



Terms and Conditions Cloud Pens by Prodir

Last updated: 05/05/2021

**PAGANI
PENS**

prodir[®]

PIGRA

Pretec

These Terms (henceforth only "Agreement" or "Terms") apply to the "Cloud Pens" Service (henceforth also only "Service").
For what is not expressly provided for in these Conditions, please refer to the Conditions of Purchase of Products accessible through the following links:

[Benelux](#)
[Canada](#)
[China](#)
[France](#)
[Germany](#)
[Iberia](#)
[Ireland](#)
[Italy](#)
[Russia](#)
[Scandinavia](#)
Switzerland ([DE](#) - [FR](#) - [IT](#))
[Overseas](#)
[USA](#)

Users of the Cloud Pens Service acknowledge and accept these Terms and Conditions together with the Privacy Policy that is an integral part of them.

The person responsible for the Service:

Pagani Pens SA
Via Ponteggia 19 - 6814 Cadempino, Ticino, Switzerland
Chamber of Commerce Canton Ticino
Share capital: 444.000,00 CHF
VAT number: CHE-102.887.450
E-mail address Customer Service: sales@paganipens.com

About the Pens Cloud Service

Through the Cloud Pens service, Pagani Pens SA (through its Prodir brand) offers companies the possibility to extend their communication message from the pen to a digital environment, via an Internet page (Landing page) connected to a QR Code printed on the pen produced by Pagani Pens. The customer company receives access to the Web Application administration of its Page (Admin Dashboard), through which it can update the contents, customize them, monitor the results of the campaign (scans of the QR Code and click on the page), improve its performance and take advantage of the retargeting feature, to reach the target again through digital advertising campaigns on Facebook, Instagram, LinkedIn and Google Display Network.

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Prodir, Pigra and Pretec are brands
of Pagani Pens SA



Introduction

1.1 These Conditions

This document, together with the General Conditions of Purchase and the Conditions for the processing of personal data on behalf of the User (Annex I), constitute a binding legal agreement between you, as Partner Reseller of Pagani Pens SA and/or Final Customer, and the Company Pagani Pens SA which manages the service, and governs the purchase and use of the Service as described in the course of these Conditions.

1.2 Definitions

"Terms and Conditions (or Terms, or Contract or Agreement)": these Terms of Service, which constitute a legally binding agreement between the User and Pagani Pens SA, together with Annex I on the subject of "Protection of Personal Data for End Users";

"General Terms and Conditions of Purchase": the conditions for the purchase of the product "Custom Writing Tools", to which the User can connect the additional service "Cloud Pens";

"User", "you", "your" and similar terms: both singular and plural, refer to you, the User, either as a natural or legal person, acting as a Reseller Partner or as a Final Customer of the service; "Owner", "We", "our" and similar terms refer to the Company that owns and operates the platform, namely Pagani Pens SA, which licenses the use of Cloud Pens through its trademark Prodir;

"Service" means the service offered by Pagani Pens SA as described by these Terms;

"Final Customer": refers to the Customer of the Reseller Partner, who can choose whether to manage the solution independently or rely on the Reseller Partner to manage the service;

"End User": refers to the User, natural or legal person, who accesses the Customer Page created by the Reseller Partner or End Customer through QR Code;

"Customer Page": means the page customized by the User accessible via QR Code located on the pen, from which the End User can access the services chosen by the End Customer.

1.3 Changes to these Terms

Pagani Pens SA reserves the right to make changes to these Terms at any time by giving notice through its email and User contact channels.

For this reason, Users are invited to consult, before making any purchase, the most up-to-date version of the Terms and Conditions.

The applicable Terms and Conditions are those in force on the date of dispatch of the purchase order.

Any User who continues to use Cloud Pens after posting the changes, unreservedly accepts the new Terms.

1.4 Acceptance of the Agreement

In order to access the Service, you must carefully read and accept this Agreement and the Privacy Policy that is an integral part of it. If you do not agree to the Terms, you may not use the Service.

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This Agreement and the Main Agreement for the supply of the product "Personalized Writing Tools" stipulated between the Owner and Reseller Partner or End Customer, will be attached, in accordance with the regulations in force regarding the processing of personal data, specific appointment of "Data Processor" of the Owner of the service, with the indications of the treatment carried out in favor of the User, who assumes the role of "Data Controller".

Cloud Pens Usage License

The characteristics and specifications of the Service are defined in this document and in all its annexes. For anything not expressly provided for in these Terms, please refer to the Terms of Purchase at the following links:

[Benelux](#)
[Canada](#)
[China](#)
[France](#)
[Germany](#)
[Iberia](#)
[Ireland](#)
[Italy](#)
[Russia](#)
[Scandinavia](#)
Switzerland ([DE](#) - [FR](#) - [IT](#))
[Overseas](#)
[USA](#)

Cloud Pens is an additional and connected service to the purchase, by the Reseller Partner or the End Customer, of the main product (c.d. "Custom Writing Tools") as described in the Conditions for the purchase of the same.

You cannot use or purchase the "Cloud Pens" service separately as a stand-alone solution. In particular, the Customer will not be able to apply the QR Code on personalized writing tools different from those made and marketed by Pagani Pens and its Reseller Partners.

The Service is provided, as specified in the following paragraphs, as "software as a service". The User who activates this service will be sent unique access credentials that can be used only by him or by subjects authorized by him. The User always has and is invited to change their login credentials every 3-6 months, respecting the best practices for safeguarding the credentials of access to online services.

If the User should lose access credentials or complain about unauthorized access, the same must promptly notify the Owner.

From now on, the User accepts and acknowledges that the Owner can never be held responsible for losses or abusive access that are the direct consequence of an action by the User, who is solely responsible for maintaining and maintaining the access credentials.

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2.1 Types of Service

Cloud Pens is supplied to Prodir Reseller Partners and their Customers in two different configurations:

"You design your page"

"We design your page"

All information related to the solutions are available to the Reseller Partner and its End Customer within the site.

2.2 Service Costs and Licensing

The costs of Cloud Pens solutions are reported within the purchase path and can be consulted at any time through the website www.prodir.com/cloudpens.

The costs are composed of initial costs and subscription costs, as specified in the points below.

Subscription to the Service and renewal of the Customer Page

The purchase of Cloud Pens includes an initial cost that includes the costs of licensing and maintenance of the Service for the first 6 months, after which, the Customer intends to continue to use the Service, the amounts applied for and accepted at an early stage.

The Final Customer has the possibility to choose 2 (two) payment formulas:

Monthly

Annual

If not renewed, the plans, monthly and annual, will automatically expire at the end of the subscription. The Reseller Partner or the End Customer will be informed, by automatic email sent by the system, of the expiry of their plan, which can be renewed directly in their Reserved Area/ Admin Dashboard.

If the subscription, monthly or annual, is interrupted before its renewal, the same will end on the last day before automatic renewal, leaving the possibility to the Reseller Partner or End Customer to use the service until its natural expiry.

2.3 Service Interruption and Customer Page Closure

The Reseller Partner or the End Customer may stop using the Service at any time through their Reserved Area/Dashboard.

2.4 Accounts and credentials Admin Dashboard Cloud Pens

Cloud Pens offers unique online access to the Customer's Private Area/Dashboard.

The creation of the Account and its access credentials are provided automatically and together with the link to reach the Dashboard, via email sent by the Owner of the Service to the addresses indicated by the User.

The Reseller Partner or the End Customer are invited, after the first access to the Dashboard, to change the credentials provided for the first access.

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No additional Accounts associated with the Reseller Partner or the End Customer will be created.

If the Reseller Partner accepts, or is not directly involved in the development of the Service, the access credentials to the Dashboard will be sent, in the same way, to the End Customer, who will manage his Account independently.

Payment and after-sales arrangements

The Platform uses third-party payment processing tools and in this case does not manage or process in any way the payment data provided by the User, such as credit card data.

Any User payment management costs not accepted by the platform, will be charged to the User.

All prices are in Swiss Francs and Euro.

Payments by bank transfer or direct debit are accepted on the Platform.

The buyer is responsible for all expenses related to money transfers. Payments with major credit cards are accepted.

The platform uses Six Payment Services (Saferpay) as a secure payment gateway, through which you can choose the main payment circuits.

The conditions of use of the Six Payment Services are available at the following [link](#).

Pagani Pens SA reserves the right to charge 2% default interest per month on all past due invoices.

3.1 Customer Support Service

The Customer Service is accessible using the chat available on the website www.cloudpens.site or the email address at the bottom of the page: prodir@cloudpens.site.

The customer service department reserves the right to reply to Users' requests within 2 working days in order to process and manage them correctly.

Requests received during public holidays will be taken over on the next available working day.

Shipments and Deliveries

Shipments and deliveries will be agreed and indicated during the purchase procedure and indicated in the order confirmation emails or in the communications sent directly by the Reseller Partners to the final Customer.



For any special needs of the customer, it is preferable to send, before proceeding with the order, an email to the addresses provided in this document or to contact directly the Reseller Partner.

Rights and content of "Cloud Pens"

The only rights granted to the Owner in relation to the content provided by Users are those necessary for the operation and use of the Platform.

5.1 Unauthorised use

The Service shall be used in accordance with the provisions of these Terms.
Users may not:

- apply the QR Code to other writing tools other than Prodir;
- decode, decompile, disassemble, modify or create derivative works based on the Platform or any part thereof;
- circumvent the computer systems used by the Platform or its licensees to protect content accessible through it;
- copy, archive, alter, change, prepare derivative works or alter in any way any content provided by the Platform;
- use any robot, spider, search service and/or site finder, or any other device, process or automated procedure to access, retrieve or index any part of the Platform or its content;
- defame, offend, harass, adopt threatening behaviour, threaten or otherwise violate the rights of others;
- disseminate or publish illegal, obscene, illicit, defamatory or inappropriate content;
- embezzle an account used by another User;
- misuse the Platform in any other way in violation of the Terms.

Guarantee of the Service

All Services and Products sold on the Platform are covered by the legal guarantee of compliance.

The User who makes a purchase as a Commercial User is entitled to the legal guarantee of conformity of the products and services purchased, for a maximum period of 12 (twelve) months from the purchase.

To exercise the right of warranty, the User must contact Pagani Pens SA using the contact details contained in this document, providing an accurate description of the defect found.

If a non-conformity of the product is established, the User has the right to have the product repaired or replaced.

The User also has the right to request Pagani Pens SA to grant an appropriate price reduction or the termination of the agreement in the following cases:

where repair and replacement prove impossible or excessively burdensome;



if Pagani Pens SA fails to repair or replace the product within a reasonable period of time, not less than 15 (fifteen) days;
if the User has suffered significant inconvenience due to the previous replacement or repair.

The User is however obliged to return the defective products.

Complaints for damaged/missing goods, together with samples or photos showing the problem, must be sent in writing to our Customer Service sales@paganipens.com within 10 days from the date of discovery of the defect. Once received, our quality control department will analyse the complaint and provide timely feedback. In case of actual "non-conformity of the goods", we will collect and replace the goods at no additional cost to the buyer.

6.1 Data Protection Guarantee for Users and End Users

The Cloud Pens Service provides all the security and data processing guarantees required by Swiss and European regulations.

In Annex I, the User will find the assignment to the External Data Processor for the processing of their data and of the data of their End Users.

The Customer acknowledges and accepts that the preparation through its Privacy Policy Dashboard for its Customized Page will always be their obligation or obligation of the Reseller Partner, if the same manages the Customer's page, who must engage with their end users to indicate all the elements required by the legislation on data processing Reg. EU 679/2016 (c.d. "GDPR").

As further specified in Annex I, Pagani Pens operates as a Data Processor on behalf of the Final Customer, carrying out only the treatments necessary for the operation of the Platform, while it will remain the responsibility of the final customer the preparation of documentation to prove the lawfulness of data processing according to the above regulations.

Limitations of liability

7.1 Indemnification

Users undertake to indemnify and hold harmless the Owner and his subjects, affiliates, officials, agents, joint proprietors of the trademark, Reseller Partners and employees from any claim or claim - including, without limitation, legal fees and charges - incurred by third parties as a result of or in connection with negligent conduct such as use or connection to the service, violation of these Terms, violation of third-party rights or laws by the User, its affiliates, officials, Agents, Joint Trademark Owners, Reseller Partners and Employees, as far as applicable.

7.2 Limitation of liability of the Owner

Unless otherwise specified and without prejudice to the applicable legal provisions on product liability, any claim for compensation against the Owner (or any natural or legal person acting on its behalf) is excluded.

Pagani Pens SA cannot in any way be responsible for the incorrect use of the service or for the failure and/or malfunction of the material owned by the customer. Pagani Pens SA does not provide any type of warranty, express or implied, of merchantability, compatibility or fitness for a

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particular purpose of the User or third parties and also does not guarantee that the service corresponds to the requirements and needs of the User.

Unless the damage was caused by intent or gross negligence or affect the life and/or personal, physical or mental integrity, the Data Controller shall be liable only to the extent of the damage typical for the type of contract and foreseeable at the time of conclusion.

In particular, within the limits set out above, the Data Controller assumes no liability with regard to:

any lost gains or other losses, even indirect, that the User may have suffered (such as, but not limited to, commercial losses, loss of revenue, anticipated profits or savings, loss of contractual or commercial relationships, loss of goodwill or damage to reputation, etc.);
damage or loss resulting from interruptions or malfunctions of this Service due to force majeure or unforeseen and unforeseeable events and, in any case, independent of the will and outside the control of the Owner, such as, by way of example, failure or interruption of telephone or power lines, Internet connection and/or other means of transmission, inaccessibility of websites, strikes, natural disasters, computer viruses and attacks, interruptions in the supply of third-party products, services or applications;
any loss that is not a direct consequence of a breach of the Terms by the Owner;
damage, prejudice or loss due to viruses or other malware contained in or connected to files that can be downloaded from the Internet or through this Service. Users are responsible for taking appropriate security measures - such as antivirus - and firewalls to prevent any infections or attacks and to protect backup copies of all data and/or information exchanged/and or uploaded/and on this Service.

In case of liability of the Data Controller, the compensation due may not exceed the total amount of payments that have been, will be or may be contractually due to the Data Controller by the User for a period of 12 months or for the entire duration of the Agreement, if shorter.

8. Common provisions

8.1 Interruption of service

In order to guarantee to Users the use and optimal use of the Service, Pagani Pens reserves the right to suspend the Service for maintenance or updating of the system, informing Users through continuous updates.

8.2 Privacy policy

For information on the use of personal data, Users must refer to the Privacy Policy of the Service.

8.3 Intellectual property rights

All trademarks, whether figurative or word marks, and any other signs, trade names, service marks, trade names, trade names, illustrations, images, logos that appear in connection with the Service are and remain the exclusive property of Pagani Pens SA or its licensors and are protected by applicable trademark laws and associated international treaties.

All trademarks and any other signs, trade names, service marks, trade names, trade names, illustrations, images, logos relating to Third Parties are and remain the exclusive property or

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available to such Third Parties or their Licensees and are protected by applicable trademark laws and international treaties associated with them. The Owner is not the owner of these intellectual property rights and has the right to use them within the limits and in accordance with the contracts concluded with these Third Parties and for the purposes detailed therein.

8.4 Assignment of the commercial relationship

The Data Controller reserves the right to transfer, assign, dispose of by way of novation, or subcontract all or some of the rights or obligations provided for in the Conditions, provided that the rights of the User provided herein are not affected and without prejudice to the right of the User to withdraw freely from the agreement. The User will be promptly informed of the assignment.

The User may not assign or transfer in any way his rights or obligations under the Conditions without the written approval of the Owner.

8.5 Communications

All communications relating to the Service will be transmitted using the contact details indicated in these Conditions.

8.6 Invalidity and partial invalidity

If a single provision or several provisions of these Conditions are/are or become invalid or unenforceable, this shall not affect the validity and enforceability of the other provisions. In this case, the parties shall replace the invalid, void or unenforceable provision with a valid and enforceable alternative provision. The same shall apply, by analogy, in cases where these Conditions contain legal deficiencies.

9. Settlement of disputes

9.1 Applicable law and jurisdiction

These Terms and all disputes relating to the execution, interpretation and validity of this Agreement are subject to the law and jurisdiction of the Swiss State and are subject to the exclusive jurisdiction of the Court of Lugano.

The Data Controller will reply to any request sent to the e-mail address:

sales@paganipens.com.