

## **General Terms and Conditions of Cardiolectra GmbH**

### **1. Scope / General**

1.1. These General Terms and Conditions (hereinafter referred to as "GTC") apply to the use of the product "CardioShowroom" (hereinafter referred to as "Product") distributed by Cardiolectra GmbH, Lottumstraße 9, 10119 Berlin, Germany (hereinafter referred to as "Cardiolectra") and described in more detail in Section 2. You can reach Cardiolectra at +49 179 782 73 49 or [contact@cardiolectra.com](mailto:contact@cardiolectra.com).

1.2. These GTC govern the distribution of the Product via the Apple App Store (cf. Section 6.1) as well as via the Cardiolectra website (cf. Section 6.2).

1.3. These GTC apply to both consumers and entrepreneurs. Insofar as the rules for contracts with consumers differ from those for contracts with entrepreneurs, this is indicated in each case. A consumer is any natural person who concludes a legal transaction for purposes that can predominantly be attributed neither to their commercial nor their independent professional activity. An entrepreneur is a natural or legal person or a partnership with legal capacity who, when concluding a legal transaction, acts in the exercise of his commercial or independent professional activity.

If the entrepreneur uses conflicting or supplementary general terms and conditions, their application is hereby contradicted; they only become part of the contract if we have expressly agreed to this.

1.4. Please read these GTC carefully before downloading and using the Product. Use of the Product is only permitted if you agree to these GTC. With your confirmation of these GTC, a contract for the use of the Product with Cardiolectra is concluded. If you have any questions about the meaning of individual provisions in the GTC, you are welcome to contact us via the above-mentioned communication channels.

1.5. The version of the GTC valid at the time of conclusion of the contract and published on this page shall be decisive.

### **2. The product / No medical device / Product variants**

2.1 The CardioShowroom is a specially developed software for the interactive 3D representation of the heart. The Product can be used in particular for training purposes in the

medical field and for patient education.

2.2 The Product is not a medical device. In particular, the Product does not have the purpose of diagnosing, preventing, monitoring, predicting, prognosis, treating or alleviating diseases (cf. Art. 2 (1) of the EU Medical Devices Regulation).

2.3 The Product is distributed in several variants ("basic", "edu", "pro" and "VR"), which differ in the range of functions. Further details on the individual variants can be found in the [product data sheet](#).

2.4. CardioShowroom VR. The VR Product variant is aimed exclusively at entrepreneurs. The VR Product variant includes the use of certain hardware (VR systems) to be procured by Cardiolectra. In this regard, the General Terms and Conditions for the Rental of Hardware ([Appendix 3](#)) apply in addition.

### **3. Support**

In case of technical malfunctions or questions about the Product, we are available from Monday to Friday from 10:00 a.m. to 4:00 p.m. under the following e-mail: [contact@cardiolectra.com](mailto:contact@cardiolectra.com)

### **4. Copyright / Intellectual Property**

4.1. The Product and the content contained therein (such as texts, software, images, graphics, videos, sound documents, etc.) are the property of Cardiolectra or the property of third parties who have granted Cardiolectra a corresponding license.

4.2. Cardiolectra grants the user a limited, non-transferable, non-sublicensable, non-exclusive right to use the Product in accordance with these GTC, the product data sheet, the Cardiolectra Privacy Policy and - where applicable - the App Store Terms and Conditions ("Intended Use"). Any use outside the Intended Use requires the express consent of Cardiolectra in text form.

4.3. Further details on the granted right of use can be found for the purchase via the Apple App Store under section 6.1 and for the purchase of the product via the Cardiolectra website under section 6.2.

## **5. Right of revocation**

As a consumer, you are entitled to a right of revocation in accordance with the statutory provisions. Exceptions to the statutory right of revocation do not apply to the contract with us. The following revocation policy applies:

### **Revocation**

You have the right to revoke this contract within fourteen days without giving reasons.

The revocation period is fourteen days from the date of conclusion of the contract.

To exercise your right of revocation, you must inform us, Cardiolectra GmbH, Lottumstraße 9, 10119 Berlin (Telephone number: +49 179 782 73 49; E-mail: [contact@cardiolectra.com](mailto:contact@cardiolectra.com)) by means of a clear declaration (e.g. a letter sent by post or an e-mail) of your decision to revoke this contract. You can use the attached model revocation form, but this is not mandatory.

To comply with the revocation period, it is sufficient that you send the notification of the exercise of the right of revocation before the expiry of the revocation period.

### **Consequences of revocation**

If you revoke this contract, we must refund to you all payments that we have received from you immediately and at the latest within fourteen days from the day on which we received the notification of your revocation of this contract. For this repayment, we will use the same means of payment that you used for the original transaction, unless expressly agreed otherwise with you; in no case will you be charged any fees for this repayment.

## Sample withdrawal form

(If you want to cancel the contract, please fill out this form and send it back.)

– To Cardiolectra GmbH, Lottumstraße 9, 10119 Berlin (e-mail address: [contact@cardiolectra.com](mailto:contact@cardiolectra.com)):

– I/we (\*) hereby revoke the contract concluded by me/us (\*) for the purchase of the following goods (\*)/the provision of the following service (\*)

– Ordered on (\*)/received on (\*)

– Name of the consumer(s)

– Address of the consumer(s)

– Signature of the consumer(s) (only in case of notification on paper)

– Date

(\*) Delete as appropriate.

5.2. When placing an order via our website, the conclusion of the contract is defined in Section 6.2.1. When downloading the App from the Apple App Store, the conclusion of the contract within the meaning of paragraph 1 means that the User purchases a subscription as an in-app purchase in the Apple App Store. The right of revocation according to paragraph 1 exists in the case of a purchase via the Apple App Store in addition to the possibility to cancel the subscription at any time in the Apple App Store during the test phase.

## **6. Purchase of the Product via the Apple App Store or via the Cardiolectra website**

### 6.1 Purchase of the Product via the Apple App Store

6.1.1 Currently, only the "pro" variant of the CardioShowroom is available for download as an app in the Apple App Store. The prerequisite for use is that the user downloads the App from the Apple App Store. This requires an Apple ID and the terms and conditions of the Apple App Store apply.

6.1.2. In the event of any conflict between (a) the Terms and Conditions of Use of the Apple App Store ("App Store Terms") and (b) these GTC, the App Store Terms shall prevail in relation

to your use of the App downloaded from the App Store. Nothing in these GTC is intended or construed to limit or modify the App Store Terms.

6.1.3. When downloading the App from the App Store, Cardiolectra is the App Provider and the App is a Third Party App. Therefore, Cardiolectra is solely responsible for the contents of the App, the warranty and any claims you may have in relation to the App.

6.1.4. As a user, you must ensure that the technical requirements specified in the App Store for downloading and using the App on your device are met.

6.1.5. Cardiolectra, as the Licensor, grants you, as the Licensee, a non-exclusive, non-transferable and non-sublicensable license to use the App on Apple's iPads with iPadOS or iOS when downloading the "CardioShowroom (CSR) pro" App from the Apple App Store in accordance with the Standard Apple *END USER LICENSE AGREEMENT FOR LICENSED APPLICATIONS* ("Standard EULA"). You can find the End User License Agreement on [www.apple.com](http://www.apple.com) under *Legal / Internet Services / Apple Media Services Terms and Conditions*.

6.1.6. The aforementioned license agreement is concluded with us as the Licensor, not with Apple. Should a third party assert any claim that the use of the App infringes the intellectual property rights of that third party, Cardiolectra and not Apple shall be solely responsible for investigating, defending, settling and resolving such intellectual property infringement claims.

#### **6.1.7. Subscription**

6.1.7.1 The use of the App requires a subscription. The license granted under Section 6.1.5. is therefore only valid for the period in which a valid subscription exists.

6.1.7.2. The subscription can be obtained by the User as an in-app purchase from the Apple App Store. The price displayed in the App Store at the time of completion applies.

6.1.7.3. The User may test the App free of charge for the first month ("Trial Period"). The user immediately receives the full range of functions and can cancel at any time during the Trial Period in the Apple App Store. In this case, there are no costs for the User and the possibility to use the App ends with the end of the free Trial Period.

6.1.7.4. If the subscription is not cancelled during the Trial Period, it is subject to a charge from the second month. The subscription can then be cancelled at any time at the end of the respective monthly subscription period in the Apple App Store, otherwise the subscription is automatically extended by another month.

6.1.7.5. For more details on in-app purchase and subscription, please refer to Apple's Terms and Conditions. You can find them on [www.apple.com](http://www.apple.com) under *Legal / Internet Services / Apple Media Services Terms and Conditions*.

## **6.2 Obtaining the Product via the website**

6.2.1. When purchasing the Product via our website <https://cardiolectra.de/en/>, the contract is concluded by clicking on the order button ("Order Now") and accepting our offer to conclude the contract for the respective Product (basic, edu or pro). The order can only be placed if you accept these GTC by checking the corresponding box. Immediately after submitting the order, you will receive a confirmation by e-mail. In the e-mail we will send you the "contract confirmation" (consisting of your order, these terms and conditions and the order confirmation).

6.2.2. Cardiolectra as Licensor grants the User as Licensee for the duration of the contract ("Term" – cf. Section 6.2.8. ) a license for the use of the Product to the extent described in more detail for the respective variant in the product data sheet (**Appendix 1**). The right to copy the licensed Product is limited to the installation of the licensed Product on a computer system directly owned by Licensee and to fulfilling the intended use, as well as a copy of the licensed Product necessary to load, view, run, transfer or store the licensed Product.

6.2.3. The Product includes the software and documentation according to the product data sheet. The right to use the software is limited to the purposes described in the product data sheet at the time of conclusion of the contract ("purpose of use"). The purpose of use represents the only quality of the software agreed between the parties. Licensor shall remain the rightful owner of the software at all times. The Licensee is not entitled to transfer the licensed Product to third parties or to make it available in any other way (e.g. by rental, etc.). However, if the Licensee is an entrepreneur, he may make the licensed Product available to his employees and other persons who are subject to the Licensee's right to issue instructions. An independent right of use to these persons may not be granted.

6.2.4. In the event of breach of contract by the Licensee, in particular in the event of default in payment, the Licensor is entitled to deactivate the license and thus prohibit the Licensee from further use of the licensed Product.

6.2.5. The Licensor shall provide a copy of the licensed Product for the exercise of the rights of use granted to the Licensee in machine-readable form by download from the Website [www.cardiolectra.de](http://www.cardiolectra.de) or any other medium to be agreed between the parties. The Licensor

shall provide the Licensee with the activation code required for the activation of the Product. This activation code may only be used for the use of the licensed Product within the framework of these GTC. The Licensee is responsible for providing the system environment in accordance with the system requirements set out in the product data sheet (**Appendix 1**). He is also responsible for the installation and configuration of the software on his system.

6.2.6. The User can test the Product free of charge for seven days. Within the trial access, no subscription is concluded and the access ends automatically after 7 days. No payment data has to be submitted or stored for the test access. After expiry of the test access, the User can purchase an annual license (see section 6.2.7).

6.2.7. Outside of the free trial period, the use of the Product requires the payment of an annual license fee. The license granted is therefore only valid (in the case of payment by invoice subject to section 6.2.9.b) for the period for which the license fee has been paid in full to Cardiolectra. The Licensee shall pay the fee in the amount stated in our price list (**Appendix 2**). Payment must be made in advance (in the case of payment by invoice subject to Section 6.2.9.b) for the respective term. In the event of a term extension (see Section 6.2.8), payment must be made within 30 days of receipt of the respective invoice.

6.2.8. The initial term of the contract for the annual license is 12 months from the conclusion of the contract ("Term"). The Term is automatically extended by a further 12 months ("Extended Term") if neither party has given a notice of termination at least 1 month before the end of the respective Term or Extended Term. The statutory right to terminate without notice for good cause remains unaffected for both parties. The User can declare the termination in writing to the address mentioned in Section 1.1. or declare it in text form by e-mail to [contact@cardiolectra.com](mailto:contact@cardiolectra.com).

6.2.9. Payment methods are PayPal and payment by invoice.

a) If you pay via **PayPal**, you will be redirected to the website of the online provider PayPal. In order to be able to pay the invoice amount via PayPal, you must be registered there, legitimize yourself with your access data and confirm the payment instruction to us. PayPal allows payment by direct debit or credit card or the payment method "purchase by invoice". After submitting the order, we request PayPal to initiate the payment transaction and the payment processing will then take place via PayPal. There are no additional costs for payments via PayPal.

b) When **paying by invoice**, you will receive the invoice by e-mail within one week of conclusion of the contract. The invoice is payable within 30 days. After ordering, you will receive an e-mail with your activation code and download links to the PC and Mac version. The Product can be used immediately after downloading and installing as well as entering the activation code.

6.2.10. After expiry of the Term or Extended Term or in the event of premature termination for good cause upon termination of the contract, the Licensee must immediately cease further use of the Product. Cardiolectra is then entitled to deactivate the license and thus prevent further use of the Product. The Licensee is obliged to uninstall all copies of the program from his systems and to destroy all backup copies, documentation, etc. The use of the licensed Product after termination of the contract is prohibited.

## **7. Interruption of use / further developments**

7.1. The Product, including the App, is generally available 24 hours a day. Cardiolectra assumes no responsibility or liability for the uninterrupted usability of the Internet. The same applies to the uninterrupted usability of the App, insofar as it concerns technical delays, interruptions or failures or necessary maintenance, in each case to a reasonable extent, or if there is an event beyond Cardiolectra's reasonable control.

7.2. Cardiolectra strives to continuously develop the product and the App. Therefore, individual functionalities may also be adapted during an existing contractual relationship. A valid reason for a change in the service exists in particular if new technical developments require a change in performance, since the service can no longer be provided in the previous contractually agreed form or if newly issued or amended legal or other regulations require a change in performance. A valid reason for a change in performance exists if the change is necessary to take account of technical progress or to make technical adjustments and/or to ensure the future functionality of the service. Cardiolectra will ensure that the relationship between performance and consideration does not shift to the detriment of the User because of a change.

## **8. Data protection**

In addition to these GTC, the "Privacy Policy" of Cardiolectra also applies, which can be accessed under <https://cardiolectra.de/en/privacy-policy/>

## **9. Warranty & Liability**

9.1 The general statutory warranty rights apply.

9.2 Claims of the User for damages are excluded, unless they are

- claims under the Product Liability Act or

- claims for injury to life, limb, health, or

- claims due to the breach of essential contractual obligations ("cardinal obligations" – see section 9.3) or

- Claims for damages based on an intentional or grossly negligent breach of duty by Cardiolectra, its legal representatives or vicarious agents.

9.3 Essential contractual obligations ("cardinal obligations") are those whose fulfilment makes the proper execution of the contract possible in the first place, the violation of which endangers the achievement of the purpose of the contract and on the observance of which the user regularly relies. In the event of a breach of such essential contractual obligations (cardinal obligations) caused by simple negligence, Cardiolectra shall only be liable for the contractually typical, foreseeable damage, unless the User has suffered damages arising from injury to life, limb or health.

9.4 The restrictions of paragraphs 2 and 3 shall also apply in favour of Cardiolectra's legal representatives and vicarious agents if claims are asserted directly against them.

9.5 The limitations of liability resulting from paragraphs 2 and 3 shall not apply if Cardiolectra has fraudulently concealed a defect or has assumed a quality guarantee or Cardiolectra and the User have made an agreement on the quality of an item.

9.6 Further developments of the App as well as the elimination of any errors are addressed by providing updates. With regard to the use of the product as an App, we recommend using the setting for automatic updates of the App Store. Cardiolectra's liability for damages from an old version is excluded if a more recent version was available at the time of the damage-causing use of the old App version that did not contain the element causing the damage.

9.7. A change in the burden of proof is not associated with the above provisions.

## **10. Changes to the GTC**

10.1 Cardiolectra reserves the right to change these GTC for existing contractual relationships with effect for the future, insofar as this is necessary for a valid reason that was not foreseeable at the time of conclusion of the contract and insofar as the change preserves the original relationship between performance and consideration, so that the change is reasonable for the User.

10.2 A valid reason for the amendment of these General Terms and Conditions exists in particular if this is necessary to adapt to developments that Cardiolectra has not caused and the non-consideration of which would disturb the balance of the contract to an extent that is more than insignificant. A valid reason also exists insofar as gaps arising from the adaptation after conclusion of the contract need to be closed, which cause more than insignificant difficulties in the execution of the contract, if the case law on the validity of provisions changes, if one or more provisions of these GTC (or comparable provisions) are declared invalid by the courts or if a change in the law leads to the ineffectiveness of one or more provisions of these GTC.

10.3 Planned changes to the GTC for an ongoing contractual relationship will be communicated to the User in text form at least six weeks before their planned entry into force, clearly highlighting the changes, and the User will be asked to agree to the new version of the GTC. If the User does not agree to the change within six weeks, Cardiolectra has the right to terminate the contract in writing or text form (e.g. by letter or e-mail). The User will be specifically informed of this in the notification of change. Should the cancellation become effective during an ongoing paid subscription, Cardiolectra will reimburse the costs for the remaining subscription period on a pro rata basis.

## **11. Applicable law, place of jurisdiction**

11.1. German law shall apply exclusively to these GTC and to all disputes resulting therefrom or in connection with these GTC. In terms of consumer contracts, this choice of law applies only insofar as it does not deprive consumers of the protection granted to them by mandatory provisions of the law of the state in which the consumer has his/her habitual residence.

11.2 If the User is a merchant, a legal entity under public law or a special fund under public law, the place of jurisdiction is Berlin, unless an exclusive place of jurisdiction exists.



## **12. Online Dispute Resolution Platform / Consumer Arbitration Board**

12.1 The EU Commission provides a platform for out-of-court online dispute resolution (ODR platform), which can be accessed under <https://ec.europa.eu/consumers/odr>.

12.2 We are neither willing nor obliged to participate in a dispute resolution procedure before a consumer arbitration board.

## **13. Status of the GTC**

August 10, 2021 (version 2.0).

*Drafting of the GTC: Attorney-at-Law Thorsten Reh ([MEDIAS REHS](#))*