

**GENERAL TERMS AND CONDITIONS  
"CAPTAIN WALLET" SOLUTION**

CARVING LABS is a French *société par actions simplifiée*, with a sharecapital of 71,938.73 euros, with its registered office located at 44 rue Richer, 75009 PARIS, and registered with the French Commercial and Companies registry of Paris (*Registre du Commerce et des Sociétés*) under number 794 432 815. CARVING LABS markets software. The software enables its clients to (i) dematerialize for their consumers loyalty cards, coupons, offers, transport cards and invitations or any other service or marketing material, and (ii) update the content of these supports by sending push notifications, (iii) grant the consumer an easy and quick access to saved content, from a smartphone compatible with the Wallet format available on iPhone (Apple Wallet) and Android (Google Pay) (the "**Solution**").

The Client, after having been able to assess under its sole responsibility the functionalities of the Solution and to ensure that they are perfectly suited to its needs, wished to subscribe to a user licence for the Solution and to this end concluded a purchase order containing the price, the precise description of the services offered by CARVING LABS, as well as the specific conditions applicable (the "**Purchase Order**")

This document (the "**General Terms and Conditions**") defines the general conditions for the implementation and supply of the Solution in SaaS mode (Software-as-a-Service) and, together with the Purchase Order, constitutes the entire contract between CARVING LABS and the Client (collectively the "**Parties**") which governs their relationship. The General Terms and Conditions and the Purchase Order (collectively the "**Contract**") constitute an indivisible whole and are the only terms governing the relationship between the Parties. Capitalized terms not defined herein shall have the meaning given to them in the Purchase Order.

**ARTICLE 1. DESCRIPTION OF THE SERVICES**

The services offered by CARVING LABS are :

- (i) A support for the setting up or "SET UP":
- (ii) An operating license or "RUN":

Thus, CARVING LABS grants the Client (and the users designated by the Client for the purposes of using the Solution in the performance of the Contract and acting in all event solely under the Client's responsibility) a non-exclusive and non-transferable

right to use the Solution, for the duration of the Contract, and for the Client's sole needs. This right of use is exercised by remote access, through the Internet network. The right of use granted to the Client is subject to the completeness payment of the royalties.

The Client also undertakes to make no use of the Solution that might undermine its proper functioning, its security or CARVING LABS. Thus, any use of the Solution not expressly authorized herein is prohibited, except with the express prior written consent of CARVING LABS. Furthermore, the Client will not (i) use the Solution, in any form, in any way, for the purposes of designing, producing, distributing or marketing services similar to those offered by CARVING LABS, (ii) rent, lend, share, transfer or assigne the Solution, or make it available, directly or indirectly, whether for a fee or free of charge (iii) modify or bypass any protection code such as, in particular, the identifiers, or disclose these elements to a third party other than a user designated by the Client and acting under his responsibility, and within the scope of the performance of the Contract, whether for a fee or free of charge.

**ARTICLE 2. PRICES AND FINANCIAL CONDITIONS**

The Price of the SET UP is specified in the Purchase Order. Any services other than those provided in the Purchase Order will be subject to a prior quote. The Client will be charged for the SET UP Price as soon as the production of the Solution starts and, at the latest, thirty (30) days after the Effective Date of the Contract.

The royalties, the amount of which is specified in the purchase order, due for the license granted for the Solution shall be payable as soon as the production of the Solution starts and, at the latest, thirty (30) days after the Effective Date of the Contract.

Invoices will be sent to the Client as soon as possible following each month concerned and must be paid by bank transfer within 30 days after the invoice date.

The amount of the royalties will be adjusted automatically on each anniversary of the contract to reflect the evolution of the Syntec index.

The prices are invoiced exclusive of tax. Then, the prices will be increased by the taxes, in particular the VAT in force at the date of invoice.

### **ARTICLE 3. AVAILABILITY OF THE SOLUTION AND SERVICE LEVEL - HOSTING**

CARVING LABS guarantees to the Client a monthly availability of the Solution of 99.95%, the calculation of the availability of the service does not take into account :

- unavailability due to internet access on the user side;
- planned interruptions with the agreement of the Client;
- interruptions at the request of the Client;
- incidents due to Force Majeure;

The availability is calculated based on the operational functioning of the Solution.

#### **Defect Correction :**

The terms "Defects", "Blocking Defect", "Major Defect", and "Minor Defect" will have the following meanings:

"Defect(s)": any reproducible malfunction affecting the Solution, independent of misuse. It is expressly specified that malfunctions resulting from products and/or software not directly supplied by CARVING LABS or from hardware, services or networks supplied by third parties or by the Client may under no circumstances be qualified as a Defect.

"Blocking defect": A defect for which there is no satisfactory alternative solution and which completely interrupts the performance of a major functionality of the Solution.

"Major defect": A defect for which there is no satisfactory alternative solution and which seriously impairs the performance of a major functionality of the Solution.

"Minor Defect": Any Defect that is neither a Blocking Defect nor a Major Defect.

"Guaranteed response time" (GRT): Maximum time taken by CARVING LABS to process an alarm, from the notification of the anomaly or incident by the Client.

"Response Time Guarantee" (RTG): The time required to restore a particular service allowing its proper use without defect or incident, from the moment it has stopped functioning.

Any defect or unavailability of the service will be reported by the Client to CARVING LABS by e-mail or by any other means that ensures that the information has been received by CARVING LABS. Any notification of unavailability or defect must include, at least:

- a description of the problem encountered; and
- a screenshot or the error message.

Prior to any notification of a breakdown or unavailability, the Client undertakes to check that this is not linked to its software or equipment.

CARVING LABS undertakes to restore, free of charge, any Defects in the Solution that will be notified to CARVING LABS during the performance of the Contract.

The Defects must be solved within the following deadlines, expressed in hours and business days. These responses times are to be counted as from the reception by CARVING LABS of the intervention request notified by the Client in the aforementioned forms:

	Blocking defect	Major defect	Minor defect
Taking into account (GRT)	2 hours	4 hours	4 business hours
Starting a palliative solution (RTG)	2 hours	1 day	2 business days
Starting a sustainable solution (RTG)	1 day	2 days	10 business days

Business hours: Monday to Friday from 8am to 7pm, excluding bank holidays.

Blocking defect: For any request notified before 12pm, intervention within the afternoon. For any request notified after 12pm, intervention on the following morning. Correction within one (1) business day.

Major defect: intervention within one (1) day for any request made before 6pm and within two (2) days for any request made after 6pm. Correction within two (2) business days.

Minor defect: intervention within two (2) days for any request made before 6pm and within three (3) days for any request made after 6pm. Correction within ten (10) business days.

Failure to comply with the deadlines for intervention and resolution of Defects may entail the enforcement of penalties. These penalties will be applied cumulatively for each Defect not corrected within the contractual time limit.

If the Defect have not been resolved within the aforementioned time limits, the amount of the penalties will be €100 excluding VAT per day of delay. This amount is capped at the price received by CARVING LABS under the Contract for the month preceding the month during which the Defect was notified.

These penalties will be invoiced to CARVING LABS or credited against the amounts due to CARVING LABS, at its discretion.

#### **Accommodation:**

The hosting service for the Solution is provided by CARVING LABS, which rents servers from the company OVH, registered with the Trade and Companies registry of Lille Métropole (*Registre du Commerce et des Sociétés*) under number 424 761 419 0004, located at 2 rue Kellerman 59100 Roubaix.

The servers rented by CARVING LABS are hosted by OVH in its various datacenters in France (as an indication: Gravelines and Strasbourg).

Physical access to the datacenter is controlled 24/7 by the service provider with biometric access. The electrical supply is redundant and supported by a high-powered generator in case of major electrical failure.

The database of the Solution is backed up every 12 hours, off-site. The last 7 days of backups are saved encrypted on the Amazon S3 infrastructure in Paris (PGP encrypted backups).

#### **Hosting SLA :**

The servers are rented to OVH who manages the hosting service (see above). The service has an SLA of 99.99%. The interventions, except for exceptional events, are done without interrupting the service.

#### **ARTICLE 4. DURATION OF THE CONTRACT**

The Contract shall come into force on the Effective Date of the Contract as specified in the Purchase Order.

The initial term of the Contract is one (1) year, firm.

At the end of this initial period of one (1) year, the Contract will be renewed by tacit agreement for an indefinite period. Each Party may then terminate

the Contract at any time by registered letter with acknowledgement of receipt, subject to a three (3) months' notice.

#### **Wrongfull termination:**

At any time, each of the Parties may terminate the Contract in the event of a breach by the other Party of one of its obligations if the defaulting Party has not performed within thirty (30) days following formal notice. The wish to terminate the Contract will be notified by registered letter with acknowledgement of receipt, without prejudice to the right of the non-defaulting Party to obtain compensation for any loss resulting from the breach.

Upon expiration or termination of the Contract, Client data and Client content saved by CARVING LABS to perform the Contract shall be immediately deleted or returned to the Client, at the Client's expense, if the Client so requests.

#### **ARTICLE 5. RESPONSIBILITY**

CARVING LABS is liable for all the damages (excluding any indirect damage such as loss of turnover or income, loss of opportunity, loss of image, etc.) that it may cause to the Client in the performance of the Contract. However, CARVING LABS will not be required to compensate the Client for the destruction of its data or files, which it is the Client's responsibility to save. To this end, the Client shall protect itself against the risks by making a duplicate copy of the documents, files, and media.

In addition and in any way, it is expressly agreed that if CARVING LABS is convicted for any reason whatsoever and/or if the Client is granted a right to compensation for direct damage suffered as a result of faults committed by CARVING LABS in the scope of the services provided, the liability of CARVING LABS shall be limited, by mutual agreement between the Parties, to the amount effectively received by CARVING LABS under the Contract during the 12 months preceding the event generating the damage. The Parties agree that this limitation of liability constitutes a determining condition of CARVING LABS' commitment, the limitation of liability has been taken into account in the determination of the price and does not in any way affect the balance of the Parties' respective obligations. Notwithstanding the foregoing, the limitation of liability clause will not apply in the event of serious negligence, fraudulent or intentional, or the event of a breach of an

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intellectual property right or of the regulations applicable to the protection of personal data. Furthermore, the Client expressly admits having been warned that the use of the Software is based on a technology (the "Techno Support") and applications (the "Apps") developed and offered by the company Apple and the company Google, which determine at their sole discretion the developments and rules of use. Thus, THE CLIENT EXPRESSLY AGREES THAT CARVING LABS SHALL NOT BE LIABLE IN ANY CASE IF CARVING LABS IS UNABLE TO PERFORM ANY OR ALL OF THE SERVICES AND IN GENERAL TO FULFILL ITS OBLIGATIONS UNDER THE CONTRACT FOR ONE OR MORE OF THE FOLLOWING REASONS: (I) MODIFICATION IN WHOLE OR IN PART OF THE TECHNO SUPPORT OR THE APPS, (II) A CHANGE IN THE TERMS OF USE OF THE TECHNO SUPPORT AND/OR THE APPS, (III) A REQUEST BY APPLE OR GOOGLE TO CARVING LABS TO CEASE USING ALL OR PART OF ITS TECHNO SUPPORT, FOR ANY REASON WHATSOEVER AND REGARDLESS OF WHETHER THE PROHIBITION IS FOUNDED IN LAW. Notwithstanding the above, CARVING LABS undertakes, under an obligation of means, to make its best efforts to adapt and adapt its Software to changes in the Techno Support (in particular to new OS) and/or the Applications, without this undertaking being interpreted as an obligation for CARVING LABS to make investments in research and development that are disproportionate to the stakes involved in the Contract. Under these circumstances, the Client may terminate this Contract at any time and as of right by sending a registered letter with acknowledgement of receipt.

#### **ARTICLE 6. INSURANCE**

CARVING LABS states:

- that it took out a solvent insurance company which covers its civil liability and its contractual liability for the services provided under this contract;
- that it took out a solvent insurance specifically to covers damage that could result from a leak of data hosted by CARVING LABS; and
- be up to date with the payment of its insurance premium.

#### **ARTICLE 7. CONFIDENTIALITY**

Each of the Parties undertakes, during the term of the Contract and for a period of five (5) years from its expiry or termination, to :

- consider as confidential and to treat as such the terms of the Contract as well as all general and specific information communicated by the other Party for the performance of the Contract;
- use the information directly or indirectly only in the context of the Contract;
- take all appropriate measures in relation with third parties and employees involved in the performance of the Contract to ensure that this commitment is respected.

Each of the Parties shall ensure that its attendants, agents or duly authorised subcontractors comply with the confidentiality undertaking set out above.

The above confidentiality undertaking shall not, however, apply to information brought to the knowledge of either Party and :

- which are in the public domain or which may fall into it through no fault of his own;
- that became known to one of the Parties prior disclosure of such information, as long as a written proof can be provided;
- that a third party not bound by a confidentiality agreement with the other or a third party would disclose to it.

Notwithstanding this confidentiality clause, each of the Parties is authorised to quote the name, brand and logo of the other Party as a simple commercial reference or as part of its corporate communication, on any medium such as a website or a commercial presentation.

#### **ARTICLE 8. PROTECTION OF PERSONAL DATA**

In the scope of their contractual relationship, the parties undertake to comply with the regulations in force applicable to the processing of personal data and, in particular, the European Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 applicable as of 25 May 2018

A charter that describes in detail the respective undertakings of the Parties regarding the protection of personal data is attached to the Purchase Order.

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## ARTICLE 9. INTELLECTUAL PROPERTY

CARVING LABS ensures that it has the intellectual property rights to the Solution, pursuant to the provisions of the Intellectual Property Code.

No property transfer of the Solution to the Client occurs under the Contrat, neither of its components nor any Solution's development. Especially, the Contract does not grant the Client any right to the source code of the Solution. The Client shall refrain from any act or behaviour that may infringe, directly or indirectly, the intellectual property rights on the Solution.

Any use of the Solution not expressly authorised by CARVING LABS under the terms of this Contract is unlawful, in accordance with the provisions of Article L.122-6 of the Intellectual Property Code. The Client is therefore prohibited from proceeding to:

- any reproduction, representation, dissemination or distribution of all or part of the Solution and/or the related documentation, whether for a fee or free of charge;
- any kind of use of the Solution, in any way whatsoever, for designing, producing, distributing, or marketing similar, equivalent, or substitute products or services, or similar, equivalent, or substitute documentation;
- any adaptation, modification, transformation, arrangement of the Solution and/or the related documentation, for any reason whatsoever, including to correct errors;
- any decompilation the Solution, except as expressly provided by law;
- any modification or circumvention of the protection codes such as, in particular, the Identifiers and passwords;
- any attempt at unauthorized intrusion on the platform hosting the Solution.

The Client remains the owner of all data and information concerning itself, and provided by it, integrated into the database in the context of the performance of this Contract.

## ARTICLE 10. NON-SOLICITATION OF STAFF MEMBER

The parties shall not solicit, for the aim of hiring, or hire directly, or indirectly, any staff member of the other Party, having participated in the performance

of the contract, whether or not he is an employee. It is equally prohibited when the solicitation initially comes from a staff member.

This prohibition shall apply throughout the term of the Contract, and for twelve (12) months following its termination, for any reason whatsoever.

In the event of a breach of this article, the Party at fault shall be required to pay immediately to the other Party, as a penalty clause, a lump sum equal to six (6) months of the last gross monthly salary of the person solicited or hired, plus all the costs of recruiting a replacement.

## ARTICLE 11. ASSIGNMENT OF THE CONTRACT - INTUITU PERSONAE

As the Contract is concluded *intuitu personae*, each Party must not surrender or transfer, in any manner whatsoever, the rights and obligations resulting from this Contract without the express, prior, and written agreement of the other Party.

## ARTICLE 12. INDEPENDENCE OF THE PARTIES

The Parties must carry out their activities with complete independence and without subordination to each other. CARVING LABS' staff shall remain under its full and sole responsibility, CARVING LABS being the only one entitled to issue directives and instructions.

## ARTICLE 13. FORCE MAJEURE

Any event beyond the control of the Parties, which could not reasonably be foreseen at the time of the conclusion of the Contract, and the effects of which cannot be avoided by appropriate measures. This event makes it impossible to perform the Contract under the conditions provided for, shall be deemed to be force majeure.

The Party invoking force majeure must inform the other by all means followed by a written confirmation by registered letter with acknowledgement of receipt, as soon as possible. The Parties must then meet to consider the consequences of the situation and endeavour to reach a solution acceptable to both Parties allowing the suspended obligations to be fulfilled. In the absence of an acceptable solution and if the effects of the force majeure last for more than three (3) months, the Contract might be terminated without notice by either of the Parties.



#### **ARTICLE 14. RESOLUTION OF DISPUTES, APPLICABLE LAW AND JURISDICTION**

The Contract is governed by French law.

In the event of a dispute, the Parties shall endeavour to find an amicable solution and agree to meet within fifteen (15) days from the dispatch of a registered letter with acknowledgement of receipt by one of the Parties.

If at the end of a thirty (30) business day period following the reception of the registered letter with acknowledgement of receipt the Parties did not reach a consensus or a solution, any dispute relating to the validity, the interpretation, the performance and/or the termination for any reason whatsoever shall be decided exclusively by the Commercial Court of Paris.

#### **ARTICLE 15. MISCELLANEOUS PROVISIONS**

The Contract invalidates and replaces any previous written or unwritten agreement, relating to the subject matter hereof. Any complementary or derogating agreement shall be evidenced in writing and signed by the Parties. No document (including any purchase conditions that the Client might have sent to CARVING LABS) can entail new obligations unless it is the subject of a written amendment signed by the Parties. In the event of an inconsistency between the Purchase Order and the General Terms and Conditions, the Purchase Order shall prevail.

If a clause of the Contract is declared null, it shall be deemed to be unwritten, without entailing the nullity of the entire Contract by which the Parties shall remain bound to each other. The Parties undertake to negotiate in good faith the provisions necessary to replace the clauses that may have been replaced or invalidated for any reason whatsoever.

The fact that a Party does not require the application of a provision, or tolerate the breach thereof, shall not be interpreted as a waiver of the exercise of such right and shall not confer any additional right to the Party benefiting from such tolerance.

For the purposes of the Contract, the Parties shall elect domicile at their respective addresses as indicated in the Purchase Order. All notifications or formal notices and, in general, any correspondence that may be sent by one of the Parties to the other regarding the Contract and any amendments

thereto shall be sent to this address. Any formal notice and, in general, any important correspondence shall be sent by registered letter with acknowledgement of receipt.

Any change of address or contact information of a Party must be communicated to the other Party within a maximum period of fifteen (15) days. Otherwise, all notices, correspondence or, faxes sent in good faith to the last known address or number shall be deemed valid and shall produce the effects provided for by the Contract or by law.

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