Terms and Conditions – Particify Free & Particify Trial

Between Particify GmbH, Neuenweg 5, 35390 Gießen (hereinafter referred to as "Provider") and the Customer (Provider and Customer individually or collectively hereinafter also referred to as "Party" or "Parties") of **Particify Free** and **Particify Trial**, the following General Terms and Conditions shall apply.

§ 1 Subject Matter

(1) The subject matter of these Terms and Conditions is the free provision of the Particify software (hereinafter referred to as "Software") on the user's device via the internet at ars.particify.de (hereinafter referred to as "Particify Free") and the free provision of a test instance on the Provider's servers (hereinafter referred to as "Particify Trial").

(2) By using the Software, the Customer agrees to these Terms of Use, which can be accessed at particify.de/en/terms/free.

(3) The Provider does not recognize any terms and conditions of the Customer that contradict or deviate from these Terms and Conditions, unless the Provider has explicitly agreed to their validity in writing.

(4) In the event of any discrepancy or inconsistency between the German and English versions of this Agreement, the German version shall prevail. The German version shall be the authoritative and binding version for all legal purposes.

§ 2 Services of the Provider for Particify Free

(1) The Provider grants the Customer the right to use the current version of the Software via the internet using a browser.

(2) The Provider does not warrant the functionality or availability of the Software. The scope of functions of the Software and the conditions of use are set out in the information available at particify.de/en/features.

(3) A user manual is available at particify.de/manual. The user manual can also be accessed during the use of the Software via the link to the help page.

(4) The Provider may update or further develop the Software at any time without being obligated to do so, particularly due to changes in the legal situation, technical developments, or to improve IT security.

(5) The Provider does not owe the adaptation of the Software to the individual needs or IT environment of the Customer.

(6) The Provider will regularly maintain the Software.

(7) The Provider will take measures to protect the data entered during the use of the Software, in accordance with the state of the art. However, the Provider does not assume any custodial or safekeeping duties regarding the data. The Customer is responsible for ensuring adequate data backup.

§ 3 Registration and Use of Particify Free as a Guest

(1) Upon registration, the Customer receives access to a non-time-limited Particify account.

(2) If a Customer creates or enters a room without being logged in, a pseudonymized guest account is created. This guest access, including all created rooms, will be automatically deleted after six months of inactivity.

(3) The Provider reserves the right to delete accounts of registered Customers after six months of inactivity. The deletion will be announced at least two weeks in advance.

(4) The Customer can delete their account at any time using the corresponding functionality within the Software.

§ 4 Services of the Provider for Particify Trial

(1) For Particify Trial, an individual test instance is provided on the Provider's servers.

(2) The duration of the test period is agreed upon individually.

(3) After the end of the test period, the test instance will be deleted. The parties are free to conclude a paid contract to continue the test instance.

(4) Otherwise, the provisions of § 2 paragraphs 2 to 7 of these Terms and Conditions apply accordingly.

§ 5 Scope of Use and Rights

(1) No physical transfer of the Software to the Customer takes place.

(2) The Customer receives simple, non-transferable, and non-sublicensable rights to use the current version of the Software via browser access or access to the test instance, in accordance with the contractual provisions, for the duration of the use.

§ 6 Troubleshooting

(1) The Customer can report disruptions via phone: +49 641 350 990 08 or via email: info@particify.de. Troubleshooting will be performed as soon as possible. There is no entitlement to troubleshooting.

(2) The elimination of minor disruptions is at the Provider's discretion.

§ 7 Customer Obligations

(1) The Customer must protect and store the transmitted access data in accordance with the state of the art to prevent access by third parties. The Customer will ensure that the Software is used only within the contractually agreed scope. Unauthorized access must be reported to the Provider immediately.

(2) The Customer is obligated not to input any data during use that violates applicable law, official orders, third-party rights, or agreements with third parties.

(3) The Customer is solely responsible for uploading, editing, and using the content and decides which content is used.

(4) The creator of a room is obligated to manage it independently and responsibly and to control and, if necessary, remove the content of participants.

§ 8 Warranty

(1) There are no warranty claims for the free use of the Software, both for Particify Free and Particify Trial.

(2) The Customer is aware that, according to the current state of technology, errors in software programs and their documentation cannot be excluded. It is also impossible to develop software programs that meet all application scenarios and all Customer requirements.

(3) The Software is supported by common web browsers. The Provider can provide a detailed list of these web browsers upon the Customer's request. The Provider can discontinue or expand the support of various web browsers without notice.

§ 9 Liability

(1) The parties are liable without limitation in cases of intent, gross negligence, and in cases of culpable breach of life, body, or health.

(2) Notwithstanding the cases of unlimited liability pursuant to § 8 (1), the parties are liable to each other for slight negligence in breaching essential contractual obligations, which are defined as obligations whose fulfillment enables the proper execution of the contract, or whose breach jeopardizes the achievement of the contractual purpose, and on whose compliance the other party may regularly rely,

however, limited to the foreseeable, typical contractual damage that was predictable at the time of contract conclusion.

(3) The aforementioned liability limitations do not apply to liability under the Product Liability Act and guarantees explicitly assumed in writing by one party.

(4) § 8 also applies for the benefit of employees, representatives, and organs of the parties.

§ 10 Warranty and Indemnification for Third-Party Rights Intellectual Property Rights; Indemnification

(1) The Provider warrants that the Software does not infringe on any third-party rights. Upon first request, the Provider shall indemnify and hold harmless the Customer from all claims by third parties arising from any intellectual property right infringement caused by the Provider in connection with the contractual use of the Software. The Provider shall also reimburse the Customer for the costs of reasonable legal defense. The Customer shall promptly inform the Provider of any claims by third parties arising from the contractual use of the Software and grant the Provider all necessary powers of attorney and authority to defend against such claims.

(2) The Customer warrants that any content and data entered into the Software, as well as its use and provision by the Provider, do not violate applicable laws, regulatory orders, third-party rights, or agreements with third parties. The Customer shall indemnify and hold harmless the Provider from all claims by third parties arising from any breach of this section, upon first request.

§ 11 Data Protection; Confidentiality

(1) The parties shall each comply with the applicable data protection regulations that govern their respective activities.

(2) To the extent that the Provider has access to the Customer's personal data in the course of providing the services, the parties shall, prior to the commencement of processing, enter into a corresponding Data Processing Agreement (DPA) and append it to this contract. In such case, the Provider shall process the relevant personal data solely in accordance with the terms stipulated in the DPA and in accordance with the Customer's instructions.

(3) The Provider undertakes to maintain confidentiality regarding all confidential information (including trade secrets) that it becomes aware of in connection with this contract and its implementation, and not to disclose, transfer, or otherwise use such information to third parties. Confidential information shall include, but not be limited to, information marked as confidential or whose confidentiality is apparent from the circumstances, regardless of whether it is communicated in written, electronic, tangible, or oral form. The confidentiality obligation shall not apply to the extent that the Provider is legally required or compelled by a valid and final administrative or court order to disclose the confidential information. The Provider shall ensure that all its employees and subcontractors agree to a confidentiality provision identical to the one set forth in this paragraph.

§ 12 Final Provisions

(1) Should individual provisions of this contract be or become invalid or unenforceable, the validity of the remaining provisions remains unaffected. The parties will replace such provisions with effective and enforceable provisions that come as close as possible to the economic purpose and the intention of the parties at the time of concluding the contract. The same applies in the case of a contractual gap.

(2) Oral or written collateral agreements to this contract do not exist. Amendments to this contract and its annexes require written form.

(3) German law applies, excluding conflict of laws provisions and the UN Convention on Contracts for the International Sale of Goods.

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