

## CARTLY Sàrl

### GENERAL CONDITIONS - FEBRUARY 2023 EDITION

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## 1. Preamble

The CARTLY® platform is an Internet application presented in the form of an Internet site (<https://www.cartlyapp.com>) (hereinafter also the "**Platform**") operated by the company CARTLY Sàrl CHE-312.542.611) (hereinafter also the "**Provider**"), whose head office is located rue du Tilleul 1, 1700 Fribourg, Switzerland [hello@cartlyapp.com and +41 582 55 03 44].

CARTLY® offers to its customers an access to a Platform allowing the creation and management of virtual business cards that can be exchanged through different media, including through a web link sent via SMS, WhatsApp, or by scanning a QR code, as well as many other sharing modes available on the user's device (AirDrop, social networks, messaging application, email, email signature, MS Teams, etc.) (hereinafter also the "**Services**") The Platform gives the customer/user (hereinafter also the "**User**") the possibility to create a personal account (hereinafter also "**User Account**") allowing him/her to *upload* text, images, graphics, links, audio and/or video content, etc., (hereinafter also "**User Content**") in order to create, publish on the Internet and share his/her virtual business cards through the Platform. To access the Platform, the User must have a standard browser (e.g. Google Chrome, Firefox, Microsoft Edge, Safari, etc.) on a device with an Internet connection (e.g. computer, smartphone, tablet, etc.). A person who does not have a User Account (hereinafter also "**Third Party Contact**") may also, by means of the "exchange contact" button, share his or her contact information with a User, when the User shares his or her virtual business card with the Third Party Contact.

The Platform and the Services are intended exclusively for **Users who are of legal age** and capable of discernment.

Acceptance of these General Terms and Conditions (hereinafter also the "**General Terms and Conditions**") constitutes a contract between the Provider and the User. The use of the Platform as well as the online sale of the Services shall be governed exclusively by the General Terms and Conditions, unless a specific agreement has been concluded between the Provider and the User.

**Please read the Terms and Conditions carefully.**

## 2. Use of the Platform

The Platform aims to be available at all times, with the understanding that maintenance (both planned and unplanned) may disrupt its use.

The User acknowledges that the Platform may contain defects ("bugs") and that disturbances may occur.

The existence of such defects or interruptions in the operation of the Platform do not constitute a breach of the Terms and Conditions.

The Provider does not assume any obligation other than to provide the Services. In particular, the User is solely responsible for obtaining and maintaining an adequate IT infrastructure and appropriate security measures.

**Business Accounts:** If you have been granted access to the Services as part of a business account in which you have no decision-making authority, you acknowledge that your right to access and use the Services is subject to the terms of a separate agreement between Provider and such business. Your access to the Services may be revoked by your company at any time and you will lose all data related to your account without compensation.

## 3. Contact exchange

The Platform allows a Third Party Contact to exchange personal information directly with a User through the "Contact Exchange" button displayed on the virtual business cards. This functionality is used in the following way: a User shares his virtual business card with a Third Party Contact, then

the latter clicks on the "exchange contact" button displayed on the User's virtual business card. The Third Party Contact then fills in the required fields and shares all of this information with the User.

By using this feature, the Third Party Contact expressly acknowledges that by sharing his or her information with the User, he or she is also providing access to the Supplier.

## 4. Ordering of Services

The order of the Services is in principle done on the Platform.

The User must create a User Account following a process at the end of which he/she is asked to click on the "Subscribe" button. By clicking on the "Subscribe" button on the Platform, the User makes a binding offer to the Provider.

By doing so, **the User waives any right of withdrawal.**

Thereafter, the Supplier shall confirm without delay the receipt of the offer and its contents by email. This confirmation does not constitute an acceptance of the offer.

The Provider shall accept the User's offer, either expressly or by providing the Services without reservation.

The User may also contact the Provider directly by email, mail or telephone in order to request the order of Services. In this case, the Provider is free to follow up or to refer the User to the Platform to order the desired Services.

**The Services ordered by the User are for a monthly or annual period. At the end of the period for which the Services were ordered, the User's order is automatically renewed for a period equivalent to that for which the Services were initially ordered, without any action on the part of the User or the Provider being required. In this case, the price of the Services for the next period is automatically charged via the payment method indicated by the User on the Platform.**

## 5. Modification of the order

Except for Users who have ordered a business offer directly from the Supplier, the User of an account has the possibility, through the Platform, to modify his order.

However, a change in the order does not entitle the Supplier to a refund of the sums paid.

In any case, the User is free to formulate a request for modification via the Platform. The Provider is free to decide whether or not to follow up on the request, according to the terms and conditions it decides.

## 6. Prices and payment

The prices displayed on the Platform are not offers and are not binding. The Provider reserves the right to change the price of the Services at any time.

Payment by the User for Services ordered on the Platform is made by credit card at the time of ordering.

An alternative payment method may be agreed upon in the event that the Services are ordered through a means other than the Platform, by direct agreement with the Supplier.

**The User acknowledges and agrees that the Provider or its payment processing partner is authorized to bill the User for the Services on a recurring basis (e.g. monthly or annually) for as long as the User's subscription to the Services continues. Further, the User acknowledges and agrees that his subscription to the Services will continue until he cancels it or the Provider suspends**

**or stops providing access to the Services.**

Late payment :

If an agreement is made between the Provider and the User to pay the price on a monthly or annual basis, any delay in payment shall entitle the Provider to suspend the User's access to the Platform, respectively to his User Account, until the Provider has received the amount due.

Fixed compensation for collection costs :

A fixed compensation of CHF 20.00 is due from the first day of delay in payment.

Collection costs exceeding this amount are reserved. Furthermore, any additional damages are reserved.

The User agrees to receive invoices, notices of default and other correspondence in electronic form (via email or the Platform) or on paper.

## 7. Delivery of Services

The Services are made available to the User within three working days after receipt of the payment made to the Provider.

## 8. User content

Once the User has access to the Platform and the Services, the User may *upload* User Content (text, images, graphics, links, audio and/or video content, etc.).

The User acknowledges that **by uploading User Content to the Platform, such User Content becomes publicly available information and can potentially be viewed by anyone** using the Internet in any part of the world and can be found through the use of search engines such as Google, Yahoo and others.

The User acknowledges that he/she is solely responsible for his/her User Content and the consequences of its uploading or publication.

Furthermore, the User acknowledges that :

- It has (and continues to have during the entire period of use of the Platform or the Services) all necessary licenses, rights, consents and permissions to allow Provider to host and display User Content on the Platform;
- The User Content does not violate any third party rights;
- The User Content is free of any harmful software (e.g. malware, viruses, Trojan horses, worms, etc.);
- All persons identified or identifiable in the User Content are at least 18 years old;
- The User Content does not constitute or encourage a criminal offence in any way, incur civil or criminal liability on the part of the Provider or the User or infringe the law or the rights of any third party.

Although Provider is under no obligation to verify the legality of User Content, **Provider reserves the right to delete all or part of the User Content without informing the User and without stating the reason.**

## 9. Duration, termination and closure of the Account

This contract is concluded for a fixed term (monthly or yearly depending on the User's choice on

the Platform) and is automatically renewed, without any action on the part of the User or the Provider, for a term equivalent to that for which the Services were initially ordered.

The email address to which the User's termination should be addressed is: help@cartlyapp.com. The User may also terminate the contract by permanently deleting his/her User Account. In this case, **the amounts already paid by the User will not be refunded.**

The email address to which the termination by the Provider must be addressed is the one indicated by the User in his User Account.

Extraordinary termination by the Provider: **The Provider may terminate this Agreement at any time and with immediate effect by email or physical mail if it believes that the User is in breach of the Terms and Conditions** (including the obligation to pay the price in a timely manner).

In the event of termination, the User shall immediately lose access to the Platform, respectively to his User Account accessible on the Platform, to the stored data and User Content. **The Provider is under no obligation to store the User's data or User Content and may permanently delete them immediately.**

## 10. Obligations of the User

The User guarantees that all information entered on the Platform is true and complete.

The User remains solely responsible for the data he/she enters on the Platform. The User is informed and accepts that the Platform can only fulfil its purpose if all data is recorded in a complete, current and correct manner. The User is responsible for the storage of his/her data.

The User undertakes to use secure passwords and not to pass on access information to third parties.

The User agrees to use the Platform in accordance with the Terms and Conditions.

When using the Platform, the User shall refrain, by his own means or that of a third party acting on behalf of or for the User, from :

- Copy, modify, alter, adapt, make available, translate, reverse engineer, decompile or disassemble any part of the Platform, including, but not limited to, contact information of other users;
- Copy, modify, alter, adapt or make available the computer code of the Platform;
- Create a browser, frame, border environment or GUI around the Platform;
- Interfere with or disrupt the operation of the Platform, or the servers or networks that host the Platform or run the Platform, or disobey any law or regulation or the requirements, procedures, policies or regulations of such servers or networks;
- Impersonate any person or entity or provide false or misleading contact and/or other personal information;
- Transmit or otherwise make available, through or in connection with the Platform, any viruses, "worms," "Trojan horses," "time bombs," "web bugs," spyware, or other computer code, files, applications or programs that are malicious in nature or defective, and which may, or are intended to, damage or hijack the operation of any hardware, software or telecommunications equipment, or any other actual or potentially harmful, disruptive or invasive code or components;
- Use the Platform, the Website, or the Internet Application or other contact information for any illegal, unlawful or unauthorized purpose;

- Use the Platform and/or contact information for the purpose of harassment, stalking, contempt, mockery, humiliation, offense, provocation, violence or any other purpose that may infringe the rights of others;
- Sell or give access for any consideration to his User Account or access to the Services to third parties.

Failure to comply with the above provisions may result in the User's access to the Platform being suspended or blocked. The right of the Provider to terminate the contract remains reserved. The User may also be subject to civil and/or criminal prosecution.

## 11. Prohibition of transfer

The User may not assign or transfer to a third party, in any manner whatsoever, its rights under the General Terms and Conditions or any contract with the Provider.

## 12. Waiver and nullity

Supplier's failure to enforce any of the provisions of the Terms and Conditions shall not be construed as a waiver or prejudice its rights to take further action.

If the Provider offers services not provided for in the General Terms and Conditions, it does so at its own discretion, without incurring any obligation, and may stop at any time without compensation.

The invalidity of any provision of the General Terms and Conditions shall not invalidate the remaining provisions of the General Terms and Conditions.

## 13. Intellectual Property

### **The Platform:**

The Provider owns all intellectual property rights (including copyright) in the Platform. No ownership rights are transferred to the User under the Terms and Conditions or the provision of the Services.

Thus, the Supplier is the exclusive owner of the intellectual property rights:

- On the Platform, and in particular on its tree structure, on the organization and titling of its sections, on the visual and graphic identity, on its design, on its ergonomics, on its functionalities, on the texts, animated or still images, sounds, know-how, drawings, graphics and any other element composing the Platform;
- On the databases, their structure and contents, designed and managed by the Provider for the purposes of publishing the Platform;
- On all the design elements of the Platform, whether graphic or technical;
- On the names and signs " CARTLY® ", " CARTLYAPP " or " CARTLY Sàrl ", acronyms, logos, colors, graphics, or other signs that could be used, made or implemented by the Supplier on the Platform.

It is therefore forbidden to reproduce in any form whatsoever, directly or indirectly, the elements referred to above, as well as to alter the trademarks, patents, names, acronyms, logos, colors, graphics or other signs appearing on the elements made available on the Platform, and more generally, to use or exploit these elements other than within the framework defined by the General Terms and Conditions or indicated directly on the Platform.

### **Virtual business cards:**

By posting User Content, the User grants the Provider a worldwide, non-exclusive, royalty-free, transferable and sub-licensable contractual right to use or exploit such content within the scope

defined by the General Terms and Conditions or indicated directly on the Platform.

## 14. Personal data processing and security

The Platform (<https://www.cartlyapp.com>) provides an interface with adequate technical measures to ensure data security and integrity.

The Provider takes data protection very seriously and is committed to protecting the User's personal data. The Provider therefore complies with the General Data Protection Regulation (GDPR) of the European Union and the Swiss Federal Data Protection Act (DPA). The Supplier's *Privacy Policy* on data protection can be found here [[www.cartlyapp.com/files/Cartly - Privacy Statement.pdf](http://www.cartlyapp.com/files/Cartly-PrivacyStatement.pdf)]. The Supplier's *Cookie Policy* on data protection can be found here [[www.cartlyapp.com/files/Cartly - Cookie Policy.pdf](http://www.cartlyapp.com/files/Cartly-CookiePolicy.pdf)].

By accepting the Terms and Conditions, the User acknowledges that he/she has read, understood and agreed to the Privacy Statement and the Cookie Policy.

The User remains fully responsible for all data processed on the Platform.

The User undertakes to comply with all applicable data protection regulations and shall indemnify the Provider for any direct, indirect or consequential damages arising from a possible violation of such regulations.

**By accepting this Privacy Policy, respectively by using the Services, you expressly consent to the transfer of all data you provide to the Provider to countries of the European Union as well as to the United States.**

In the event that the User withdraws his consent to the processing of personal data by the Provider, the User shall immediately lose access to the Platform, respectively to his User Account accessible on the Platform, to the stored data and to the User Content. **The Provider is under no obligation to store the User's data or User Content and may permanently delete them immediately, without this entitling the User to any financial or other claims against the Provider.**

## 15. Exclusion of liability

**Any contractual or extra-contractual liability of the Provider in connection with this Agreement and the use of the Platform is excluded to the maximum extent permitted by law.** In particular, the Supplier's contractual or extra-contractual liability is excluded for any damages, whether direct, indirect or consequential, as well as for damages in connection with corruption or loss of data, loss of profit or loss of *goodwill*.

**Any contractual or extra-contractual liability of the Supplier for the acts or omissions of its auxiliaries or third parties is also excluded to the maximum extent permitted by law.** The Supplier shall not be liable, either contractually or extra-contractually, for the actions or omissions of service providers working with the Supplier, e.g. hosting providers or providers of payment means.

**The Provider may suspend or modify, temporarily or permanently, the Services available on the Platform at any time and without prior notice, without this giving rise to compensation of any kind to the User.**

The Provider excludes, to the maximum extent permitted by law, any contractual or non-contractual liability in connection with the User Content.

## 16. Languages

The User may consult the General Conditions in different languages. **The User who consults the General Conditions in another language than French acknowledges that it is an automated translation without legal value of the original version written in French.** In case of contradictions or possible different interpretations between the different versions, **only the French version is valid**

and has legal value.

## 17. Modification of the General Conditions

**The Supplier may amend the Terms and Conditions at any time and as it sees fit.**

In case of substantial modifications of the General Conditions, the User will be informed by email or via the Platform.

Any new version of the Terms and Conditions shall come into force immediately after its publication on our Platform, unless otherwise stated. **Continued use of the Platform or the Services by the User after the effective date of the new Terms and Conditions shall constitute the User's express consent and agreement to such changes.**

**In case of disagreement with the new Terms and Conditions, the User must immediately stop using the Platform and the Services and object within 5 days after becoming aware of the new Terms and Conditions.** To object, the User must send an explicit email to the Provider at the following email address: hello@cartlyapp.com.

**In the event that the User objects, the Provider may choose to terminate this Agreement by deleting the User Account, which will result in the permanent deletion of all User Content. In this case, the User is not entitled to a refund of any payments already made to the Provider.**

## 18. Applicable law and jurisdiction

Any dispute, whether contractual or extra-contractual, arising from the Terms and Conditions and/or related to the use of the Platform or the Services, shall be governed by Swiss law, to the exclusion of the rules of private international law and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

The exclusive place of jurisdiction for any dispute, whether contractual or extra-contractual, arising from the Terms and Conditions and/or related to the use of the Platform or the Services, is Fribourg, Switzerland. Recourse to the Federal Court is reserved.