant Portal or API, the amount of the Payment Order will be transferred to the Bank Account, unless your bank or the payer's bank cannot process and/or execute the Payment Order for reasons related to you or the payer or for regulatory reasons. We, or the customer account foundation we may use, do not have any further obligations and/or responsibilities for the execution of an App User's Payment Order.

- 2.2.5. Notwithstanding the above, if you have entered into an agreement with a Partner (such as a payment service provider ("PSP") or a bank) to collect funds on your behalf, all transfers in respect of Payment Orders will be made to the account of the Partner. All references to the Bank Account in this Clause 2.2 shall thus be considered as references to the account of the Partner. For more information, please refer to the terms and conditions of the relevant Partner.

## 3. ANCILLARY SERVICES

### 3.1. Bulking of Payment Transactions

- 3.1.1. If you choose to have Payment Transactions bulked via us, we will collect the funds on your behalf. All references to the Bank Account made in Clause 2.2 shall thus be considered as references to our bank account, or a bank account of our choosing. We will instruct our bank, or the customer account foundation we may use, to transfer the total amount of all (i) Payment Orders successfully collected pursuant to Clause 2.2.1 and (ii) amounts due to us pursuant to Clause 2.2.2 to you during a calendar day (00:00:00 to 23:59:59) to the Bank Account, or to a Partner bank account if you have entered into an agreement as described in Clause 2.2.5, the following Working Day.
- 3.1.2. By choosing to have Payment Transactions bulked via us, you also consent to us, or the customer account foundation we may use, instructing the App Users' bank to credit the amount of each Payment Order, given by the App Users referred to in Clause 2.2.1, i.e. App Users whose payments are processed directly from their bank account, to our bank account or a bank account of our choosing. Said bank account will be used for the provision of bulking of payment transactions for merchants. The funds received will be separate from our own funds.

- 3.1.3. For the avoidance of doubt, Payment Orders referred to in this Clause 3.1 only include Payment Orders that have been successfully initiated.
- 3.1.4. We will provide you with a reconciliation report, containing an overview of the individual Payment Transactions initiated via Payconiq during a given period of time.
- 3.1.5. With prior notice, we can change the schedule or frequency of pay-outs referred to in Clause 3.1.1 and of the reconciliation report referred to in Clause 3.1.4.
- 3.1.6. Notwithstanding our rights under Clause 12.4, we have the right to set-off any amount you owe us, or our Partner(s), related to your use of Payconiq, against our payment obligations pursuant to this Clause 3.1.

### 3.2. Refunds initiated by Merchants

- 3.2.1. Merchants may refund Payment Transactions when an App User chooses to return a product or cancel a service. We shall provide the App User's IBAN via an API for you to make payment to the App User for the amount of the Payment Transaction. We may block your access to this API in case of fraudulent, suspicious or excessive use thereof.
- 3.2.2. You must refund the Payment Transaction to the App User immediately after the goods in question have been returned to you or the relevant service has been canceled. If you have provided us with a SEPA Direct Debit Mandate, we, or the customer account foundation we may use, are authorized to debit the amount of the relevant Payment Transaction from the bank account specified in this mandate.

### 3.3. Refunds initiated by others

- 3.3.1. For App Users who do not have bank accounts with an Affiliated Bank and have chosen to reverse a Payment Transaction, you will inform us, at our request, whether the goods or services relating to the Payment Transaction have been returned or cancelled by the App User. You will process the data you receive from us for this purpose exclusively for the refund and in accordance with applicable legislation and regulations.
- 3.3.2. If the goods have been returned by the App User, you must immediately repay us the amount of the Payment Transaction. We, or the customer account foundation we may use, are authorised to debit that amount from the bank account specified by you in the SEPA Direct Debit Mandate.
- 3.3.3. If the Bank Account has wrongly and/or unduly been credited, e.g. as a result of a technical or administrative error, you must immediately repay us the respective amount. We, or the customer account foundation we may use, are authorised to debit the bank account specified by you in the SEPA Direct Debit Mandate referred to in Clause 1.1.3. to retrieve the amount. This clause does not apply if you have entered into an agreement as described in Clause 2.2.5.
- 3.3.4. You will keep updated and meticulous records of the goods returned which were paid for using Payconiq, as well as evidence of the date the goods were received and the Payconiq transaction ID. We have the right to inspect your records at any time. You will retain these records for at least 13 months after termination of the Contract.

### 3.4. Billing

- 3.4.1. The fees due by you to us or our Partner(s) for our services are described in the Contract or elsewhere in the Materials. We or our payment service agents can make changes to the fees. You will be notified of this no later than one month before the date on which the changes come into force. You have the right to terminate the Contract until the changes come into effect, which termination shall be effective the date the changes come into force.
- 3.4.2. If so agreed in the Contract, and in accordance with the terms of the Contract insofar applicable, we, or the customer account foundation we may use, are authorised to debit the fees and all other amounts owed to us in connection with Payconiq using the SEPA Direct Debit Mandate from the bank account specified in the mandate. If this bank account is denominated in a currency other than EURO, the exchange rate and the costs of exchange shall be determined by your bank. If you revoke this mandate, or it is no longer in force for any reason, we will not be obliged to provide you with any services under the Contract. You must maintain a balance on the account specified in the mandate that is sufficient to satisfy your financial obligations to us at the moment these obligations are exigible.
- 3.4.3. You are required to pay any invoiced amount within 30 days. If an invoice is not paid after 30 days, we are authorized to suspend our provision of Payconiq to you without further notification. Any disputes regarding the invoice or the invoiced amount shall not affect our rights under this Clause 3.4.3.
- 3.4.4. We, or our Partner(s) if applicable, will send you invoices for the amounts you owe us. These invoices constitute the advance notice that we must send as a beneficiary in connection with the authority of us, or the customer account foundation we may use, to debit amounts owed from the account specified in the SEPA Direct Debit Mandate. This account will be debited the minimum number of days after the invoice was sent, as determined by local law.
- 3.4.5. All amounts owed to us or our Partner(s) for your use of our services on the basis of the Materials will be charged to you, without you having the right to deduction, set-off or counterclaim regarding the claim we have on you.
- 3.4.6. Unless explicitly stated otherwise, all amounts owed to us or to our Partner(s) for your use of our services are cited in the Materials excluding VAT. If VAT must be charged, you will pay us or our Partner(s) (in addition to and at the same time as the original amount and to the same recipient of the original amount) an amount equal to the amount of the VAT.

## 4. PAYCONIQ PROPERTY

### 4.1. Use of Payconiq Property

- 4.1.1. You will use Payconiq Property in accordance with the Materials or any instructions provided to you. Payconiq Property is strictly personal and non-transferable and you may not alter, copy or reproduce it. We, or our payment service agents acting with our permission, can make changes to Payconiq Property at any time to improve the functioning of Payconiq or for any other reason.
- 4.1.2. Upon receiving Payconiq Property, you will take all measures required by us for keeping the Payconiq Property and its

personalised security features secure.

- 4.1.3. You must notify us, or our Partner(s) if applicable, immediately—by either contacting us by phone, or, if you are unable to do so, emailing us, the contact details for which can be found in the Contract or on our local websites—if you have knowledge of:
- i) the loss, theft, unlawful or unauthorised use of Payconiq Property, means of access to Payconiq Property or one of the other personalised security features; or
  - ii) a virus, spyware, unauthorised access to Payconiq Property, a technical incident or any error that could jeopardise the security of Payconiq, Payconiq Property, means of access to Payconiq Property or one of the other personalised security features.
- 4.1.4. If you do not notify us, or our Partner(s) if applicable, immediately in accordance with Clause 4.1.3, it will constitute gross negligence. Immediately after this notification, you must send us an email confirmation thereof referencing the date, time and all other relevant information, if you have not yet done so.
- 4.1.5. Upon receiving notification under Clause 4.1.4, we can take appropriate measures to prevent (further) abuse of the Payconiq Property by, inter alia, blocking access to [www.payconiq.com](http://www.payconiq.com), the Development Portal, the Merchant Portal and/or the API's. At your request, we will, for 18 months following your notification, provide you with the means of proving that you made such notification.
- 4.1.6. You guarantee, and are responsible for ensuring, that any person who has access on your behalf to Payconiq Property observes and complies with this Clause 4.1 and all other obligations laid down in the Materials.
- 4.1.7. If requested to do so, you will immediately destroy or return to us the Payconiq Property, the personalised security features, and the instruments for using or gaining access to Payconiq (to the extent these can be returned).

## 5. SYSTEM REQUIREMENTS AND SECURITY

### 5.1. System requirements and security

- 5.1.1. You will comply with and follow instructions and requirements for the implementation, access and use of Payconiq Property as determined by us. Additionally, you will maintain relevant and sufficient safeguards to protect the security and stability of the connection with Payconiq Property and our infrastructure.
- 5.1.2. We, and/or our local payment service agents, are not liable for any loss and/or damage to you as the result of i) changes in the APIs, software or equipment provided by us, ii) incorrect functioning of your equipment or software, iii) failure to follow our instructions, iv) failure to satisfy the conditions for the implementation of, access to and use of Payconiq Property or v) any other failure whatsoever of Payconiq, the Payconiq Property, the App or our services. If you engage a third party for implementing the Payconiq Property, you remain fully liable and responsible to us for any actions of such third party.
- 5.1.3. We, or a third party designated by us, are authorised to inspect your equipment, hardware and software as well as your compliance with the security requirements.

## 6. INTERRUPTIONS OF SERVICE

### 6.1. Changes to the availability of Payconiq

- 6.1.1. We have the right to unilaterally change, revise, expand, terminate, suspend or interrupt Payconiq with immediate effect, if we cannot reasonably be expected to continue providing the services in the same manner. In such case we shall notify you as soon as can reasonably be expected of us.
- 6.1.2. You will promptly notify us, or our Partner(s) if applicable, if you determine that Payconiq is partially or entirely unavailable and/or is not working properly.

### 6.2. Refusal and suspension of Payment Orders

- 6.2.1. We can i) refuse to initiate a Payment Order entirely or in part, ii) suspend initiation of a Payment Order entirely or in part or iii) suspend payment pursuant to Clause 3.1 (Bulk Payments), if:
- there are doubts about the validity of the Payment Order or the identity or authority of the person giving the Payment Order;
  - we consider the Payment Order may reasonably be in breach of applicable legislation, regulations or our internal policy;
  - the Payment Order exceeds a monetary limit applicable to the App User, and/or is in breach of Clause 1.2.3;
  - there is a suspicion of unlawful or fraudulent use of Payconiq – by you or your customers – or of irregularities in relation to the security thereof;
  - we believe the interests of an App User, the Merchant, a bank, our own interests, laws and regulations and/or a competent authority require us to do so.
- 6.2.2. Unless prohibited by laws or regulations, we will notify you of our refusal to perform a Payment Order and, if reasonable, of the reasons for the refusal and the procedure for correcting any factual errors which resulted in the refusal.

### 6.3. Blocking

- 6.3.1. We are authorised to block the Development Portal and Merchant Portal, the API Keys, [www.payconiq.com](http://www.payconiq.com), the payment function integrated in your shop and/or Payconiq for reasons connected with i) the security thereof or ii) suspicion of incorrect, unauthorised or fraudulent access thereto or use thereof.
- 6.3.2. In the event of blocking, we will notify you, if possible in advance, of the blocking and the reasons for it, unless such notification would conflict with objectively justified security considerations or is restricted or prohibited by applicable laws or regulations. We will lift the block as soon as there is no longer any reason for it.

## 7. LIABILITY and INDEMNIFICATION

### 7.1. Limitation of liability

- 7.1.1. We are only liable to you for direct loss or damages, directly attributable to us, regardless of the basis for this liability. Such liability is limited to the amount of the respective Payment Order and at all times no higher than the total amount of fees paid by you to us, or paid to our Partner(s) in relation to your use of Payconiq, in the year preceding the (first) event that lead to this liability.
- 7.1.2. We are not liable for any indirect or consequential damage or loss, regardless of the basis of the liability. Indirect and consequential damages or loss consists of, but is not limited to, lost profit; reputational damage; the costs of purchasing an equivalent services or product; and loss of business activities, commercial opportunities, goodwill, data, expected savings, customers and contracts, regardless of whether the loss or damage was foreseeable.
- 7.1.3. Notwithstanding Clause 7.1.1, we are not liable if any loss or damages, incurred by you or a third party, as the result of your failure to comply with the Materials, including but not limited to these Terms and Conditions, or the result of the interruptions to our services detailed under Clause 6.
- 7.1.4. However, clause 7.1.1 and 7.1.2 shall not restrict our liability for damages or loss caused by our wilful misconduct or gross negligence.

### 7.2. Warranties

- 7.2.1. We only warrant that at the time the Contract is concluded, Payconiq is free from any virus, time bomb, Trojan horse, worm, drop dead device, or other software code or routine designed to damage the software, provided that the foregoing shall not apply if the same could not have been detected by us using commercially reasonable virus detection or other scanning practices. We do not guarantee that Payconiq, the App or the Payconiq Property will be available at all times, free of interruption or complete, nor that it will be free of errors or faults. We are not liable for any loss or damage as the result of the use of (or inability to use) Payconiq, our websites, the Development Portal and/or the Merchant Portal, or incorrect and/or incomplete information.
- 7.2.2. The Merchant Portal or [our websites](#) may contain links to websites operated by third parties, or these websites may contain links to the Merchant Portal or [www.payconiq.com](#). We are not liable for the operation, use or content of these third-party websites.

### 7.3. Indemnification

- 7.3.1. You indemnify us, including our payments service agents, for direct, indirect and consequential damage, loss and costs (including legal costs) that are suffered or incurred by us or which arise from or are related to, amongst others:
- Payconiq or its payment service agents becoming involved in a dispute, court case, out-of-court proceedings or out-of-court (recourse) proceedings between you and a third party;
  - the collection of amounts that you owe us, or our Partner(s), related to your use of Payconiq;
  - third-party claims against us or our payment services agents, relating to your use of Payconiq, unless these were caused by our wilful misconduct or deliberate recklessness;
  - a third party engaged and/or contracted by you for implementing the Payconiq Property and/or Payconiq;
  - your failure to comply with the Materials and/or any of our instructions to you; and/or
  - a fraud committed or supported by you.

### 7.4. Force majeure

We and/or our payment service agents, are not liable vis-à-vis you for the failure to comply with any obligation under the Materials if this failure is the result of something that is beyond our control, including but not limited to, natural disasters, war or terrorist acts, industrial disputes, strikes, the dropout or non-functioning of transfer or communication facilities of clearing or settlement organisations, power outages, legislation and regulations from national, foreign and international administrative, civil or judicial authorities. In such cases, we will take the actions and measures that are reasonably necessary to limit the negative consequences to you.

## 8. TERM AND TERMINATION

### 8.1. Term and termination

- 8.1.1. The Contract is concluded for an indefinite period of time.
- 8.1.2. You can terminate the Contract in writing at any time by sending us, or a Partner if applicable, an email from an email address you have communicated to us or by signed letter, observing a one-month notice period. All amounts you owe us under the Materials are immediately exigible in the event of termination.
- 8.1.3. We can terminate the Contract in writing at any time, observing a one-month notice period.
- 8.1.4. Notwithstanding Clause 8.1.3, we are authorised to terminate the Contract with immediate effect, block your access to Payconiq and/or suspend the provision of our services to you, without being obligated to pay you any form of compensation:
- if it is unlawful for us to provide the service to you;
  - if we have determined or reasonably suspect that you are using or have used Payconiq for activities or purposes which i) are in violation of legislation or regulations, ii) could damage our reputation or iii) undermine the integrity of the financial system;
  - if we receive suspension or termination instructions from a Partner, supervisory authority, government agency;
  - if you no longer use Payconiq for the purposes of your profession or business;
  - in the event of (an application for) your bankruptcy, insolvency, a moratorium, suspension of payment, dissolution or liquidation or any other similar procedure;
  - if you use an API for anything other than its intended use under the Materials;
  - if the number of Payment Transaction reversals and/or refunds varies abnormally from the average (having regard to

- your respective business sector);
- if we receive an unusual amount of complaints from App Users about you;
- if you fail to comply with your material obligations under these Terms and Conditions, and in any case, if you breach your obligations under the following Clauses 1.2.1, 1.2.2, 1.2.3, 2.1.2, 3.2.2, 3.3.2, 3.3.4, 3.4.2, 3.4.3, 4.1.1, 4.1.2, 4.1.3, 4.1.7, 5.1.1, and/or 12.5 or commit fraud (or when this alleged by a government body);
- if a (prejudgment) attachment is levied, or recourse is sought otherwise on your claims on us;
- if you do not comply with an obligation under the Materials and do not correct this non-compliance within five Working Days after receiving a notification from us; and/or
- if there is another material reason of such nature that we can no longer reasonably be required to continue the Agreement and to take the one-month notice period into account.

8.1.5. Upon termination, the licence granted pursuant to the Contract expires with immediate effect. You must cease all use of the trademark, logo and name of Payconiq and are required to remove Payconiq (including the trademark, logo and name) from your online shop, sales point(s), website or communications within 15 Working Days. If you in any way fail to comply with the obligations set forth in this Clause, you will forfeit an immediately due and payable penalty of 10,000 euro and 1,000 euro for each day the breach continues, without any further act or formality being required. The foregoing shall be without prejudice to all our other rights, including the right to claim performance and/or compensation for the loss or damage caused by such breach, insofar as this exceeds the penalty forfeited.

8.1.6. After termination, all fees for use of Payconiq and all other costs and fees related to Payconiq, regardless of whether these relate to Payment Transactions that have taken place prior to or after the termination, are immediately exigible.

## 9. TRANSFERABILITY

9.1. We may transfer the Contract or (part of) our rights and/or obligations pursuant to the Contract and/or under the Materials to a third party, without any restriction, in connection with a transfer of the undertaking of Payconiq to a third party. By agreeing to these Terms and Conditions, you herewith consent in advance and agree to cooperate where required with respect to such (partial) transfer. In case of such (partial) transfer we shall notify you as soon as can reasonably be expected of us.

9.2. Without our prior written permission, (i) your rights and obligations under the Materials cannot be transferred and (ii) your claims against us, including our payment service agents, cannot be transferred or encumbered with a pledge, privilege or any other security right.

## 10. COMMUNICATION

### 10.1. Contact details and communication

10.1.1. You will provide us with your contact details and notify us no later than five Working Days in advance of any change to these details. If your contact details are not, or no longer, known to us or cannot reasonably be retrieved by us, and you are at fault for this, we can attempt to obtain your contact details without being obligated to do so and at your expense.

10.1.2. When you have contact with us, you may be required to provide identification in accordance with the method or document that we have adopted. We may carry out additional checks. You can be expected to answer questions to confirm your identity.

10.1.3. In connection with your services and to provide you with information, we may contact you by email, telephone or by letter. Communication between you and us will take place in English or, at our discretion, in French or Dutch.

10.1.4. Our contact details, including our phone number, are contained in the Contract and can be found on [www.payconiq.com](http://www.payconiq.com) or on our local websites.

## 11. DATA PROTECTION AND BANKING SECRECY

11.1. For the purposes of providing our services to you, we need to process your data, some of which can be personal data. Please read our Privacy Statement, which can be found on [www.payconiq.com](http://www.payconiq.com) or our local websites, to understand how we obtain, process, share and store your personal data, and for what purposes.

11.2. You explicitly consent to us using the personal data necessary for the purposes of providing you with our payment services.

11.3. In providing our services, we can make use of third parties and affiliates, including but not limited to our Partners, the customer account foundation we may use, and our subsidiary, Payconiq Services B.V. (located in the Netherlands), and outsource certain activities. You explicitly consent to such outsourcing and the required processing and transfer of (client) data, and waive any banking/professional secrecy rights, in order to enable the proposed use of the data.

## 12. VARIOUS PROVISIONS

### 12.1. Status of these Terms and Conditions

12.1.1. We can change these Terms and Conditions and the Contract at any time. We, or our Partners if applicable, will notify you of such changes no later than one month prior to the date on which they enter into force. You will be deemed to have accepted the changes unless you notify us, or our Partner(s) if applicable, before the date of their proposed entry into force that you do not accept them. In such case, the Contract will end on the day the changes enter into force, at which time all claims that we have on you become immediately due and exigible.

12.1.2. In the event of a contradiction between the Contract and these Terms and Conditions, the provisions in the Contract shall prevail.

12.1.3. The Materials are provided in several languages. The English language version will prevail in the event of contradictions.

### 12.2. Third parties

12.2.1. Unless explicitly stated otherwise, the Materials do not establish any rights between us, or our Partners, and third parties.

### 12.3. Evidence

12.3.1. The data from our records serve as conclusive evidence between you and us, notwithstanding evidence to the contrary supplied by you. We are not obligated to keep our records for a longer period than the retention period required by law.

### 12.4. Set-off

12.4.1. We have the right at all times to set off all of our claims against you, regardless of whether these are exigible or conditional, with claims you have on us, regardless of whether these are exigible or not and regardless of the currency in which these claims are denominated.

12.4.2. We may use a customer account foundation to make payments to you, including but not limited to the pay-out of Payment Orders in accordance with Clause 2.2.4. As such, any payments made to you by the customer account foundation will be deducted from any claims you have on us.

### 12.5. Property rights and intellectual property rights

12.5.1. You are granted a strictly personal, non-exclusive and non-transferable licence to install and use the software on your system and to use the Merchant Portal and Payconiq, for the purpose of the provision of Payconiq and in accordance these Terms and Conditions. No intellectual property rights are transferred to you. This licence expires when the Contract ends.

12.5.2. We—and/or the party who has granted us the right of use—retain all rights, including property rights, copyrights and intellectual property rights, to all Payconiq Property, as well as all rights to all information, recommendations and (other) services performed.

12.5.3. The trade names, trademarks and logos of Payconiq are our property or the property of our licensors. You are granted a personal, non-exclusive right to use our name, trademark and logo, and those of our payment service agents which relate to Payconiq, but exclusively for the purpose of providing Payconiq services. This right does not include the right to grant any sub-licence to any other party.

12.5.4. For the duration of the Contract, we and our payment service agents are authorised to use, on a non-exclusive basis, without acquiring any form of ownership, your name, trademark and logo for the purposes of indicating that you are using Payconiq, for directing App Users to your points of sale, for loyalty programs and for our marketing materials, unless agreed otherwise in the Contract.

12.5.5. You are not permitted to alter, copy, sell or grant a licence to (the content of) Payconiq Property, in order to produce derived works therefrom or to use these in order to create any link, hypertext or deep link from or to Payconiq, [www.payconiq.com](http://www.payconiq.com) or our local websites.

### 12.6. Partial invalidity/unenforceability

12.6.1. If at any point any provision of these Terms and Conditions is or becomes illegal, invalid or unenforceable in any respect pursuant to legislation or regulations or in any jurisdiction, this will in no way affect or damage the lawfulness, validity or enforceability of the other provisions. Notwithstanding this, in such event we will adopt one or more new provisions that implement the intention of the original provision(s) as much as possible.

### 12.7. E-signatures

12.7.1. In the event that you electronically sign the Contract within the mobile application of (a) Partner(s) you i) accept the validity of electronically signing the Contract with your personal security details as these are known to this third party, ii) agree that this electronic signature complies with the legislative requirements regarding its attributability and integrity, and iii) agree that an electronic signature, provided in accordance with this Article 12.7.1, has legal effect and constitutes valid and sufficient evidence that you agree to be bound by the Contract and these Terms and Conditions.

12.7.2. We accept that a Contract signed in accordance with Clause 12.7.1 shall constitute a valid and binding agreement between you and us.

## 13. APPLICABLE LAW AND DISPUTES

### 13.1. Applicable law

13.1.1. Your relationship with us in relation to Payconiq, these Terms and Conditions and all other Materials, as well as all other non-contractual obligations that arise therefrom or are connected therewith, are governed by and interpreted according to the laws of Luxembourg, subject to local mandatory rights and obligations.

### 13.2. Disputes

13.2.1. If you have any complaints arising from Payconiq or related to Payconiq, you will first submit these to us by email to the address provided in the Contract.

13.2.2. With the exception of out-of-court complaints or recourse proceedings, the parties to the Contract hereby subject themselves to the non-exclusive jurisdiction of the courts in Luxembourg, subject to local mandatory rights and obligations. However, if you are able to file a claim arising from this Agreement against us in a court of another country where we operate, you may choose to initiate proceedings before a court in such country.

Payconiq International S.A. has its registered office at Payconiq International S.A., 9-11 rue Joseph Junck, L-1839 Luxembourg and is entered in the Luxembourg Trade and Companies Register under no. B169621. Payconiq International S.A. is a payment institution, supervised by the Commission de Surveillance du Secteur Financier ("CSSF"), the supervisory authority for the financial sector of the Grand Duchy of Luxembourg.